

## JOURNAL OF THE SENATE

## Sixty-first Legislative Assembly

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Bismarck, April 24, 2009

The Senate convened at 8:00 a.m., with President Pro Tem Fischer presiding.

The prayer was offered by Chaplain Colleen Ressler, St. Vincent's Care Center, Medcenter One, Bismarck.

The roll was called and all members were present except Senator Wanzek.

A quorum was declared by the President.

## MOTION

**SEN. CHRISTMANN MOVED** that SB 2373 be moved to the bottom of the Seventh order, which motion prevailed.

## REPORT OF CONFERENCE COMMITTEE

**SB 2027, as engrossed:** Your conference committee (Sens. Cook, Dever, Horne and Reps. Koppelman, Headland, J. Kelsh) recommends that the **SENATE ACCEDE** to the House amendments on SJ pages 1202-1208 and place SB 2027 on the Seventh order.

## CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**SEN. COOK MOVED** that the conference committee report on Engrossed SB 2027 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2027, as amended, was placed on the Eleventh order.

## SECOND READING OF SENATE BILL

**SB 2027:** A BILL for an Act to amend and reenact section 40-47-01.1 of the North Dakota Century Code, relating to extraterritorial zoning jurisdiction of cities.

## ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 2 YEAS, 44 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Klein; Seymour

**NAYS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebigler; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Stenehjem; Taylor; Triplett; Wardner; Warner

**ABSENT AND NOT VOTING:** Wanzek

Reengrossed SB 2027 lost.

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## CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**SEN. FIEBIGER MOVED** that the conference committee report on Engrossed SB 2223 as printed on SJ pages 1459-1460 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2223, as amended, was placed on the Eleventh order.

## SECOND READING OF SENATE BILL

**SB 2223:** A BILL for an Act to provide for regional public transportation pilot projects; and to provide for a report to the legislative assembly.

## ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**ABSENT AND NOT VOTING:** Wanzek

Reengrossed SB 2223 passed and the title was agreed to.

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#### **CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. FIEBIGER MOVED** that the conference committee report on SB 2069 as printed on SJ page 1458 be adopted, which motion prevailed on a voice vote.

SB 2069, as amended, was placed on the Eleventh order.

#### **SECOND READING OF SENATE BILL**

**SB 2069:** A BILL for an Act to amend and reenact subsection 1 of section 27-05.2-03 of the North Dakota Century Code, relating to fees collected by the clerk of district court for deposit in the civil legal services fund.

#### **ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**ABSENT AND NOT VOTING:** Wanzek

Engrossed SB 2069 passed and the title was agreed to.

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#### **CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. HECKAMAN MOVED** that the conference committee report on Engrossed HB 1110 as printed on SJ pages 1443-1444 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1110, as amended, was placed on the Fourteenth order.

#### **SECOND READING OF HOUSE BILL**

**HB 1110:** A BILL for an Act to create and enact chapter 36-26 of the North Dakota Century Code, relating to feral swine; and to provide a penalty.

#### **ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**ABSENT AND NOT VOTING:** Wanzek

Engrossed HB 1110, as amended, passed and the title was agreed to.

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#### **CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. OEHLKE MOVED** that the conference committee report on Engrossed HB 1489 as printed on SJ page 1461 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1489, as amended, was placed on the Fourteenth order.

**SECOND READING OF HOUSE BILL**

**HB 1489:** A BILL for an Act to amend and reenact section 57-38-30.6 of the North Dakota Century Code, relating to a corporate income tax credit for soybean and canola crushing facility equipment costs; to provide for a legislative council study; and to provide an effective date.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**ABSENT AND NOT VOTING:** Wanzek

Engrossed HB 1489, as amended, passed and the title was agreed to.

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**MOTION**

**SEN. CHRISTMANN MOVED** that Sen. Schneider replace Sen. Nelson on the Conference Committee on SB 2267, which motion prevailed.

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

**MR. SPEAKER:** The President has appointed Sen. Schneider to replace Sen. Nelson on the Conference Committee on SB 2267.

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

**MR. PRESIDENT:** The House has adopted the conference committee report on: SB 2161, SB 2208, SB 2359, SCR 4018.

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

**MR. PRESIDENT:** The House has adopted the conference committee reports and subsequently passed: SB 2212 and SB 2316.

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

**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1490, HB 1510.

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate stand in recess until 12:30 p.m., which motion prevailed.

**THE SENATE RECONVENED** pursuant to recess taken, with President Dalrymple presiding.

**MOTION**

**SEN. CHRISTMANN MOVED** that a committee of two be appointed to escort the Honorable Senator Byron Dorgan to the rostrum, which motion prevailed. The President appointed Sens. Krebsbach and Nelson.

**REMARKS OF THE HONORABLE BYRON DORGAN, UNITED STATES SENATOR**

Lieutenant Governor, thank you very much and to all of you in the Senate, so nice to see you. I know that you are nearing the end of this session. I can only imagine how much hard work has gone into it, and I can imagine there is less appreciation for it, than there should be.

I was thinking this morning as I was coming here about a man named John Smith who I know, I do not know if he still does it, as the flying farmer from Makoti. He is in the Guinness Book of World Records, and he used to jump cars and various things. To get into the book of world records, the flying farmer from Makoti, North Dakota, drove 500 miles in reverse and averaged 36 miles an hour. I was thinking that was something like the legislative process actually. We go backwards and backwards and then all of a sudden we spring forward with a burst of productivity, and when it's all done, North Dakotans thank you very much for your service.

I want to talk just briefly today, thank you for the invitation, about two things, water and energy. We have had as you know unprecedented flooding in our state. All of you have been acquainted with it and touched by it. I am privileged in the United States Senate to chair the subcommittee on appropriations that deals with water and energy appropriations across the country, and I am very interested in and will be committed to do what we can to fund what is

necessary in our state going forward and I want to talk to you about that just a bit. We see flooding in the Red River, Sheyenne, Souris, Cannonball, and James and the list goes on and on. All of us, I think, have expressed and I'm sure you have to your constituents the unbelievable inspiration that we get from North Dakotans who say let me be a part of fighting this flood. You don't have to ask me, let me be a part of this. I have been so inspired by our citizens and I know you have as well. Fighting the flood is one thing. When the floodwaters have receded, then it's time to help repair and recover, and that will require federal, state, and local efforts. Of significance in my judgment it is also time to begin discussing what more we can do to provide protection in the future and that is what I want to talk to you about just for a bit.

