

JOURNAL OF THE SENATE

Sixty-first Legislative Assembly

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Bismarck, April 22, 2009

The Senate convened at 8:00 a.m., with President Dalrymple presiding.

The prayer was offered by Matt Voorhees, Executive Director of North Dakota Teen Challenge, Mandan.

The roll was called and all members were present except Senators Bowman, Miller, Nelson, Seymour, and Triplett.

A quorum was declared by the President.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. NETHING MOVED that the Senate do concur in the House amendments to Engrossed SB 2443 as printed on SJ page 1421, which motion prevailed on a voice vote.

Engrossed SB 2443, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2443: A BILL for an Act to create and enact a new section to chapter 24-01 of the North Dakota Century Code, relating to facility relocation cost recovery due to implementation of the American Recovery and Reinvestment Act of 2009; and to provide an expiration 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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; 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; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Bowman; Nelson; Seymour

Reengrossed SB 2443 passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. OLAFSON MOVED that the conference committee report on HB 1041 as printed on SJ pages 1408-1409 be adopted, which motion prevailed on a voice vote.

HB 1041, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1041: A BILL for an Act to amend and reenact subsection 13 of section 12.1-32-15 and sections 12.1-34-01, 12.1-34-02, 12.1-34-03, and 12.1-34-06 of the North Dakota Century Code, relating to the statewide automated victim information and notification system; 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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; 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; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Bowman; Nelson; Seymour

HB 1041, as amended, passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. J. LEE MOVED that the conference committee report on Engrossed HB 1338 as printed on SJ page 1411 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1338, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1338: A BILL to provide for a legislative council study of solid waste management, with an emphasis on the siting and zoning of landfills on a statewide or regional level while allowing adequate protection for political subdivisions and property owners.

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; 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; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Bowman; Nelson; Seymour

Engrossed HB 1338, as amended, passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. OLAFSON MOVED that the conference committee report on Engrossed HB 1186 as printed on SJ pages 1409-1410 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1186, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1186: A BILL 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.

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; 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; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Bowman; Nelson; Seymour

Engrossed HB 1186, as amended, passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. FIEBIGER MOVED that the conference committee report on HB 1039 as printed on SJ pages 1427-1428 be adopted, which motion prevailed on a voice vote.

HB 1039, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1039: A BILL for an Act to amend and reenact sections 28-22-01, 28-22-02, 28-22-03, 28-22-03.1, 28-22-05, 28-22-07, 28-22-15, 47-18-01, 47-18-04, 47-18-14, and 47-18-16

of the North Dakota Century Code, relating to exemptions from process and the homestead exemption; and to repeal section 28-22-04 of the North Dakota Century Code, relating to alternative exemptions.

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; 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; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Stenehjelm; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Bowman; Nelson; Seymour

HB 1039, as amended, passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. DEVER MOVED that the conference committee report on HB 1269 as printed on SJ page 1429 be adopted, which motion prevailed on a voice vote.

HB 1269, as amended, was placed on the Fourteenth order.

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, the roll was called and there were 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; 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; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Stenehjelm; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Bowman; Nelson; Seymour

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

MOTION

SEN. CHRISTMANN MOVED that for the Seventieth legislative day Sen. Grindberg replace Sen. Bowman on the Conference Committee on SB 2075, which motion prevailed.

MOTION

SEN. CHRISTMANN MOVED that for the Seventieth legislative day Sen. Fiebiger replace Sen. Nelson on the Conference Committees on HB 1252 and HB 1551, which motion prevailed.

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

MR. SPEAKER: The Senate has concurred in the House amendments and passed: SB 2443.

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

MR. SPEAKER: The President has appointed Sen. Grindberg to replace Sen. Bowman for the Seventieth legislative day on the Conference Committee on SB 2075.

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

MR. SPEAKER: The President has appointed Sen. Fiebiger to replace Sen. Nelson for the Seventieth legislative day on the Conference Committee on HB 1252.

