

## JOURNAL OF THE SENATE

## Sixty-first Legislative Assembly

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Bismarck, April 2, 2009

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

The prayer was offered by Pastor Wes Aardahl, Faith Lutheran Church, Bismarck.

The roll was called and all members were present.

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 Fifty-fifth Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 960, line 11, replace "52-06.2-02" with "53-06.2-02"

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

## REMARKS OF PRESIDENT DALRYMPLE

Roger Johnson is a third generation farmer from Turtle Lake, ND. He was first elected to the office of North Dakota State Agriculture Commissioner in 1996. He has served as such on the Industrial Commission, the State Water Commission, the State Board of Tax Equalization, and several other state boards.

Roger also served at the national level as President of the National Association of State Departments of Agriculture, along with other positions which he used at the state and national level in his involvement in the drafting of the 2007 Farm Bill.

Now Commissioner Johnson is leaving North Dakota for a position he feels will allow him to have an even greater impact on farmers.

We would like to take this opportunity to thank Commissioner Johnson for his years of service for the state of North Dakota and to wish him well in his future endeavors as the President of the National Farmers' Union. Thank you and good luck Commissioner Johnson.

## MOTION

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

## CONSIDERATION OF AMENDMENTS

**HB 1195: SEN. WANZEK (Industry, Business, and Labor Committee) MOVED** that the amendments on SJ page 957 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

## SECOND READING OF HOUSE BILL

**HB 1195:** A BILL for an Act to create and enact a new section to chapter 22-02 of the North Dakota Century Code, relating to indemnity agreements in motor carrier transportation contracts.

## 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 44 YEAS, 3 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; 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; Wanzek; Wardner; Warner

**NAYS:** Fiebigler; Nelson; Triplett

HB 1195, as amended, passed and the title was agreed to.

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#### CONSIDERATION OF AMENDMENTS

**HB 1237, as engrossed: SEN. LYSON (Judiciary Committee) MOVED** that the amendments on SJ page 957 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1237:** A BILL for an Act to create and enact a new section to chapter 12-44.1 of the North Dakota Century Code, relating to allowing correctional officers to carry weapons in certain circumstances; 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Wanzek; Wardner; Warner

Engrossed HB 1237, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

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#### CONSIDERATION OF AMENDMENTS

**HB 1238, as engrossed: SEN. NELSON (Judiciary Committee) MOVED** that the amendments on SJ pages 957-958 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1238:** A BILL for an Act to create and enact a new section to chapter 12-44.1 of the North Dakota Century Code, relating to the housing of out-of-state inmates by correctional facilities; to amend and reenact section 12-44.1-02 of the North Dakota Century Code, relating to the housing of out-of-state inmates by correctional facilities; 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Wanzek; Wardner; Warner

Engrossed HB 1238, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

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#### CONSIDERATION OF AMENDMENTS

**HB 1252: SEN. NETHING (Judiciary Committee) MOVED** that the amendments on SJ page 958 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

#### 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, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Wanzek; Wardner; Warner

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

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**CONSIDERATION OF AMENDMENTS**

**HB 1116, as engrossed: SEN. MARCELLAIS (Human Services Committee) MOVED** that the amendments on SJ page 956 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**SECOND READING OF HOUSE BILL**

**HB 1116:** A BILL for an Act to create and enact a new section to chapter 43-10 of the North Dakota Century Code, relating to the powers of the state board of funeral service to conduct information seminars; and to amend and reenact subsection 6 of section 43-10-10.1 and sections 43-10-13, 43-10-14, 43-10-15, 43-10-15.1, 43-10-22, and 43-10-23 of the North Dakota Century Code, relating to an exception to the requirement of a license to practice funeral service, licensing of funeral practitioners, and licensing and inspection of funeral establishments.

**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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Wanzek; Wardner; Warner

Engrossed HB 1116, as amended, passed and the title was agreed to.

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**CONSIDERATION OF AMENDMENTS**

**HB 1316, as engrossed: SEN. OLAFSON (Judiciary Committee) MOVED** that the amendments on SJ page 960 be adopted and then be placed on the Fourteenth order with **DO NOT PASS**, which motion prevailed.