Let me describe to you the Red River Valley requirements as I see them. We have to do some things for the entire valley and we have to take a look at plans that would deal with water storage and there are a number of them out there. All of us have to look carefully about how we can preserve some of this water, hold some water, and store some water at critical times. But I want to talk specifically today about the issue of Fargo and Moorhead because it is our largest metropolitan area. You know that we have had plenty of flood control projects in the Red River Valley. We have a flood control project nearly completed in Wahpeton-Breckenridge, one in Grand Forks and East Grand Forks, and one in West Fargo--the Sheyenne Diversion. We have done some flood control projects. When I say we I am talking about all of us in Fargo, in the Ridgewood area and other residences as well. The fact is that even as we hold more water for storage in the Red River Valley to try to prevent as much water as comes through that river, people describe this as a table top with a scratch, the river being the scratch, and when we have the quantity of water that we have, it just spreads everywhere. Even as we do all of that, we need to decide what we do with respect to our largest metropolitan area for greater flood control protection. I make this point to you because I have heard references in various venues about the federal government's role and I want to explain it precisely because it is very important. Flood control projects that are deemed in the national interest and meet cost-benefit ratio are projects that the federal government will fund 65 percent. The construction will come from the Corps of Engineers, not FEMA, not from any other agency. The construction of flood control projects is done by the Corps of Engineers. The federal government when they are triggered and meet the test will fund 65 percent of it. But this is not a top-down process, it is a bottom-up process. Fargo-Moorhead, as an example, covers two states. You have two state governments, you have two municipalities, and there is not now a flood control plan there. There is no comprehensive proposal for flood control in the metropolitan area that has been requested of the federal government. This is bottom-up, first there has to be a consensus, between Fargo and Moorhead and Minnesota and North Dakota, about what they want to do with respect to a comprehensive flood control project. When that consensus exists there will be a feasibility study, presuming it meets the cost-benefit ratio. I will tell you that as chairman of the committee that funds all of our water projects across the country I will do everything I can and I will commit myself to funding the flood control project that is decided by the consensus of Fargo and Moorhead. We need greater flood control protection. But I just want to clear that up because I know there is discussion out there as to why hasn't the federal government built something--will the Feds step up? There is not a project. When there is a project, you have my commitment that we will fund that project provided it meets the cost-benefit ratio. Now the 35 percent local funding of any project is also significant, and you, I know, play a role in that, and I know that you have had to consider what kinds of funds you will put aside for needs that might exist in the coming biennium with respect to these flood control issues. When I say bottom-up, I will give you an example of Grafton, North Dakota. In the year 2000 I began putting money in so that we could do the feasibility study for a flood control project for Grafton, but it was determined when completed it would cost \$32 million for comprehensive permanent flood control protection for Grafton. Grafton at that point held an election, and by two-to-one decided it did not want it.

At that point that flood control project is off the shelf. It is a bottom-up--it is consensus at the local level that is necessary and essential for us to address this issue. Now if the Governor and I will co-host a meeting with all of the interests involved, we can begin a process of finally determining how a consensus be developed with respect to a Fargo-Moorhead metropolitan comprehensive flood control project. I will also chair a hearing of my subcommittee in Fargo on May 27 on that subject and will determine what kinds of movement exists to try to reach some kind of consensus, but I say to you again, I commit all that is necessary to be done to make the federal revenues available to do what we need to do to protect our communities in North Dakota.

Now I want to mention to you Devils Lake. We know there is a 99 to 100 percent chance Devils Lake will exceed by midsummer its historic high. It is up to a 50 percent chance that Devils Lake will increase 4 to 5 feet by midyear. We also know that will trigger the need for additional levy protection for Devils Lake. Two years ago I began funding a Corps of Engineers evaluation of what needs to be done to increase that levy, so that preliminary work is done. The President has just asked for an emergency supplemental funding for the Department of

Defense. I am going to seek to include the \$125 million, that is the authorization, and the funding for the federal share of the \$125 million needed to increase the levy in Devils Lake. That is a 75/25 percent project and that means that the state and local share will be \$31 million roughly and that would mean historically, the way it has been divided, Devils Lake or the region of Devils Lake would have about a \$15 million issue. I do not think there is a ghost of a chance that Devils Lake given what they have been confronted with for about 8 to 10 years now will have that money, so I wanted to mention to you again that that project will move forward only if there is a local sponsor and there is local funding in place. So I want you to consider that as well, because I believe we will likely get the funding in this emergency supplemental, but we have to trigger this funding in order to begin this levy process now. It is very important when you get to 1452. We need to be about moving that 1460 levy up in order to protect those folks in the Devils Lake region.

I want to mention one final point and that is the issue of energy. There is not much more that is important in our state than the issues of water and energy, and we are writing an energy bill now. I am a part of writing that bill that will do a couple of things.

