

JOURNAL OF THE SENATE

Sixty-first Legislative Assembly

* * * * *

Bismarck, March 6, 2009

The Senate convened at 12:30 p.m., with President Dalrymple presiding.

The prayer was offered by Pastor David Halaas, Gloria Dei Lutheran Church, Williston.

The roll was called and all members were present except Senators Anderson, Hogue, Lindaas, Marcellais, O'Connell, and Stenehjem.

A quorum was declared by the President.

CORRECTION AND REVISION OF THE JOURNAL

MR. PRESIDENT: Your Committee on Correction and Revision of the Journal (**Sen. Andrist, Chairman**) has carefully examined the Journal of the Twenty-seventh, Thirty-fifth, and Thirty-seventh Days and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 376, after line 24, insert:

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)

MR. PRESIDENT: The Speaker has signed: HCR 3018.

Page 595, after line 22, insert:

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The President has signed: SB 2025.

Page 638, line 36, replace "1:00" with "12:30"

SEN. ANDRIST MOVED that the report be adopted, which motion prevailed.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3004: A concurrent resolution directing the Legislative Council to study Indian education issues.

The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO PASS.

HCR 3004 was declared adopted on a voice vote.

SECOND READING OF HOUSE BILL

HB 1448: A BILL for an Act to create and enact subsection 9 of section 57-38-01.29 of the North Dakota Century Code, relating to the homestead income tax credit for agricultural or commercial property; to provide an effective date; and to provide an expiration date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 41 YEAS, 0 NAYS, 0 EXCUSED, 6 ABSENT AND NOT VOTING.

YEAS: Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lyson; Mathern; Miller; Nelson; Nething; Nodland; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Anderson; Hogue; Lindaas; Marcellais; O'Connell; Stenehjem

HB 1448, as amended, passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1549: A BILL for an Act to amend and reenact section 4-41-02 of the North Dakota Century Code, relating to industrial hemp; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 40 YEAS, 1 NAYS, 0 EXCUSED, 6 ABSENT AND NOT VOTING.

YEAS: Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Mathern; Miller; Nelson; Nething; Nodland; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Taylor; Triplett; Wanzek; Wardner; Warner

NAYS: Lyson

ABSENT AND NOT VOTING: Anderson; Hogue; Lindaas; Marcellais; O'Connell; Stenehjem

Engrossed HB 1549, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

MOTION

SEN. CHRISTMANN MOVED that Reengrossed SB 2229 be rereferred to the **Appropriations Committee**, which motion prevailed. Pursuant to Sen. Christmann's motion, Reengrossed SB 2229 was rereferred.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The Senate has passed unchanged: HB 1036, HB 1062, HB 1078, HB 1086, HB 1127, HB 1131, HB 1136, HB 1199.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)

MR. PRESIDENT: The House has passed unchanged: SB 2039, SB 2048, SB 2102, SB 2104, SB 2106, SB 2119, SB 2120, SB 2122, SB 2144, SB 2145.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)

MR. PRESIDENT: The House has amended and subsequently passed: SB 2089.

HOUSE AMENDMENTS TO SENATE BILL NO. 2089

Page 1, line 3, after "purposes" insert "; to repeal sections 57-02-24 and 57-02-25 of the North Dakota Century Code, relating to elimination of obsolete provisions relating to listing and assessment of severed coal and mineral interests"

Page 4, after line 3, insert:

"SECTION 2. REPEAL. Sections 57-02-24 and 57-02-25 of the North Dakota Century Code are repealed."

Renumber accordingly

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)

MR. PRESIDENT: The House has failed to pass: SB 2310.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)

MR. PRESIDENT: The House has passed and your favorable consideration is requested on: HCR 3044, HCR 3045, HCR 3051.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: Your signature is respectfully requested on: SB 2031, SB 2032, SB 2057, SB 2073, SB 2074, SB 2077, SB 2079, SB 2080, SB 2093, SB 2113, SB 2180, SB 2193.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The President has signed: HB 1173, HB 1178, HB 1214, HB 1233, HB 1264, HB 1309, HB 1311, HB 1334, HB 1336, HB 1343.