**SECOND READING OF HOUSE BILL**

**HB 1316:** A BILL for an Act to provide for a transfer to return to the breeders' fund certain moneys paid from that fund for racing purses.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 11 YEAS, 36 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Christmann; Cook; Fischer; Grindberg; Krauter; Lindaas; Marcellais; O'Connell; Potter; Triplett

**NAYS:** Anderson; Bakke; Behm; Bowman; Dever; Dotzenrod; Erbele; Fiebiger; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krebsbach; Lee, G.; Lee, J.; Lyson; Mathern; Miller; Nelson; Nething; Nodland; Oehlke; Olafson; Pomeroy; Robinson; Schneider; Seymour; Stenehjem; Taylor; Wanzek; Wardner; Warner

Engrossed HB 1316, as amended, lost.

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**CONSIDERATION OF AMENDMENTS**

**HB 1458: SEN. FIEBIGER (Judiciary Committee) MOVED** that the amendments on SJ page 960 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**SECOND READING OF HOUSE BILL**

**HB 1458:** A BILL for an Act to create and enact a new subsection to section 59-09-03 and a new section to chapter 59-18 of the North Dakota Century Code, relating to the definition of irrevocable in reference to a trust and a presumption against eligibility for assistance programs for certain transactions; and to amend and reenact sections 59-16-13 and 59-17-06 of the North Dakota Century Code, relating to the duty of a trustee to inform beneficiaries and the settlor.

**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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Nothing; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

HB 1458, as amended, passed and the title was agreed to.

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**CONSIDERATION OF AMENDMENTS**

**HB 1398, as engrossed: SEN. ANDRIST (Industry, Business and Labor Committee) MOVED** that the amendments on SJ page 960 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**SECOND READING OF HOUSE BILL**

**HB 1398:** A BILL for an Act to create and enact section 21-03-06.1 of the North Dakota Century Code, relating to voter approval of public building projects funded through a building authority or other indirect means.

**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 20 YEAS, 27 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Christmann; Cook; Dever; Erbele; Fischer; Freborg; Hogue; Kilzer; Klein; Lyson; Miller; Nothing; Nodland; Olafson; Potter; Stenehjem; Wanzek; Wardner

**NAYS:** Anderson; Bakke; Behm; Dotzenrod; Fiebiger; Flakoll; Grindberg; Heckaman; Holmberg; Horne; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Marcellais; Mathern; Nelson; O'Connell; Oehlke; Pomeroy; Robinson; Schneider; Seymour; Taylor; Triplett; Warner

Engrossed HB 1398, as amended, lost.

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**CONSIDERATION OF AMENDMENTS**

**HB 1005, as engrossed: SEN. ROBINSON (Appropriations Committee) MOVED** that the amendments on SJ page 954 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**SECOND READING OF HOUSE BILL**

**HB 1005:** A BILL for an Act to provide an appropriation for defraying the expenses of the state treasurer; and to amend and reenact section 54-11-13 of the North Dakota Century Code, relating to the salary of the state treasurer.

**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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebig; 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; Wanzek; Wardner; Warner

Engrossed HB 1005, as amended, passed and the title was agreed to.

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**CONSIDERATION OF AMENDMENTS**

**HB 1006, as engrossed: SEN. KRAUTER (Appropriations Committee) MOVED** that the amendments on SJ page 954 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**SECOND READING OF HOUSE BILL**

**HB 1006:** A BILL for an Act to provide an appropriation for defraying the expenses of the office of the state tax commissioner and for payment of state reimbursement under the homestead tax credit; to provide for a transfer; to amend and reenact section 57-01-04 of the North Dakota Century Code, relating to the tax commissioner's salary; to provide an exemption from the provisions of section 54-44.1-11 of the North Dakota Century Code; to provide legislative intent; 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, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebig; 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; Wanzek; Wardner; Warner

Engrossed HB 1006, as amended, passed and the title was agreed to.

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**CONSIDERATION OF AMENDMENTS**

**HB 1269: SEN. ERBELE (Human Services Committee) MOVED** that the amendments on SJ page 959 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**SECOND READING OF HOUSE BILL**

**HB 1269:** A BILL for an Act to create and enact a new section to chapter 43-12.1 of the North Dakota Century Code, relating to discipline of an unlicensed assistive person practicing without registration; to amend and reenact section 43-12.1-14 of the North Dakota Century Code, relating to discipline of an unlicensed assistive person practicing without registration; and to provide for a legislative council study.

**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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebig; 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; Wanzek; Wardner; Warner

HB 1269, as amended, passed and the title was agreed to.

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#### CONSIDERATION OF AMENDMENTS

**HB 1263: SEN. DEVER (Human Services Committee) MOVED** that the amendments on SJ pages 958-959 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1263:** A BILL for an Act to create and enact a new section to chapter 50-32 of the North Dakota Century Code, relating to duties of assisted living facilities; and to provide for a legislative council study.