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

MR. SPEAKER: The President has appointed Sen. Fiebiger to replace Sen. Nelson for the Seventieth legislative day on the Conference Committee on HB 1551.

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

MR. SPEAKER: The Senate has adopted the conference committee reports and passed: HB 1039, HB 1041, HB 1186, HB 1269, and HB 1338.

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

MR. PRESIDENT: The House has adopted the conference committee report and subsequently passed: HB 1116, HB 1510.

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

MR. PRESIDENT: Your signature is respectfully requested on: HB 1059, HB 1129, HB 1158, HB 1239, HB 1322, HB 1330.

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

MR. PRESIDENT: Your signature is respectfully requested on: HB 1039, HB 1041, HB 1186, HB 1269, HB 1338.

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

MR. PRESIDENT: The Speaker has signed: SB 2028, SB 2051, SB 2098, SB 2114, SB 2116, SB 2163, SB 2251, SB 2270, SB 2338, SB 2438.

COMMUNICATION FROM GOVERNOR JOHN HOEVEN

This is to inform you that on April 21, 2009, I have signed the following: SB 2035, SB 2046, SB 2133, SB 2291, SB 2295, SB 2318, SB 2319, SB 2358, SB 2366, SB 2399, SB 2402, and SB 2412.

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 the Senate resolve itself into a Confirmation Session, which motion prevailed.

REPORT OF SELECT COMMITTEE

MR. PRESIDENT: Your **Select Committee (Sen. Krebsbach, Chairman)** appointed to consider the nomination to the North Dakota State Board of Higher Education, do advise and consent to the nomination of Claus Lembke.

SEN. KREBSBACH MOVED that the report be adopted.

ROLL CALL

The question being "will the Senate advise and consent to the nomination of Claus Lembke to the North Dakota State Board of Higher Education", the roll was called and there were 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; 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; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Stenehjelm; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Bowman; Nelson; Seymour

The Senate advises and consents to the nomination of Claus Lembke to the North Dakota State Board of Higher Education.

REPORT OF SELECT COMMITTEE

MR. PRESIDENT: Your **Select Committee (Sen. Christmann, Chairman)** appointed to consider the nomination to the North Dakota State Board of Higher Education, do advise and consent to the nomination of Richard Smith for reappointment.

SEN. CHRISTMANN MOVED that the report be adopted.

ROLL CALL

The question being "will the Senate advise and consent to the nomination of Richard Smith for reappointment to the North Dakota State Board of Higher Education", the roll was called and there were 38 YEAS, 6 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

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

NAYS: Andrist; Christmann; Dever; Freborg; Klein; Potter

ABSENT AND NOT VOTING: Bowman; Nelson; Seymour

The Senate advises and consents to the nomination of Richard Smith for reappointment to the North Dakota State Board of Higher Education.

REPORT OF SELECT COMMITTEE

MR. PRESIDENT: Your **Select Committee (Sen. Klein, Chairman)** appointed to consider the nomination for the North Dakota Gaming Commission, do advise and consent to the nomination of James Wang for reappointment.

SEN. KLEIN MOVED that the report be adopted.

ROLL CALL

The question being "will the Senate advise and consent to the nomination of James Wang for reappointment to the North Dakota Gaming Commission", the roll was called and there were 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; 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; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Stenehjerm; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Bowman; Nelson; Seymour

The Senate advises and consents to the nomination of James Wang for reappointment to the North Dakota Gaming Commission.

MOTION

SEN. CHRISTMANN MOVED that the Confirmation Session be dissolved, which motion prevailed.

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

MR. PRESIDENT: The House has passed and your favorable consideration is requested on: HCR 3067.

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 2038: Reps. Skarphol; R. Kelsch; Williams

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

MR. PRESIDENT: The House has concurred in the Senate amendments and subsequently passed: HB 1235.

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

MR. SPEAKER: The President has appointed Sen. Schneider to replace Sen. Nelson for the Seventieth legislative day on the Conference Committee on SB 2161.