One, it will require, I believe when we finish it in the next few weeks, a 15 percent renewable energy standard, or renewable portfolio standard, that is 15 percent of electricity that will come from renewable sources, in order to maximize the production of renewable energy, wind energy here for example, but also wind, solar, and biomass elsewhere, in many places where you can produce it but do not need it. In order to do that you have to have a superhighway of transmission capability that connects all of our country, and we are going to not only do an RES that will maximize and drive additional production of renewable energy, but we are going to write a bill that deals with the issue of planning, siting, and pricing, with respect to transmission. Think of this, in the last 9 years we have produced in this country 11,000 miles of natural gas pipeline. Eleven thousand miles of natural gas pipeline, in the same 9 years we have been able to build only 680 miles of high-voltage transmission that is interstate. That is a failure, we just cannot get it done given the current circumstances, and we are going to have to rewire and short circuit a bit. There will be a front-end substantial planning process with all the jurisdictions having the opportunity that if it does not work there has to be a short backstop of some type so that we can build that transmission. It is the only way we will maximize renewable energy coming from North Dakota. It is the only way we will maximize wind energy, for example. Otherwise we will have stranded wind energy we can produce, but we do not need. In addition to RES and transmission, I support very much additional drilling, especially in the area where the drilling will be the most productive for our country and that is the Gulf of Mexico and especially the Eastern Gulf. I am pushing very hard for that and the McKenzie study shows that the quickest and easiest and most effective way to get energy is to save energy and that is retrofitting buildings. By far that is the lowest hanging fruit with respect to energy policy in our country, and finally 50 percent of all this electricity comes from coal. Those who suggest that we are not going to use coal in our future do not have the foggiest idea of what they are talking about. We need to use our most abundant resources in the future, but we need to find ways to decarbonize them. I have put \$4 billion as chairman of the committee in the last 12 months in carbon capture research and science and technology so that we can find a way to decarbonize coal and continue to use the most abundant resource in our country. Let me tell you just two things that are very interesting to me. I have people from all over the country coming to say to me, we have the secret, the silver bullet, we have the secret of how to capture carbon. There is a man right now who has 200 scientists working on this plan. They are developing synthetic microbes that they will place underground that will eat the coal, that is not by the way a technical description. The synthetic microbes will consume the coal and the coal will become methane gas. Isn't that exciting? I do not have the foggiest idea whether they will get that done, but Dr. Craig Venter is doing it. He is one of the few guys that created the human genome project. The idea is for synthetic microbes to consume coal and turn coal into methane gas. There is a guy in California that has patented the process right now to chemically keep carbon from fuel gas at a coal plant and turn it into a product that is harder and has higher value than cement or concrete, which he says will lower the cost of carbon to near zero. Maybe that is the silver bullet, I do not know. My point is this, I was in a roundtable conference with a bunch of folks here awhile back at Newseum and Al Gore was one of them. He said we want to be 100 percent renewable by 2020, not going to happen, not even close. We need to continue to use our most abundant resource, but to be able to do that we have to unlock the technology and the ability to decarbonize coal and we are going to do that. I believe North Dakota has an enormous stake in it.

One final point, when the energy bill is completed in the Senate in the coming weeks, or at least the coming couple of months, we will also take up what is called the climate change and cap and trade. We in North Dakota have a huge stake in that, in terms of the cost of electricity and in terms of the impact on our consumers. I am not a very happy person about this issue of creating a trading regime for our carbon. I have seen what happened to the futures market for oil last year. Speculators got ahold of it and drove it to \$147 per barrel in day trades. I am not very happy about this issue of cap and trade, and we need to get this right. It is one thing to try

to preserve this country's environment--we should and we will--and it is another thing to do it the right way. I voted against the closure on the climate change bill last year, because I did not believe they had clawed forward enough funding to give us the ability and the technology to decarbonize coal so that we continue to use coal. I said I am not interested in voting for failure, and you will fail if you push the approach. So, we are going to have a big fight in the Congress not about whether there is some climate change or whether we should address this, but about how--how we address this thoughtfully and how we address it the right way. These are issues that will have a profound impact on the State of North Dakota, and I know you've thought about it and talked about it and perhaps debated many of these issues over the past several months. This process that you are involved in and I am involved in is something that I have great affection for and I know some do not, it is called politics. John F. Kennedy used to say that every mother kind of hopes her child might grow up to be President, as long as they do not have to be active in politics, but you know that this is an honored process within which we make judgments about our country and about our future and you play a very significant role in that and North Dakota thanks you. God Bless You.

#### MOTION

**SEN. O'CONNELL MOVED** that the remarks of the Honorable Byron Dorgan be printed in the Journal, which motion prevailed.

#### CONSIDERATION OF MESSAGE FROM THE HOUSE

**SEN. KLEIN MOVED** that the Senate do concur in the House amendments to Engrossed SCR 4033 as printed on SJ pages 1453-1454, which motion prevailed on a voice vote.

Engrossed SCR 4033, as amended, was placed on the Eleventh order of business.

#### SECOND READING OF SENATE CONCURRENT RESOLUTION

**SCR 4033:** A concurrent resolution urging the North Dakota Congressional Delegation and the Congress of the United States to support worker freedom by opposing the federal Employee Free Choice Act and any of the Act's related components.

The question being on the final adoption of the amended resolution, which has been read.

Reengrossed SCR 4033 was declared adopted, and the title was agreed to on a voice vote.

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#### CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**SEN. FIEBIGER MOVED** that the conference committee report on Reengrossed HB 1040 as printed on SJ page 1460 be adopted, which motion prevailed on a voice vote.

Reengrossed HB 1040, as amended, was placed on the Fourteenth order.

#### SECOND READING OF HOUSE BILL

**HB 1040:** A BILL for an Act to provide for a procedure for missing person investigations.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 44 YEAS, 1 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dotzenrod; Erbele; Fiebigier; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wardner; Warner

**NAYS:** Dever

**ABSENT AND NOT VOTING:** Nelson; Wanzek

Reengrossed HB 1040, as amended, passed and the title was agreed to.

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#### CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**SEN. SCHNEIDER MOVED** that the conference committee report on HB 1188 as printed on SJ pages 1460-1461 be adopted, which motion prevailed on a voice vote.

HB 1188, as amended, was placed on the Fourteenth order.

**SECOND READING OF HOUSE BILL**

**HB 1188:** A BILL for an Act to create and enact a new section to chapter 20.1-01 of the North Dakota Century Code, relating to exploitation of wildlife; to amend and reenact section 20.1-01-26 of the North Dakota Century Code, relating to suspension of hunting, trapping, or fishing privileges; and to provide a penalty.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 39 YEAS, 7 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Dotzenrod; Erbele; Fiebiger; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Taylor; Triplett; Wardner; Warner

**NAYS:** Christmann; Cook; Dever; Fischer; Klein; Miller; Stenehjem

**ABSENT AND NOT VOTING:** Wanzek

HB 1188, as amended, passed and the title was agreed to.

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**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. NETHING MOVED** that the conference committee report on HB 1252 as printed on SJ page 1461 be adopted, which motion prevailed on a voice vote.

HB 1252, as amended, was placed on the Fourteenth order.