#### 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 45 YEAS, 1 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; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

**NAYS:** O'Connell

**ABSENT AND NOT VOTING:** Holmberg

HB 1263, as amended, passed and the title was agreed to.

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#### CONSIDERATION OF AMENDMENTS

**HB 1573, as engrossed: SEN. HECKAMAN (Human Services Committee) MOVED** that the amendments on SJ page 961 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1573:** A BILL for an Act to provide for a legislative council study of voucher use and provider choice for clients in human services and other programs and for funding of human services and other state programs.

#### 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Wanzek; Wardner; Warner

Engrossed HB 1573, as amended, passed and the title was agreed to.

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#### CONSIDERATION OF AMENDMENTS

**HB 1088, as engrossed: SEN. HOGUE (Finance and Taxation Committee) MOVED** that the amendments on SJ pages 955-956 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1088:** A BILL for an Act to amend and reenact subsections 1 and 5 of section 57-38-57 and subsection 1 of section 57-39.2-23 of the North Dakota Century Code, relating to the confidentiality of income tax and sales and use tax returns and return information.

**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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebig; 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; Wanzek; Wardner; Warner

Engrossed HB 1088, as amended, passed and the title was agreed to.

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**CONSIDERATION OF AMENDMENTS**

**HB 1008, as engrossed: SEN. WARNER (Appropriations Committee) MOVED** that the amendments on SJ pages 954-955 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**SECOND READING OF HOUSE BILL**

**HB 1008:** A BILL for an Act to provide an appropriation for defraying the expenses of the public service commission; to provide legislative intent; to provide for a report to the budget section; and to amend and reenact section 49-01-05 of the North Dakota Century Code, relating to the salary of public service commissioners.

**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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebig; 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; Wanzek; Wardner; Warner

Engrossed HB 1008, as amended, passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1401:** A BILL for an Act to create and enact a new section to chapter 57-13 of the North Dakota Century Code, relating to limitations on the valuation of residential and commercial property as determined by the sales ratio study.

**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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebig; 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; Wanzek; Wardner; Warner

HB 1401, as amended, passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1082:** A BILL for an Act to amend and reenact section 57-39.2-03.3, subsection 1 of section 57-40.3-01, subsection 4 of section 57-40.3-11, subsections 12, 13, 16, and 18 of section 57-43.1-01, subsection 2 of section 57-43.1-02, section 57-43.1-05, subsections 16, 17, and 20 of section 57-43.2-01, and subsection 2 of section 57-43.2-02 of the North Dakota Century Code, relating to sales tax on sales through

vending machines, the definition of low-speed vehicle and the time for audit and protest for motor vehicle excise tax purposes, motor vehicle fuel tax definitions, the motor vehicle fuel tax and special fuels tax imposed on fuels produced by a refiner, and minimum refunds for motor vehicle fuel tax purposes; and to provide an effective 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 46 YEAS, 1 NAYS, 0 EXCUSED, 0 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; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

**NAYS:** O'Connell

HB 1082, as amended, passed and the title was agreed to.

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#### SECOND READING OF HOUSE BILL

**HB 1330:** A BILL for an Act to amend and reenact sections 43-03-01, 43-03-02, 43-03-03, 43-03-04, 43-03-05, 43-03-06, 43-03-08, 43-03-09, 43-03-10, 43-03-11, 43-03-13, 43-03-14, 43-03-15, 43-03-16, 43-03-17, 43-03-18, 43-03-19, 43-03-20, and 43-03-22 of the North Dakota Century Code, relating to the regulation of architects and landscape architects; to repeal sections 43-03-12, 43-03-24, and 43-03-25 of the North Dakota Century Code, relating to the regulation of architects and landscape architects; and to provide a penalty.

#### 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Wanzek; Wardner; Warner

HB 1330, as amended, passed and the title was agreed to.

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

**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1005, HB 1006, HB 1008, HB 1082, HB 1088, HB 1116, HB 1195, HB 1252, HB 1263, HB 1269, HB 1330, HB 1401, HB 1458, HB 1573.