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

MR. SPEAKER: The President has appointed Sen. Schneider to replace Sen. Nelson for the Seventieth legislative day on the Conference Committee on SB 2172.

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

MR. PRESIDENT: The Speaker has appointed Rep. Carlson to replace Rep. Skarphol on the Conference Committee on SB 2009.

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

MR. PRESIDENT: The Speaker has appointed Rep. Schneider to replace Rep. Gruchalla on the Conference Committee on SB 2059.

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

MR. SPEAKER: Your signature is respectfully requested on: SB 2171, SB 2293, SB 2415, SB 2421, 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.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. KLEIN MOVED that the conference committee report on Engrossed HB 1073 as printed on SJ page 1428 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1073, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1073: A BILL for an Act to create and enact chapter 37-17.3 and a new section to chapter 65-06 of the North Dakota Century Code, relating to adoption of the Uniform Emergency Volunteer Health Practitioners Act and workers' compensation coverage of volunteers; and to amend and reenact section 65-06-05 of the North Dakota Century Code, relating to workers' compensation coverage of volunteers.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 42 YEAS, 0 NAYS, 0 EXCUSED, 5 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; 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; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Stenehjem; Taylor; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Bowman; Holmberg; Nelson; Seymour; Triplett

Engrossed HB 1073, as amended, passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. OLAFSON MOVED that the conference committee report on Engrossed HB 1053 as printed on SJ page 1428 be adopted, which motion prevailed on a voice vote.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. WANZEK MOVED that the conference committee report on Engrossed HB 1194 as printed on SJ pages 1428-1429 be adopted, which motion prevailed on a voice vote.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. OLAFSON MOVED that the conference committee report on Engrossed SB 2401 as printed on SJ page 1427 be adopted, which motion prevailed on a voice vote.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. OLAFSON MOVED that the conference committee report on Engrossed SB 2152 as printed on SJ page 1426 be adopted, which motion prevailed on a voice vote.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. FIEBIGER MOVED that the conference committee report on Engrossed SB 2232 as printed on SJ page 1427 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2232, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2232: A BILL for an Act to create and enact sections 28-21-03.1 and 28-21-04.2 of the North Dakota Century Code, relating to general and summary execution of judgment; and to amend and reenact sections 28-21-01, 28-21-03, 28-21-04, 28-21-04.1, 28-21-05, 28-21-05.1, 28-21-06, 28-21-07, 28-21-08, 28-21-09, 28-21-10, 28-21-13,

28-21-17, 28-21-18, and 28-23-11 of the North Dakota Century Code, relating to execution of judgment.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 43 YEAS, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; 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; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Stenehjelm; Taylor; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Bowman; Nelson; Seymour; Triplett

Reengrossed SB 2232 passed and the title was agreed to.

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

MR. PRESIDENT: The House has not adopted the conference committee report on: HB 1090.

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

MR. PRESIDENT: The House has not adopted the conference committee report and the Speaker has appointed as a new conference committee to act with a like committee from the Senate on:

SB 2391: Reps. Damschen; Nathe; Kilichowski

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

MR. SPEAKER: The Senate has adopted the conference committee report on: SB 2152, SB 2401.

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

MR. SPEAKER: The Senate has adopted the conference committee report on: HB 1053, HB 1194.

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

MR. SPEAKER: The Senate has adopted the conference committee report and passed: SB 2232.

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

MR. SPEAKER: The Senate has adopted the conference committee report and passed: HB 1073.

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

MR. PRESIDENT: The House has adopted the conference committee report and subsequently passed: HB 1110, HB 1490.

MOTION

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

MOTION

SEN. CHRISTMANN MOVED that the Senate be on the Fourth, Fifth, Seventh, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 8:00 a.m., Thursday, April 23, 2009, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

SB 2059, as engrossed: Your conference committee (Sens. Wanzek, Nodland, Horne and Reps. Sukut, Ruby, Schneider) recommends that the **SENATE ACCEDE** to the House amendments on SJ page 690 and place SB 2059 on the Seventh order.