**SECOND READING OF HOUSE BILL**

**HB 1252:** A BILL for an Act to create and enact section 14-03-20.2 of the North Dakota Century Code, relating to middle name options.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**ABSENT AND NOT VOTING:** Wanzek

HB 1252, as amended, passed and the title was agreed to.

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**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. HOGUE MOVED** that the conference committee report on Engrossed HCR 3019 as printed on SJ page 1462 be adopted, which motion prevailed on a voice vote.

Engrossed HCR 3019, as amended, was placed on the Fourteenth order.

**SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3019:** A concurrent resolution directing the Legislative Council to study Section 18 of Article X of the Constitution of North Dakota.

The question being on the final adoption of the amended resolution, which has been read.

Engrossed HCR 3019, as amended, was declared adopted, and the title was agreed to on a voice vote.

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**POINT OF PERSONAL PRIVILEGE**

**SEN. NELSON:** Mr. President: I rise on a point of personal privilege.

**REMARKS OF SENATOR NELSON**

**MR. PRESIDENT:** Fifty years ago this afternoon a young gentleman from NDSU and I tied the knot. It was three o'clock in the afternoon, there were thirteen people present, and it was in my home. Gil was hoping to be here today, but little things happen; he's celebrating our anniversary in Room 532 of MeritCare Hospital in Fargo, and I'm here.

Prior to all this happening, we had planned a party for all of you. We've celebrated about nine anniversaries with you because we've been in session. So, Gil's used to me not being there on our anniversary, but this one was going to be kind of special.

Our kids have provided cake and some flowers--they're in the Conference Room, and we've invited all of you, and the interns, and the staff to come to enjoy this afternoon with us. Even though Gil can't be here, his thoughts are with you. There is a guest book out, and there's pictures of us before and after, so you can take a look at those.

I just thank you for all of your support during the last several days; it's been rather difficult. I'm glad to be back, but I'm anxious to get back home too. Thank you very much.

**MOTION**

**SEN. O'CONNELL MOVED** that the remarks of Sen. Nelson be printed in the Journal, which motion prevailed.

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

**MR. PRESIDENT:** The House has amended, subsequently passed, and the emergency clause carried: SB 2012.

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2012**

Page 1, line 2, after the semicolon insert "to provide an appropriation to the state treasurer; to provide for budget section reports; to provide for a state disaster relief fund; to create and enact a new section to chapter 24-01 and a new section to chapter 54-27 of the North Dakota Century Code, relating to the name of United States Highway 85 and transportation funding reports;"; after "39-04-19" insert ", 39-06-17", and after "54-27-19.1" insert ", 57-40.3-10"

Page 1, line 4, after "disasters" insert ", restricted operators' licenses,"

Page 1, line 6, remove "and" and replace "a transfer" with "transfers; to provide for legislative council studies; to provide legislative intent; to provide an effective date; to provide an expiration date; and to declare an emergency"

Page 1, line 16, replace "24,194,030" with "20,047,015" and replace "151,520,269" with "147,373,254"

Page 1, line 17, replace "29,107,351" with "18,107,351" and replace "203,805,014" with "192,805,014"

Page 1, line 18, replace "96,855,896" with "122,267,450" and replace "645,576,994" with "670,988,548"

Page 1, line 19, replace "16,653,601" with "14,853,601" and replace "69,066,101" with "67,266,101"

Page 1, line 20, replace "166,810,878" with "175,275,417" and replace "1,069,968,378" with "1,078,432,917"

Page 1, line 21, replace "3.00" with "2.00" and replace "1,055.50" with "1,054.50"

Page 1, replace lines 22 through 24 with:

**"SECTION 2. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS - ADDITIONAL FUNDING APPROVAL.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated from federal funds made available to the state under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, to the department of transportation, for the period beginning with the effective date of this Act and ending June 30, 2011, as follows:

Highway infrastructure	\$170,126,497
Grants to rural transit programs	5,956,174
Total federal funds	\$176,082,671



The department of transportation may seek emergency commission and budget section approval under chapter 54-16 for authority to spend any additional federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated under this section, for the period beginning with the effective date of this Act and ending June 30, 2011.

Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available.

**SECTION 3. APPROPRIATION - STATE TREASURER - WEATHER-RELATED COST-SHARING PROGRAM.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$71,500,000, or so much of the sum as may be necessary, to the state treasurer for the purpose of providing weather-related cost-sharing funds, for the period beginning with the effective date of this Act and ending June 30, 2009. The state treasurer shall distribute the funds appropriated under this section before June 30, 2009, as follows:

1. Ten million to townships in accordance with the formula used to distribute funds to townships under section 54-27-19.1, except that organized townships are not required to provide matching funds to receive distributions under this section.
2. Fifty-four million to counties and cities in accordance with the formula used to distribute funds to counties and cities under subsection 2 of section 54-27-19.
3. Seven million five hundred thousand to the state highway fund.

**SECTION 4. State disaster relief fund - Creation - Uses.** There is created in the state treasury a state disaster relief fund. Moneys in the fund are to be used subject to legislative appropriations for providing funding for defraying the expenses of state disasters, including providing funds required to match federal funds for expenses associated with presidential-declared disasters in the state. Any interest or other fund earnings must be deposited in the fund.

**SECTION 5. APPROPRIATION - TRANSFER.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$43,000,000, which the office of management and budget shall transfer to the state disaster relief fund during the period beginning with the effective date of this Act and ending June 30, 2009.

**SECTION 6. APPROPRIATION - ADJUTANT GENERAL - BUDGET SECTION APPROVAL.** There is appropriated out of any moneys in the state disaster relief fund in the state treasury, not otherwise appropriated, the sum of \$43,000,000, or so much of the sum as may be necessary, to the adjutant general for the purpose of providing emergency relief funding, for the period beginning with the effective date of this Act and ending June 30, 2011. The adjutant general may use up to \$20,000,000 of the funds appropriated in this section for the purpose of providing emergency snow removal grants to counties, cities, and townships in accordance with section 7 of this Act. The adjutant general may use up to \$23,000,000 of the funds appropriated in this section for paying costs relating to the 2009 flood disaster in accordance with section 8 of this Act.