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

**MR. SPEAKER:** The Senate has amended, subsequently passed, and the emergency clause carried: HB 1237, HB 1238.

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

**MR. SPEAKER:** The Senate has amended and subsequently failed to pass: HB 1316, HB 1398.

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

**MR. PRESIDENT:** The House has passed unchanged: SB 2072, SB 2133, SB 2231, SB 2295, SB 2412, SCR 4010.

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

**MR. PRESIDENT:** The House has amended and subsequently passed: SB 2267, SB 2318, SB 2355, SB 2415.

**HOUSE AMENDMENTS TO SENATE BILL NO. 2267**

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, after line 11, insert:

"5. All permanent and temporary employees of the state may appeal claims of reprisal under this section in the manner prescribed for classified employees under chapter 54-44.3. This subsection does not apply to appointed officials, members of state boards and commissions, employees under the jurisdiction of the state board of higher education, and the chief deputy and personal secretary of an elected official, unless the individual is employed in a classified position."

Renumber accordingly

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2318**

Page 1, line 2, after the semicolon insert "and"

Page 1, line 4, remove "; and to provide an expiration"

Page 1, line 5, remove "date"

Page 4, remove lines 16 and 17

Renumber accordingly

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2355**

Page 1, remove lines 20 through 23

Page 2, remove lines 1 and 2

Page 2, line 9, after "care" insert "for short-term" and after the period insert "The study also must include recommendations regarding sources of reliable funding, the appropriate state administrative agency, and a delivery system that reflects local resources and preferences and evidence-based methods for involving parents in follow-up services."

Renumber accordingly

**HOUSE AMENDMENTS TO REENGROSSED SENATE BILL NO. 2415**

Page 1, line 2, after "licensure" insert "and classification system" and after the semicolon insert "to provide an effective date;"

Page 1, line 8, overstrike "chief" and insert immediately thereafter "director"

Page 1, line 10, overstrike "chief" and insert immediately thereafter "director by a resident or nonresident citizen of the United States"

Page 1, line 11, after "a." insert "The applicant is at least twenty-one years of age for a class 1 license or at least eighteen years of age for a class 2 license."

b."

Page 1, line 14, overstrike "b." and insert immediately thereafter "c."

Page 1, line 15, overstrike "c." and insert immediately thereafter "d."

Page 1, line 19, overstrike "attended a" and insert immediately thereafter "successfully completed the"

Page 1, line 20, overstrike "pursuant to rules adopted by the attorney"

Page 1, line 21, overstrike "general" and insert immediately thereafter "by a certified firearm or dangerous weapon instructor"

Page 1, line 24, overstrike "A weapons instructor certified by"

Page 2, line 1, overstrike "the attorney general shall conduct the testing procedure." and remove the overstrike over "~~The attorney~~"

Page 2, line 2, remove the overstrike over "~~general~~"

Page 2, line 4, overstrike "The testing procedure is not required for a"

Page 2, line 5, overstrike "renewal of a concealed weapons license" and insert immediately thereafter "may certify a firearm or dangerous weapon instructor based upon criteria and guidelines prescribed by the director of the bureau of criminal investigation"

Page 2, line 6, overstrike "d." and insert immediately thereafter "e."

Page 2, line 8, after the period insert "To pass a background investigation, an applicant shall provide all documentation relating to any court-ordered treatment or commitment for mental health or alcohol or substance abuse or incidents of domestic violence. The applicant shall provide the director of the bureau of criminal investigation written authorizations for disclosure of the applicant's mental health and alcohol or substance abuse evaluation and treatment records."

Page 2, line 9, overstrike "e." and insert immediately thereafter "f."

Page 2, line 11, after "2." insert "The attorney general shall offer class 1 and class 2 licenses to carry a firearm or dangerous weapon concealed pursuant to the following requirements:

- a. An applicant for a class 1 license shall successfully participate in a classroom instruction that sets forth weapon safety rules and the deadly force law of North Dakota, complete an open book test based upon a manual, demonstrate familiarity with a firearm or dangerous weapon, and complete an actual shooting or certified proficiency exercise. Evidence of familiarity with a firearm or dangerous weapon to be concealed may be satisfied by one of the following:
  - (1) Certification of familiarity with a firearm or dangerous weapon by an individual who has been certified by the attorney general, which may include a law enforcement officer, military or civilian firearms instructor, hunter safety instructor, or dangerous weapons instructor;
  - (2) Evidence of equivalent experience with a firearm or dangerous weapon through participation in an organized shooting competition, law enforcement, military service, or dangerous weapon course of training;
  - (3) Possession of a license from another state to carry a firearm or dangerous weapon, concealed or otherwise, which is granted by that state upon completion of a course described in paragraphs 1 and 2; or
  - (4) Evidence that the applicant, during military service, was found to be qualified to operate a firearm or dangerous weapon.
- b. An applicant for a class 2 license is required to successfully complete the open book test offered for the class 1 license.
- c. Licenses issued before August 1, 2009, regardless of the age of the license holder, convert to a class 2 license upon renewal and no additional testing is required. No additional testing is required to renew a class 2 concealed weapons license. A class 1 license may be renewed upon successful completion of the class 1 requirements within one year before submission of the application for renewal. A license issued under this section before August 1, 2009, and a class 2 license may be upgraded to a class 1 license upon successful completion of the class 1 requirements and satisfaction of the age requirement.