Engrossed SB 2059 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2060, as engrossed: Your conference committee (Sens. Andrist, Potter, Nodland and Reps. Froseth, Grande, S. Kelsh) recommends that the **SENATE ACCEDE** to the House amendments on SJ page 1029 and place SB 2060 on the Seventh order.

Engrossed SB 2060 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2110, as engrossed: Your conference committee (Sens. Klein, Nodland, Behm and Reps. Nottestad, N. Johnson, Amerman) recommends that the **SENATE ACCEDE** to the House amendments on SJ pages 708-709 and place SB 2110 on the Seventh order.

Engrossed SB 2110 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2141, as engrossed: Your conference committee (Sens. Lyson, Hogue, Triplett and Reps. Keiser, DeKrey, Hunskor) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 791, adopt amendments as follows, and place SB 2141 on the Seventh order:

That the House recede from its amendments as printed on page 791 of the Senate Journal and pages 859 and 860 of the House Journal and that Engrossed Senate Bill No. 2141 be amended as follows:

Page 2, line 13, replace "articles in the North Dakota Administrative Code which are" with "laws and regulations relating to air, water, and land management"

Page 3, line 27, replace "If the amount of compensation awarded by the" with "The"

Page 3, line 28, remove "court is greater than that which had been offered by the mineral developer, the" and replace "shall" with ", in its discretion, may"

Renumber accordingly

Engrossed SB 2141 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2158, as engrossed: Your conference committee (Sens. J. Lee, Dever, Heckaman and Reps. Uglem, Nathe, Conrad) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 709, adopt amendments as follows, and place SB 2158 on the Seventh order:

That the House recede from its amendments as printed on page 709 of the Senate Journal and pages 820 and 821 of the House Journal and that Engrossed Senate Bill No. 2158 be amended as follows:

Page 1, after line 12, insert:

"SECTION 2. DEPARTMENT TO SUBMIT AMENDED PLAN. Within thirty days of the effective date of section 1 of this Act, the department of human services shall submit for approval an amended state plan to implement section 1 of this Act."

Renumber accordingly

Engrossed SB 2158 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2161: Your conference committee (Sens. Lyson, Olafson, Schneider and Reps. Klemin, Koppelman, Wolf) recommends that the **SENATE ACCEDE** to the House amendments on SJ page 891 and place SB 2161 on the Seventh order.

SB 2161 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2165, as engrossed: Your conference committee (Sens. Freborg, Erbele, Pomeroy and Reps. Porter, Damschen, Hanson) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 951-952, adopt amendments as follows, and place SB 2165 on the Seventh order:

That the House recede from its amendments as printed on pages 951 and 952 of the Senate Journal and pages 1027 and 1028 of the House Journal and that Engrossed Senate Bill No. 2165, 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 section to chapter 20.1-03 of the North Dakota Century Code, relating to an apprentice hunter program; and to amend and reenact section 20.1-03-01.1 and

subsection 1 of section 20.1-03-11 of the North Dakota Century Code, relating to hunting licenses and requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-03-01.1 of the North Dakota Century Code is amended and reenacted as follows:

20.1-03-01.1. Director to appoint and train instructors - Prescribe course material and classroom sites - Certify completion. The director shall provide classroom instruction on, and shall select, train, and certify persons or department personnel qualified to provide instruction on, firearms and bow safety and hunter responsibility, and shall prescribe the course material to be used, classroom locations, and the dates for teaching the course in this state. The director also shall provide an online internet hunter safety education program for individuals age sixteen and over to complete the hunter safety education requirement. The director shall authorize the issuance of a certificate of completion to all persons satisfactorily completing the course.