**SECTION 7. EMERGENCY SNOW REMOVAL GRANTS - GUIDELINES - BUDGET SECTION REPORT.** A political subdivision may apply to the department of emergency services for an emergency snow removal grant for reimbursement of a portion of the costs incurred by the political subdivision for the period January 2009 through March 2009 that exceed two hundred percent of the average costs incurred for these months in 2004 through 2008, as follows:

1. For counties and townships, fifty percent of the excess costs.
2. For cities with a population of five thousand or less, fifty percent of the excess costs.
3. For cities with a population of more than five thousand, twenty-five percent of the excess costs.

Each political subdivision requesting reimbursement under this section must submit the request in accordance with rules developed by the department of emergency services. The department of emergency services shall distribute these grants prior to June 30, 2009, and shall report to the budget section regarding the grants awarded under this section.

**SECTION 8. EMERGENCY FLOOD RELIEF GRANTS - GUIDELINES - BUDGET SECTION REPORT - BUDGET SECTION APPROVAL.** A political subdivision receiving federal emergency relief funding for road repairs or improvements relating to the 2009 flood disaster may apply to the department of emergency services for an emergency flood relief grant of up to fifty percent of the local match required to receive the federal emergency relief funding. Each political subdivision requesting reimbursement under this section must submit the request in accordance with rules developed by the department of emergency services. The department of emergency services may distribute up to \$13,000,000 of grants under this section. Any additional grant expenditures require budget section approval. The department of emergency services shall report to the budget section on grants awarded under this section in the fourth quarter of calendar year 2009 and the third quarter of calendar year 2010.

**SECTION 9. APPROPRIATION - TRANSFER - STATE HIGHWAY FUND.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$4,600,000, which the office of management and budget shall transfer to the state highway fund for the purpose of defraying the expenses of highway projects in the Devils Lake area, for the biennium beginning July 1, 2009, and ending June 30, 2011.

**SECTION 10. USE OF HIGHWAY FUNDING - REPORT TO THE BUDGET SECTION.** The department of transportation shall coordinate with the department of emergency services to compile information regarding the use of state, federal, emergency, and other highway funding by the department of transportation, counties, cities, and townships during the biennium beginning July 1, 2009, and ending June 30, 2011. The department of transportation shall provide periodic reports to the budget section regarding the use of funds during the 2009-10 interim.

**SECTION 11. HIGHWAY FUNDING - ONE-TIME FUNDING.** Any highway funding received by the state, counties, cities, and townships in excess of the amounts received through distributions from the highway tax distribution fund under section 54-27-19 or existing federal highway aid programs is considered one-time funding for the biennium beginning July 1, 2009, and ending June 30, 2011."

Page 2, remove lines 1 through 29

Page 3, replace lines 4 through 10 with:

**"SECTION 13.** A new section to chapter 24-01 of the North Dakota Century Code is created and enacted as follows:

**Theodore Roosevelt expressway - United States highway 85.** Notwithstanding any previous designation, the department shall designate United States highway 85 as the Theodore Roosevelt expressway and at a minimum shall place signs along the highway designating that name and may use any appropriate signs donated to the department."

Page 9, after line 13, insert:

**"SECTION 16. AMENDMENT.** Section 39-06-17 of the North Dakota Century Code is amended and reenacted as follows:

**39-06-17. Restricted licenses - Penalty for violation.**

1. The director, upon issuing an operator's license or a temporary restricted operator's license pursuant to section 39-06.1-11, has authority to impose restrictions suitable to the licensee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle which the licensee may operate or such other restrictions applicable to the licensee as the director may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

2. The director may either issue a special restricted license or may set forth such restrictions upon the usual license form. The director shall likewise restrict licenses pursuant to the requirements of section 39-16.1-09.
3. A restricted operator's license or permit to operate the parent's or guardian's automobile, or an automobile which is equipped with dual controls and while accompanied by a qualified instructor, may be issued to any child, who is at least fourteen years of age, and otherwise qualified, upon the written recommendation of the parent or guardian. A child may operate an automobile that is not the parent's or guardian's to take the road test. No operator's license may be issued until the child, accompanied by the parent or guardian, appears in person and satisfies the director that:
  - a. The child is at least fourteen years of age.
  - b. The child is qualified to operate an automobile safely.
  - c. It is necessary for the child to drive the parent's or guardian's automobile without being accompanied by an adult.
  - d. The child has:
    - (1) Completed a course of classroom instruction and a course of behind-the-wheel instruction acceptable to the director; or
    - (2) Successfully completed a course at an approved commercial driver training school.
  - e. The child has driving experience of at least one hour at night, one hour during winter conditions, and one hour on a gravel, dirt, or loose surface highway to which the parent or guardian of the child must attest.

The parent or guardian at all times is responsible for any and all damages growing out of the negligent operation of a motor vehicle by any such child. The provisions of this subsection do not authorize the child to drive a commercial truck, motorbus, or taxicab except the holder of a class D license, fourteen or fifteen years of age, may drive a farm motor vehicle having a gross weight of fifty thousand pounds [22679.62 kilograms] when used to transport agricultural products, farm machinery, or farm supplies to or from a farm when so operated within one hundred fifty miles [241.40 kilometers] of the driver's farm.

4. The director may upon receiving satisfactory evidence of any violation of the restrictions of such license suspend or revoke the same but the licensee is entitled to a hearing as upon a suspension or revocation under this chapter.
5. It is a class B misdemeanor for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to that person other than restrictions imposed under subsection 6. If the restricted license was issued under section 39-06.1-11 and the underlying suspension was imposed for a violation of section 39-08-01 or equivalent ordinance, or is governed by chapter 39-20, punishment is as provided in subsection 2 of section 39-06-42 and upon receiving notice of the conviction the director shall revoke, without opportunity for hearing, the licensee's restricted license and shall extend the underlying suspension for a like period of not more than one year. The director may not issue a restricted license for the extended period of suspension imposed under this subsection. If the conviction referred to in this section is reversed by an appellate court, the director shall restore the person to the status held by the person prior to the conviction, including restoration of driving privileges if appropriate.
6. A restricted license issued under subsection 3 to a child at least fourteen years of age to operate a parent's or guardian's automobile authorizes the licenseholder to drive the type or class of motor vehicle specified on the restricted license only under the following conditions:

- a. A restricted licenseholder must be in possession of the license while operating the motor vehicle.
- b. An individual holding a restricted driver's license driving a motor vehicle may not carry more passengers than the vehicle manufacturer's suggested passenger capacity."