MOTION

SEN. CHRISTMANN MOVED that the absent members be excused, which motion prevailed.

MOTION

SEN. CHRISTMANN MOVED that the Senate be on the Fourth, Fifth, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 12:30 p.m., Monday, March 9, 2009, which motion prevailed.

REPORT OF STANDING COMMITTEE

HB 1027: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (11 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). HB 1027 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1053, as engrossed: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1053 was placed on the Sixth order on the calendar.

Page 1, line 3, after "organizations" insert "; and to provide an appropriation"

Page 4, after line 28, insert:

"SECTION 3. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the adjutant general for the purpose of providing grants to counties that merge emergency management efforts, for the biennium beginning July 1, 2009, and ending June 30, 2011."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1063: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1063 was placed on the Sixth order on the calendar.

Page 2, line 8, after "2." insert "a."

Page 2, line 15, replace "a." with "(1)"

Page 2, line 17, replace "b." with "(2)"

Page 2, after line 19, insert:

"b. Medical expenses incurred under this subsection may not be charged against an employer's account for purposes of experience rating."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1090, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1090 was rereferred to the **Appropriations Committee**.

REPORT OF STANDING COMMITTEE

HB 1129, as engrossed: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1129 was placed on the Sixth order on the calendar.

Page 1, line 1, after "sections" insert "54-10-13," and after "54-10-14" insert ", 54-10-15,"

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Section 54-10-13 of the North Dakota Century Code is amended and reenacted as follows:

54-10-13. Political subdivisions - Audits - State auditor powers. The state auditor shall perform audits of political subdivisions pursuant to section 54-10-14 unless otherwise ~~requested by the governing board~~, ordered by the governor or the legislative

audit and fiscal review committee, ~~or~~ on petition pursuant to section 54-10-15, or at the discretion of the state auditor for alleged improprieties."

Page 1, line 8, overstrike "state auditor shall audit the" and after "subdivisions" insert "must be audited at least"

Page 2, line 14, overstrike "three" and insert immediately thereafter "five"

Page 3, line 18, replace "must" with "may"

Page 3, after line 19, insert:

"SECTION 3. AMENDMENT. Section 54-10-15 of the North Dakota Century Code is amended and reenacted as follows:

54-10-15. Audits of political subdivisions by order of governor or the legislative audit and fiscal review committee, or upon petition. The state auditor, by duly appointed deputy auditors or other authorized agents, shall audit or review the books, records, and financial accounts of any political subdivision when ordered by the governor or the legislative audit and fiscal review committee, ~~requested by the governing board, or~~ upon petition of at least thirty-five percent of the qualified electors of any political subdivision enumerated in section 54-10-14 voting for the office of governor at the preceding general election, or, in the case of school districts, upon petition of at least thirty-five percent of the qualified electors voting at the preceding school board election. Fees for the audits must be paid in accordance with the provisions of section 54-10-14."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1130: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). HB 1130 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1135, as reengrossed: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1135 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1145, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed HB 1145 was placed on the Sixth order on the calendar.

Page 2, line 12, remove "substance use disorders, "

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1223, as engrossed: Judiciary Committee (Sen. Nething, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1223 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1249, as engrossed: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1249 was placed on the Sixth order on the calendar.

Page 1, line 17, replace "51" with "5001 et seq."

Page 1, line 24, after "month" insert "per person"

Page 2, line 10, after "product" insert "and to sell its product"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1257: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1257 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1277: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (9 YEAS, 2 NAYS, 3 ABSENT AND NOT VOTING). HB 1277 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1289: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1289 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1291, as engrossed: Judiciary Committee (Sen. Nething, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1291 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1296, as engrossed: Judiciary Committee (Sen. Nething, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1296 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1303, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1303 was placed on the Sixth order on the calendar.