3."

Page 2, line 18, overstrike "3." and insert immediately thereafter "4." and overstrike "twenty-five dollars. Ten" and insert immediately thereafter "forty-five"

Page 2, overstrike line 19 and insert immediately thereafter ", which"

Page 2, line 20, overstrike "up to a total of"

Page 2, line 21, overstrike "seventy-five thousand dollars each biennium" and overstrike "Any collections from fifteen dollars"

Page 2, overstrike lines 22 and 23

Page 2, line 26, overstrike "4." and insert immediately thereafter "5." and overstrike "chief" and insert immediately thereafter "director"

Page 3, line 4, overstrike "chief" and insert immediately thereafter "director"

Page 3, line 7, overstrike "chief" and insert immediately thereafter "director"

Page 3, line 10, overstrike "5." and insert immediately thereafter "6." and overstrike "chief" and insert immediately thereafter "director"

Page 3, line 13, overstrike "6." and insert immediately thereafter "7."

Page 3, line 14, overstrike "of the applicant's county of residence" and insert immediately thereafter "of Burleigh County"

Page 3, line 15, overstrike "7." and insert immediately thereafter "8."

Page 3, line 23, overstrike "8." and insert immediately thereafter "9.", remove the overstrike over "~~may~~", remove "shall", after "adopt" insert "any", remove the overstrike over "~~rules~~" and insert immediately thereafter "necessary", remove the overstrike over "~~to carry out this title~~", and remove "by rule written and"

Page 3, remove line 24

Page 3, line 25, remove "or is otherwise valid in as many states as possible" and remove "The rules must allow a"

Page 3, remove lines 26 through 30

Page 4, replace lines 1 through 5 with:

**"SECTION 2. EFFECTIVE DATE.** Subsection 5 of section 1 of this Act becomes effective on July 1, 2011."

Renumber accordingly

**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 2256.

**HOUSE AMENDMENTS TO SENATE BILL NO. 2256**

Page 1, line 2, after "subdivision" insert "; and to declare an emergency"

Page 1, after line 11, insert:

**"SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has failed to pass unchanged: SB 2272, SB 2327.

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

**MR. SPEAKER:** Your signature is respectfully requested on: SB 2204, SB 2344, SB 2403, SB 2423.

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

**MR. PRESIDENT:** The Speaker has signed: SB 2052, SB 2085, SB 2124, SB 2139, SB 2160, SB 2291, SB 2366, SB 2399, SB 2420, SB 2429, SCR 4001, SCR 4002, SCR 4003, SCR 4006, SCR 4009, SCR 4019, SCR 4022, SCR 4026, SCR 4028.

**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 12:30 p.m., Friday, April 3, 2009, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**HB 1017, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1017 was placed on the Sixth order on the calendar.

Page 1, line 2, after "department" insert "; and to amend and reenact subsection 5 of section 20.1-17-01 of the North Dakota Century Code, relating to agency rules adopted under the Nonindigenous Aquatic Nuisance Prevention and Control Act"

Page 1, line 12, replace "1,946,918" with "2,869,589" and replace "20,960,381" with "21,883,052"

Page 1, line 14, replace "680,759" with "(119,241)" and replace "3,965,000" with "3,165,000"

Page 2, line 2, replace "1,002,993" with "1,125,664" and replace "58,844,032" with "58,966,703"

Page 2, after line 3, insert:

**"SECTION 2. AMENDMENT.** Subsection 5 of section 20.1-17-01 of the North Dakota Century Code is amended and reenacted as follows:

5. Develop rules to prevent the movement of aquatic nuisance species into or within the state. In addition to requirements under chapter 28-32, the department shall conduct a cost-benefit analysis for any rule proposed for adoption under this chapter."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT - LC 98017.0202 FN 2**

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

**REPORT OF STANDING COMMITTEE**

**HB 1040, as reengrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1040, as amended, was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1042: Judiciary Committee (Sen. Nething, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1042 was placed on the Fourteenth order on the calendar.