Page 12, after line 17, insert:

**"SECTION 19.** A new section to chapter 54-27 of the North Dakota Century Code is created and enacted as follows:

**Report on transportation funding and expenditures.** Each county, city, and township shall provide to the tax commissioner an annual report on funding and expenditures relating to transportation projects and programs. The report must be provided within thirty-one days after the close of a calendar year. The report must contain by fund the beginning balance, revenues by major source, expenditures by major category, the ending balance, and any other information requested by the tax commissioner.

**SECTION 20. AMENDMENT.** Section 57-40.3-10 of the North Dakota Century Code is amended and reenacted as follows:

**57-40.3-10. (Effective through June 30, 2009 2011) Transfer of revenue.** All moneys collected and received under this chapter after moneys are deposited in the state aid distribution fund under section 57-39.2-26.1 must be transmitted monthly by the director of the department of transportation to the state treasurer to be transferred and credited as follows:

1. ~~Ten~~ Twenty-five percent to the highway fund.
2. ~~Ninety~~ Seventy-five percent to the state general fund.

**(Effective after June 30, 2009 2011) Transfer of revenue.** All moneys collected and received under this chapter must be transmitted monthly by the director of the department of transportation to the state treasurer to be transferred and credited to the general fund."

Page 13, after line 13, insert:

**"SECTION 23. LEGISLATIVE COUNCIL STUDY - FARGO DISTRICT OFFICE SITE.** During the 2009-10 interim, the legislative council shall consider studying the feasibility and desirability of relocating the Fargo district office facility. The study, if conducted, must include a review of the estimated value of the current site property, the best use of the current property, and potential locations for a new district office facility. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

**SECTION 24. LEGISLATIVE COUNCIL STUDY - FEDERAL TRANSPORTATION MATCHING FUNDS.** During the 2009-10 interim, the legislative council shall consider studying the potential options for matching federal highway construction funding. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

**SECTION 25. LEGISLATIVE INTENT - HIGHWAY-RELATED FUNDING ALLOCATIONS.** It is the intent of the sixty-first legislative assembly that the department of transportation allocate highway-related funding to township, city, county, and state road projects to the extent possible in a proportion similar to distribution proportions of state highway tax distribution fund allocations to these entities for the biennium beginning July 1, 2009, and ending June 30, 2011."

Page 13, after line 15, insert:

**"SECTION 27. EMERGENCY.** Sections 2, 3, 4, 5, 6, 7, and 8 of this Act are declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT - LC 98031.0225 FN 8**

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

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

**MR. SPEAKER:** The Senate has concurred in the House amendments and subsequently passed: SCR 4033.

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

**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: SB 2069, SB 2223.

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

**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: HB 1040, HB 1110, HB 1188, HB 1252, HB 1489, HCR 3019.

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

**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently failed to pass: SB 2027.

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

**MR. SPEAKER:** Your signature is respectfully requested on: SB 2044, SB 2059, SB 2060, SB 2110, SB 2125, SB 2141, SB 2158.

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

**MR. SPEAKER:** Your signature is respectfully requested on: SB 2152, SB 2232, SB 2401.

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

**MR. SPEAKER:** The President has signed: SB 2028, SB 2051, SB 2098, SB 2114, SB 2116, SB 2163, SB 2171, SB 2251, SB 2270, SB 2293, SB 2338, SB 2415, SB 2421, SB 2438, SB 2441, SB 2443.

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

**MR. SPEAKER:** The President has signed: HB 1053, HB 1073, HB 1194, HB 1235.

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

**MR. SPEAKER:** The President has signed: HB 1175.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bills were delivered to the Governor for approval on April 24, 2009: SB 2028, SB 2051, SB 2098, SB 2114, SB 2116, SB 2163, SB 2171, SB 2251, SB 2270, SB 2293, SB 2338, SB 2415, SB 2421, SB 2438, SB 2441, SB 2443.

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate stand in recess until 4:00 p.m., which motion prevailed.

**THE SENATE RECONVENED** pursuant to recess taken, with President Dalrymple presiding.

**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 Forty-eighth, Fifty-second, Fifty-ninth, Sixtieth, Sixty-ninth, and Seventieth Days and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 790, line 43, replace "Engrossed" with "Reengrossed" and remove ", as amended,"

Page 904, line 45, replace "Engrossed" with "Reengrossed" and remove ", as amended,"

Page 1132, line 8, replace "SB 2441" with "Engrossed SB 2441" and remove ", as amended,"

Page 1191, line 29, replace "SB 2443" with "Engrossed SB 2443" and remove ", as amended,"

Page 1271, line 22, replace "bill" with "amended bill"

Page 1271, line 31, after "Engrossed HB 1090" insert ", as amended,"

Page 1271, line 44, replace "bill" with "amended bill"

Page 1272, line 4, after "Engrossed HB 1019" insert ", as amended,"

Page 1272, line 19, replace "bill" with "amended bill"

Page 1272, line 28, after "Engrossed HB 1009" insert ", as amended,"

Page 1423, line 32, remove ", as amended,"

Page 1437, after line 34 insert:

#### **MOTION**

**SEN. CHRISTMANN MOVED** that for the Seventieth legislative day Sen. Schneider replace Sen. Nelson on the Conference Committees on SB 2161 and SB 2172, which motion prevailed.

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

#### **CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. HOLMBERG MOVED** that the Senate do not concur in the House amendments to Engrossed SB 2012, and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

#### **APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT APPOINTED** as a Conference Committee on Engrossed SB 2012: Sens. Wardner, Stenehjem, Warner.

#### **MOTION**

**SEN. CHRISTMANN MOVED** that the Senate Conference Committee assignments on SB 2012 be messaged to the House immediately.

#### **MOTION**

**SEN. CHRISTMANN MOVED** that SB 2075 be moved to the top of the Seventh order, which motion prevailed.

#### **CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. KILZER MOVED** that the conference committee report on Engrossed SB 2075 as printed on SJ pages 1458-1459 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2075, as amended, was placed on the Eleventh order.