Page 1, line 15, replace "allowable bad debt expenses may not exceed" with "the department shall:

- a. Include, contingent upon approval of the medicaid state plan by the centers for medicare and medicaid services, allowable bad debt expenses in an amount not to exceed one hundred eighty days of resident care per year or an aggregate of three hundred sixty days of resident care for any one individual; and
- b. Include allowable bad debt expenses in the property cost category in the report year in which the bad debt is determined to be uncollectible with no likelihood of future recovery."

Page 1, remove lines 16 through 18

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1307, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1307 was placed on the Sixth order on the calendar.

Page 1, line 19, remove "and"

Page 1, replace lines 20 through 22 with:

- "c. The facility claims the education expense, annually, in an amount not to exceed the lesser of one-half of the individual's education expense or three thousand seven hundred fifty dollars; and
- d. The amount of education expense claimed for an individual does not exceed fifteen thousand dollars in the aggregate."

Page 2, replace lines 5 through 7 with:

- "5. An individual who receives education assistance shall commit to a minimum of one thousand six hundred sixty-four hours of employment after

completion of the educational program for each year education assistance was provided by the facility."

Page 2, after line 10, insert:

"7. If an individual defaults on a contract and education expenses for the individual have previously been claimed in any report year, the facility shall report the amount of repayment on the facility's cost report in the report year in which the default occurs."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1340, as engrossed: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1340 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1367: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1367 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1378: Education Committee (Sen. Freborg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1378 was placed on the Sixth order on the calendar.

Page 1, line 2, after "schools" insert "; and to provide an effective date"

Page 1, line 10, replace "July" with "August"

Page 1, line 12, replace "July" with "August"

Page 1, line 13, replace "July" with "August"

Page 1, line 16, replace "July" with "August"

Page 1, line 17, replace "November" with "December"

Page 1, line 20, overstrike "special talents or abilities" and insert immediately thereafter "academic, social, and emotional readiness"

Page 1, line 23, replace "July" with "August"

Page 1, line 24, replace "November" with "December"

Page 2, line 3, overstrike "special talents or abilities" and insert immediately thereafter "academic, social, and emotional readiness"

Page 2, line 18, replace "July" with "August"

Page 2, line 19, remove the overstrike over "~~December~~" and remove "November"

Page 2, line 22, overstrike "special talents or abilities" and insert immediately thereafter "academic, social, and emotional readiness"

Page 2, after line 23, insert:

"SECTION 3. EFFECTIVE DATE. This Act becomes effective on July 1, 2010."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1420: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1420 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1437: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1437 was placed on the Sixth order on the calendar.

Page 1, line 9, after the second "for" insert "new"

Page 1, line 10, remove "or licensees" and replace ", except that criminal history record" with an underscored period

Page 1, remove line 11

Page 3, line 15, replace "may" with "shall"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1460, as reengrossed: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1460 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1463, as engrossed: Education Committee (Sen. Freborg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (3 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1463 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "three" with "four"

Page 2, line 7, replace "must" with "may"

Page 2, after line 9, insert:

"SECTION 3. A new section to chapter 54-07 of the North Dakota Century Code is created and enacted as follows:

Youth council powers. The North Dakota youth council may accept gifts, grants, and donations of money, property, and services to carry out this Act. The council may form subcommittees to explore its various issues and concerns and complete its duties as set forth in section 4 of this Act. The subcommittees may hold regional meetings in any of the areas designated by the governor's executive order 1978-12 dated October 5, 1978."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1497, as engrossed: Judiciary Committee (Sen. Nething, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1497 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1541: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1541 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1566: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1566 was placed on the Fourteenth order on the calendar.

The Senate stood adjourned pursuant to Senator Christmann's motion.

Fran A. Gronberg, Secretary