Page 1, line 2, after "1-02-12" insert ", 12.1-12-09," and after the comma insert "subdivision j of subsection 1 of section 54-07-01.2,"

Page 1, line 5, replace "section" with "sections" and after "15.1-13-32" insert "and 32-42-04"

Page 1, after line 14, insert:

**"SECTION 2. AMENDMENT.** Section 12.1-12-09 of the North Dakota Century Code is amended and reenacted as follows:

**12.1-12-09. Definitions for chapter.** In this chapter, "thing of value" and "thing of pecuniary value" do not include (1) salary, fees, and other compensation paid by the government in consideration for which the official action or legal duty is performed; or (2) concurrence in official action in the course of legitimate compromise among public servants, except as provided in section 9 of article IV or section 44 10 of article V of the Constitution of North Dakota."

Page 7, after line 16, insert:

**"SECTION 5. AMENDMENT.** Subdivision j of subsection 1 of section 54-07-01.2 of the North Dakota Century Code is amended and reenacted as follows:

- j. The education standards and practices board ~~and the administrator's professional practices board.~~

Page 8, line 10, replace "Section" with "Sections" and after "15.1-13-32" insert "and 32-42-04"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1186, as engrossed: Judiciary Committee (Sen. Nething, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1186 was placed on the Sixth order on the calendar.

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 12.1-27.1-01 and section 12.1-27.1-03.3 of the North Dakota Century Code, relating to sexually expressive images; to repeal section 12.1-31-08 of the North Dakota Century Code, relating to possession or distribution of certain photographs or other visual representations; and to provide a penalty.

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

**SECTION 1.** A new subsection to section 12.1-27.1-01 of the North Dakota Century Code is created and enacted as follows:

As used in this chapter, "sexually expressive image" means a photograph or visual representation that exhibits a nude or partially denuded human figure, as defined in section 12.1-27.1-03.1, or sexual conduct.

**SECTION 2.** Section 12.1-27.1-03.3 of the North Dakota Century Code is created and enacted as follows:

#### **Creation, possession, or dissemination of sexually expressive images prohibited - Exception.**

1. A person is guilty of a class A misdemeanor if, knowing of its character and content, that person:
  - a. Without written consent from each individual in the image, surreptitiously creates or possesses a sexually expressive image knowing the sexually expressive image was surreptitiously created; or
  - b. Distributes or publishes, electronically or otherwise, a sexually expressive image with the intent to cause emotional harm or humiliation to any individual depicted in the sexually expressive image or after being given notice by an individual or parent or guardian of the individual who is depicted in a sexually expressive image that the individual, parent, or guardian does not consent to the distribution or publication of the sexually expressive image.
2. This section does not authorize any act prohibited by any other law. If the sexually expressive image is of a minor and possession does not violate section 12.1-27.2-04.1, a parent or guardian of the minor may give permission for a person to possess or distribute the sexually expressive image.

3. This section does not apply to any book, photograph, video recording, motion picture film, or other visual representation sold in the normal course of business through wholesale or retail outlets that possess a valid sales tax permit or used by an attorney, attorney's agent, or any other person obtaining evidence for a criminal investigation or pending civil action, or by a medical professional or a peace officer acting within that individual's scope of employment.

**SECTION 3. REPEAL.** Section 12.1-31-08 of the North Dakota Century Code is repealed."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1209: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1209 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1276, as reengrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO NOT PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed HB 1276 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1306, as reengrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1306 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1327, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1327, as amended, was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1346: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1346 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1347, as engrossed: Judiciary Committee (Sen. Nething, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1347 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative council study of the appropriate use of state or political subdivision services, property, or other resources for political purposes.

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

**SECTION 1. LEGISLATIVE COUNCIL STUDY - USE OF PUBLIC PROPERTY OR SERVICES FOR POLITICAL PURPOSES.** During the 2009-10 interim, the legislative council shall consider studying the appropriate use of state or political subdivision services, property, or other resources for political purposes. 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

**REPORT OF STANDING COMMITTEE**

**HB 1368, as reengrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed HB 1368 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1371: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1371 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1385: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1385 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "section" with "sections 50-24.6-02 and"

Page 1, line 2, after "the" insert "drug use review board and the"

Page 1, after line 3, insert:

**"SECTION 1. AMENDMENT.** Section 50-24.6-02 of the North Dakota Century Code is amended and reenacted as follows:

**50-24.6-02. Drug use review board.**

1. The board is established within the department for the implementation of a drug use review program.
2. The board consists of ~~sixteen~~ seventeen members. The pharmacy administrator of the department and the medical consultant to the department are ex officio nonvoting board members who shall provide administrative services to the board. A majority of the appointed members must be physicians and pharmacists participating in the medical assistance program. Four or more of the appointed members must have experience with a drug use review process or have participated in programs in which prior authorization is used. The appointed members of the board must be:
  - a. Four physicians licensed in this state and actively engaged in the practice of medicine, one of whom is a psychiatrist, appointed by the North Dakota medical association;
  - b. Two physicians licensed in this state and actively engaged in the practice of medicine, appointed by the executive director of the department;
  - c. Four pharmacists licensed in this state and actively engaged in the practice of pharmacy, appointed by the North Dakota pharmaceutical association;
  - d. Two pharmacists licensed in this state and actively engaged in the practice of pharmacy, appointed by the executive director of the department;
  - e. One individual who represents consumer interests, appointed by the governor; ~~and~~
  - f. One pharmacist or physician representing the brand pharmaceutical industry appointed by the pharmaceutical research and manufacturers of America; and
  - g. One pharmacist or physician representing the generic pharmaceutical industry appointed by the generic pharmaceutical association.
3. Appointed board members shall serve staggered three-year terms. ~~Two physicians and two pharmacists must be initially appointed for two-year terms, and two physicians and two pharmacists must be initially appointed for one-year terms.~~ An appointed member may be reappointed for a period not to exceed three 3-year terms. A vacancy on the board must be filled for the balance of the unexpired term from the appropriate board category as provided under subsection 2. The executive director of the department may replace an appointed member of the board who fails to attend three consecutive meetings of the board without advance excuse or who fails to perform the duties expected of a board member. The pharmaceutical

industry ~~representative is a~~ representatives are nonvoting board ~~member~~ members.

4. Voting board members shall select a chairman and a vice chairman on an annual basis from the board's voting membership.
5. The board shall meet in person at least once every three months and may meet at other times by teleconference or electronically at the discretion of the chairman. A board member is entitled to receive from the department per diem compensation and reimbursement of expenses as determined by the department, except that no compensation under this section may be paid to any board member who receives compensation or salary as a state employee or official."

Page 2, line 2, overstrike "or AB-rated" and insert immediately thereafter ", or brand name drugs with a"

Page 2, line 4, overstrike "or otherwise restrict single-source or brand"

Page 2, overstrike lines 5 through 8

Page 2, line 9, overstrike "b. Cancer" and insert immediately thereafter "the following medication classes:

- a. Antipsychotics;
- b. Antidepressants;
- c. Anticonvulsants;
- d. Antiretrovirals, for the treatment of human immunodeficiency virus;
- e. Antineoplastic agents, for the treatment of cancer; and
- f. Stimulant medication used for the treatment of attention deficit disorder and attention deficit hyperactivity disorder"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1412: 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). HB 1412 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative council study of the fee structure of emergency services communications.

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

**SECTION 1. LEGISLATIVE COUNCIL STUDY - EMERGENCY SERVICES COMMUNICATION.** During the 2009-10 interim, the legislative council shall consider studying the equity of the 911 fee structure, including consideration of fees, taxes, assessments for services, equity of services, and payments among residents within service areas; fee collection methods; and current and future funding of emergency services communications in the state. 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

#### REPORT OF STANDING COMMITTEE

**HB 1434, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO NOT PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1434 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1445: Judiciary Committee (Sen. Nething, Chairman)** recommends **DO PASS** (3 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1445 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1452: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1452 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1478, as reengrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed HB 1478, as amended, was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1530: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1530 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1556, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1556 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1562, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **DO PASS** (4 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1562 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1572, as engrossed: Judiciary Committee (Sen. Nething, Chairman)** recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1572 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3009: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3009 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3015: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HCR 3015 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3019, 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 HCR 3019 was placed on the Sixth order on the calendar.

Page 1, line 1, after "resolution" replace the remainder of the resolution with "directing the Legislative Council to study Section 18 of Article X of the Constitution of North Dakota.

**WHEREAS**, Section 18 of Article X of the Constitution of North Dakota has existed unchanged for more than eighty years; and

**WHEREAS**, this constitutional provision has profound effects on state and political subdivision interaction with businesses and citizens and it is incumbent upon the Legislative Assembly to determine whether the constitutional provision adequately governs the current status of state and local government needs and limitations with respect to businesses and the citizens of the state;

**NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:**

That the Legislative Council study Section 18 of Article X of the Constitution of North Dakota; and

**BE IT FURTHER RESOLVED**, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-second Legislative Assembly."

Renumber accordingly

#### **REPORT OF STANDING COMMITTEE**

**HCR 3052, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HCR 3052 was placed on the Fourteenth order on the calendar.