#### **SECOND READING OF SENATE BILL**

**SB 2075:** A BILL for an Act to provide an appropriation to the state veterans' home for improvements associated with the new veterans' home and a geothermal heating system; to provide a contingent appropriation; to provide for a report to the budget section; and to declare an emergency.

#### **ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

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

**ABSENT AND NOT VOTING:** Dotzenrod; Lyson; Wanzek

Reengrossed SB 2075 passed, the title was agreed to, and the emergency clause was declared carried.

\*\*\*\*\*

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

**MR. SPEAKER:** The Senate does not concur in the House amendments to SB 2012 and the President has appointed as a conference committee to act with a like committee from the House on:

**SB 2012:** Sens. Wardner; Stenehjem; Warner

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

**MR. PRESIDENT:** The Speaker has appointed as a conference committee to act with a like committee from the Senate on:

**SB 2012:** Reps. Delzer; Carlson; Kaldor

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

**MR. PRESIDENT:** The Speaker has appointed Rep. Hofstad to replace Rep. Nathe on the Conference Committee on HB 1090.

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

**MR. SPEAKER:** The Senate has adopted the conference committee report, subsequently passed, and the emergency clause carried: SB 2075.

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

**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently failed to pass: HB 1478.

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

**MR. SPEAKER:** The President has signed: HB 1490, HB 1510.

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

**MR. PRESIDENT:** The Speaker has signed: HB 1021, HB 1039, HB 1041, HB 1059, HB 1112, HB 1129, HB 1145, HB 1158, HB 1162, HB 1186, HB 1202, HB 1239, HB 1269, HB 1286, HB 1301, HB 1308, HB 1322, HB 1329, HB 1330, HB 1333, HB 1338, HB 1370, HB 1418, HB 1437, HB 1459, HB 1487, HB 1496, HB 1549.

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

**MR. PRESIDENT:** The Speaker has signed: HCR 3014, HCR 3048.

**MOTION**

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

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate be on the Fourth, Fifth, Seventh, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 8:00 a.m., Monday, April 27, 2009, which motion prevailed.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2006:** Your conference committee (Sens. Krebsbach, Bowman, Seymour and Reps. Dosch, Thoreson, S. Meyer) recommends that the **SENATE ACCEDE** to the House amendments on SJ pages 1246-1247 and place SB 2006 on the Seventh order.

SB 2006 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2017, as engrossed:** Your conference committee (Sens. Wardner, Holmberg, Seymour and Reps. Nelson, Kreidt, Kerzman) recommends that the **SENATE ACCEDE** to the House amendments on SJ pages 1248-1249 and place SB 2017 on the Seventh order.

Engrossed SB 2017 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2225, as engrossed:** Your conference committee (Sens. Erbele, Dever, Heckaman and Reps. Berg, Kempenich, Kaldor) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1285-1286, adopt amendments as follows, and place SB 2225 on the Seventh order:

That the House recede from its amendments as printed on pages 1285 and 1286 of the Senate Journal and pages 1326 and 1327 of the House Journal and that Engrossed Senate Bill No. 2225 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subsection to section 10-30.5-02 of the North Dakota Century Code, relating to the North Dakota development fund; to amend and reenact subsection 1 of section 6-09.14-01 of the North Dakota Century Code, relating to eligibility under the partnership in assisting community expansion program; to establish a grant program for early childhood facilities; to provide a report to the budget section; to provide an appropriation; and to provide an expiration date.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Subsection 1 of section 6-09.14-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Business" means a corporation, limited liability company, partnership, individual, or association providing child care or involved in manufacturing, processing, value-added processing, and targeted industries as defined by the Bank of North Dakota.

**SECTION 2.** A new subsection to section 10-30.5-02 of the North Dakota Century Code is created and enacted as follows:

Moneys in the development fund may be used to provide financing to early childhood facilities licensed under chapter 50-11.1. Moneys also may be used to make grants or loans to match grants or loans made by county-authorized or city-authorized development corporations, job development authorities created under chapter 11-11.1 or 40-57.4, and regional planning councils for acquiring, leasing, or remodeling of real estate facilities or for acquiring equipment for establishing or expanding a licensed early childhood facility. In providing financing under this subsection, the corporation shall ensure funds are distributed fairly among for-profit early childhood facilities, nonprofit early childhood facilities, and public early childhood facilities. An award under this subsection may not exceed one hundred thousand dollars per award.

**SECTION 3. DEPARTMENT OF COMMERCE - GRANTS FOR EARLY CHILDHOOD FACILITIES.**

1. During the biennium beginning July 1, 2009, and ending June 30, 2011, the department of commerce shall establish and implement a grant program to provide matching grants to North Dakota early childhood facilities.
2. A recipient of a grant under this section shall use the grant funds for technical assistance, a business plan, or infrastructure. A grant awarded under this section for infrastructure may not exceed \$5,000 per recipient and a grant awarded under this section for technical assistance or a business plan may not exceed \$10,000 per recipient.
3. To receive a grant under this section, an applicant shall establish the applicant has available \$1 of matching funds for every \$3 of grant funds. The matching funds must be in cash and may come from private or public sources, or from a combination of private and public sources.
4. In making awards under this program, the department shall ensure funds are fairly distributed between for-profit early childhood facilities, nonprofit early childhood facilities, and public early childhood facilities.

**SECTION 4. REPORT TO THE BUDGET SECTION.** The department of commerce shall report to the budget section during the second quarter of calendar year 2010 on the status of the financing provided to early childhood facilities under section 2 of this Act and the grants to early childhood facilities under section 3 of this Act.

**SECTION 5. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,250,000, or so much of the sum as may be necessary, to the department of commerce for deposit in the North Dakota development fund for the purpose of providing financing to early childhood facilities, for the biennium beginning July 1, 2009, and ending June 30, 2011.

**SECTION 6. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$500,000, or so much of the sum as may be necessary, to the department of commerce for the purpose of providing early childhood facility grants under section 3 of this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011.

**SECTION 7. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$70,000, or so much of the sum as may be necessary, to the department of commerce for the



purpose of administering sections 2 and 3 of this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011.

**SECTION 8. EXPIRATION DATE.** Sections 1 and 2 of this Act are effective through July 31, 2011, and after that date are ineffective."

Renumber accordingly

Engrossed SB 2225 was placed on the Seventh order of business on the calendar.

#### **REPORT OF CONFERENCE COMMITTEE**

**SB 2230, as engrossed:** Your conference committee (Sens. Dever, J. Lee, Heckaman and Reps. Uglem, Damschen, Holman) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1169-1170, adopt amendments as follows, and place SB 2230 on the Seventh order:

That the House recede from its amendments as printed on pages 1169 and 1170 of the Senate Journal and page 1099 of the House Journal and that Engrossed Senate Bill No. 2230 be amended as follows:

Page 1, line 4, after "**APPROPRIATION**" insert "- **FEDERAL FISCAL STIMULUS FUNDS**" and replace "out of any moneys in the" with "from federal fiscal stimulus funds made available to the state under the federal American Recovery and Reinvestment Act of 2009"

Page 1, line 5, remove "general fund in the state treasury" and replace "\$2,000,000" with "\$1,000,000"

Page 1, line 9, remove "Grants must be awarded based on a"

Page 1, replace lines 10 through 12 with "Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available."

**SECTION 2. APPROPRIATION - DOMESTIC VIOLENCE GRANTS.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,000,000, or so much of the sum as may be necessary, to the state department of health for providing grants and related administrative costs to domestic violence sexual assault organizations as defined in North Dakota Century Code section 14-07.1-01, for the biennium beginning July 1, 2009, and ending June 30, 2011. Grants must be awarded based on a funding system developed by the state department of health with input from the North Dakota council on abused women's services."

Renumber accordingly

#### **STATEMENT OF PURPOSE OF AMENDMENT - LC 90362.0303 FN 1**

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

Engrossed SB 2230 was placed on the Seventh order of business on the calendar.

#### **REPORT OF CONFERENCE COMMITTEE**

**SB 2267:** Your conference committee (Sens. Olafson, Nething, Schneider and Reps. Dahl, Boehning, Wolf) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 975, adopt amendments as follows, and place SB 2267 on the Seventh order:

That the House recede from its amendments as printed on page 975 of the Senate Journal and page 1011 of the House Journal and that Senate Bill No. 2267 be amended as follows:

Page 1, line 2, after "employees" insert "; and to provide for a legislative council study"

Page 1, line 23, overstrike "dismissed under this subsection" and insert immediately thereafter "claiming reprisal under this section"

Page 1, line 24, overstrike "state personnel board" and insert immediately thereafter "human resource management services division"

Page 2, line 2, overstrike "state personnel"

Page 2, line 3, overstrike "board" and insert immediately thereafter "human resource management services division"

Page 2, replace lines 4 through 11 with:

**"SECTION 2. LEGISLATIVE COUNCIL STUDY - WHISTLEBLOWER LAWS.**

During the 2009-10 interim, the legislative council shall consider studying the state's whistleblower protection laws, including whether the laws adequately address the public policy issues related to whistleblower protection. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly."

Renumber accordingly

SB 2267 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2311:** Your conference committee (Sens. Dever, Cook, Horne and Reps. Skarphol, Carlson, Williams) recommends that the **SENATE ACCEDE** to the House amendments on SJ pages 1351-1352 and place SB 2311 on the Seventh order.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2373:** Your conference committee (Sens. Miller, Hogue, Triplett and Reps. Belter, Brandenburg, Winrich) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 1209, adopt amendments as follows, and place SB 2373 on the Seventh order:

That the House recede from its amendments as printed on page 1209 of the Senate Journal and page 968 and page 1101 of the House Journal and that Senate Bill No. 2373 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "to provide for a grape and wine program committee; to provide a report to the legislative assembly; to provide an appropriation; and to provide an expiration date.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$250,000, or so much of the sum as may be necessary, to the grape and wine program committee for the purpose of providing matching funds for grape research, for the biennium beginning July 1, 2009, and ending June 30, 2011. The grape and wine program committee may spend funds appropriated under this section for grants only after consultation with the main research center and only to the extent of \$4 for each \$1 provided from other sources. The grape and wine program committee may spend additional funds from gifts, grants, or donations and those additional funds are appropriated to the grape and wine program committee.

**SECTION 2. Grape and wine program committee.**

1. The grape and wine program committee is a seven-member committee that shall advise the agriculture commissioner on the commissioner's efforts to provide producer education, marketing, and promotion of the grape and wine industry in this state. In addition, the committee shall advise the vice president for agriculture and university extension at North Dakota state university and the director of the North Dakota agricultural experiment station on priorities for research for the grape and wine industry in this state.
2. The committee consists of:
  - a. The agriculture commissioner or the commissioner's designee;
  - b. The vice president for agriculture at North Dakota state university or the vice president's designee;

- c. An individual appointed by the governor representing the grape or wine industry in this state;
  - d. An individual appointed by the commissioner of the department of commerce;
  - e. An individual appointed by the state board of agricultural research and education; and
  - f. Two individuals appointed by the North Dakota grape growers association.
- 3. All members of the committee shall serve for a term of two years, beginning July first of each odd-numbered year, and may be reappointed for additional terms.
  - 4. If any member of the committee resigns or ceases to be a member of the class the member represents, that individual's membership on the committee ceases and the appropriate appointing authority may appoint a new member for the remainder of the term.
  - 5. The North Dakota grape growers association shall designate as chairman one of the two individuals the association appoints to the committee unless the committee elects a different chairman from the members on the committee. The committee shall meet at least once every two years and at the call of the chairman.
  - 6. Members of the committee are entitled up to the per diem compensation provided to members of the legislative assembly under subsection 1 of section 54-03-20 and expense reimbursement.

**SECTION 3. REPORT TO SIXTY-SECOND AND SIXTY-THIRD LEGISLATIVE ASSEMBLIES.** The grape and wine program committee shall report to the sixty-second and sixty-third legislative assemblies on the progress of research, producer education, marketing, and promotion of the grape and wine industry in this state.

**SECTION 4. EXPIRATION DATE.** This Act is effective through June 30, 2013, and after that date is ineffective."

Renumber accordingly

SB 2373 was placed on the Seventh order of business on the calendar.

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

**Fran A. Gronberg, Secretary**