#### **REPORT OF STANDING COMMITTEE**

**HCR 3054: 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). HCR 3054 was placed on the Sixth order on the calendar.

Page 1, line 1, after "resolution" replace the remainder of the resolution with "to create and enact a new section to article X of the Constitution of North Dakota, relating to establishment and use of a legacy fund; and to provide an effective date.

#### **STATEMENT OF INTENT**

This measure establishes a legacy fund and imposes limitations on use of moneys in the fund.

#### **BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:**

That the following proposed new section to article X of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in 2010, in accordance with section 16 of article IV of the Constitution of North Dakota.

**SECTION 1.** A new section to article X of the Constitution of North Dakota is created and enacted as follows:

The first twenty-five percent of all revenue derived from taxes on oil and gas production or extraction must be transferred by the state treasurer to a special fund in the state treasury known as the legacy fund. The principal of the legacy fund may not be expended, except revenue derived after December 31, 2040, may be expended if appropriated by a two-thirds vote of each house of the legislative assembly. The state investment board shall invest the principal of the legacy fund. The state treasurer shall transfer earnings of the legacy fund to the state general fund at the end of each fiscal year.

**SECTION 2. EFFECTIVE DATE.** If approved by the voters, this measure becomes effective on July 1, 2011.

**SECTION 3. LEGISLATIVE INTENT.** This section is adopted as a statement of intent and the secretary of state shall exclude this section when sections 1 and 2 of this measure are submitted to the qualified electors of North Dakota at the general election to be held in 2010. It is the intent of the sixty-first legislative assembly that if sections 1 and 2 of this measure are approved by the qualified electors of North Dakota, the sixty-second legislative assembly shall develop and enact legislation necessary to avoid any reduction in the relative shares of oil and gas production and extraction tax revenues which existed at the time of the 2010 general election for impact grants, political subdivisions, the oil and gas research fund, water development bond principal and interest payments and the resources trust fund, the common schools trust fund, and the foundation aid stabilization fund."

Renumber accordingly

#### **REPORT OF DELAYED BILLS COMMITTEE**

**MR. PRESIDENT:** Your **Delayed Bills Committee (Sen. Klein, Chairman)** has cast a vote of 3 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING in favor of rejecting the introduction of a bill for an Act to amend and reenact section 52-06-01 of the North Dakota Century Code, relating to eligibility for unemployment compensation in cases of emergencies; to provide for application; to provide an expiration date; and to declare an emergency.

**REPORT OF DELAYED BILLS COMMITTEE**

**MR. PRESIDENT:** Your **Delayed Bills Committee (Sen. Klein, Chairman)** has unanimously approved the introduction of a concurrent resolution urging Congress to establish the Red River Valley authority as an agency or authorized board of the federal government for the purpose of the regulation and control of water quality of the Red River and regulation and control of the retention and flow of water, including retention by dams or retention ponds or other areas, and of drainage on the Red River.

The resolution will be SCR 4035.

**REPORT OF DELAYED BILLS COMMITTEE**

**MR. PRESIDENT:** Your **Delayed Bills Committee (Sen. Klein, Chairman)** has unanimously approved the introduction of a bill for an Act to provide an appropriation for defraying the expenses of the adjutant general related to 2009 flood disaster response; to require certain funds to be deposited in the general fund; to authorize transfers; to provide for budget section reports; and to declare an emergency.

The bill will be SB 2444.

**FIRST READING OF SENATE BILL**

Sens. Stenehjem, O'Connell and Reps. Carlson, Boucher introduced:  
(Approved by the Delayed Bills Committee)

**SB 2444:** A BILL for an Act to provide an appropriation for defraying the expenses of the adjutant general related to 2009 flood disaster response; to require certain funds to be deposited in the general fund; to authorize transfers; to provide for budget section reports; and to declare an emergency.

Was read the first time and referred to the **Appropriations Committee**.

**FIRST READING OF SENATE CONCURRENT RESOLUTION**

Sens. Grindberg, Anderson, Fischer and Reps. Carlson, J. Kelsh, Thoreson introduced:  
(Approved by the Delayed Bills Committee)

**SCR 4035:** A concurrent resolution urging Congress to establish the Red River Valley authority as an agency or authorized board of the federal government for the purpose of the regulation and control of water quality of the Red River and regulation and control of the retention and flow of water, including retention by dams or retention ponds or other areas, and of drainage on the Red River.

Was read the first time and referred to the **Natural Resources Committee**.

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

**Fran A. Gronberg, Secretary**