SECTION 2. AMENDMENT. Subsection 1 of section 20.1-03-11 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~No person shall~~ An individual may not hunt, kill, take, or attempt to take any big game without having the appropriate big game hunting license and a locking seal bearing a number corresponding to the number of the big game hunting license or stamp. The locking seal ~~shall must~~ be issued as an integral part of the big game hunting license. ~~No person~~ Except as otherwise provided in this subsection, an individual may not apply for or be issued a big game hunting license if that person's individual's fourteenth birthday does not occur on or before the opening date of the respective big game hunting season. This age limitation does not apply to applicants for big game licenses for hunting by bow and arrow. Each violation of this section ~~shall be~~ is a distinct and separate offense. The following provisions govern youth deer hunting:
 - a. An individual whose twelfth birthday occurs on or before the opening date of the youth deer hunting season but is younger than fourteen years of age is entitled to receive a statewide white-tailed antlerless deer permit but may hunt only in the youth deer hunting season.
 - b. An individual hunting under subdivision a must be accompanied by the individual's parent, guardian, or other individual authorized by the individual's parent or guardian. As used in this section, "accompanied" means to stay within a distance that permits uninterrupted visual contact and unaided verbal communication.

SECTION 3. A new section to chapter 20.1-03 of the North Dakota Century Code is created and enacted as follows:

Apprentice hunter validation. An individual born after December 31, 1961, who is sixteen years of age or older and who does not possess a hunter safety education course certificate of completion may be issued an apprentice hunter validation. An apprentice hunter validation is valid for only one license year in a lifetime. An individual in possession of an apprentice hunter validation may hunt small game and deer only when accompanied by an adult licensed to hunt in this state whose license was not obtained using an apprentice hunter validation. An apprentice hunter validation holder must obtain all required licenses and stamps. For purposes of this section, "accompanied" means to stay within a distance of another individual that permits uninterrupted visual contact in unaided verbal communication."

Renumber accordingly

Engrossed SB 2165 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2172: Your conference committee (Sens. Lyson, Olafson, Schneider and Reps. Dahl, Koppelman, Zaiser) recommends that the **SENATE ACCEDE** to the House amendments on SJ pages 771-772 and place SB 2172 on the Seventh order.

SB 2172 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2212, as engrossed: Your conference committee (Sens. Freborg, G. Lee, Bakke and Reps. R. Kelsch, L. Meier, Mueller) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 1169, adopt amendments as follows, and place SB 2212 on the Seventh order:

That the House recede from its amendments as printed on page 1169 of the Senate Journal and page 1094 of the House Journal and that Engrossed Senate Bill No. 2212 be amended as follows:

Page 1, replace lines 20 through 24 with:

"SECTION 2. ENGLISH LANGUAGE LEARNER GRANT. The superintendent of public instruction shall provide a grant to one regional education association in order that the association may purchase or otherwise acquire instructional materials for the enhancement of English language learner services and provide professional development opportunities pertaining to the provision of English language learner services. The association that receives the grant under this section also must agree to contract with other regional education associations and school districts in the state for the purpose of providing various English language learner services to those entities.

SECTION 3. APPROPRIATION. There is appropriated out of any moneys from federal fiscal stabilization-other government services funds made available to the governor under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, the sum of \$40,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of providing an English language learner grant to a regional education association under section 2 of this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011."

Page 2, remove lines 1 through 4

Renumber accordingly

Engrossed SB 2212 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2250, as engrossed: Your conference committee (Sens. Nething, Olafson, Fiebiger and Reps. Koppelman, Kretschmar, Griffin) recommends that the **SENATE ACCEDE** to the House amendments on SJ page 907 and place SB 2250 on the Seventh order.

Engrossed SB 2250 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2316, as engrossed: Your conference committee (Sens. Lyson, Hogue, Triplett and Reps. Hofstad, Nottestad, S. Kelsh) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 874-923, adopt amendments as follows, and place SB 2316 on the Seventh order:

That the House recede from its amendments as printed on page 874 of the Senate Journal and page 923 of the House Journal and that Engrossed Senate Bill No. 2316 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to direct the state water commission to develop policies regarding water retention projects.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. State water commission - Policies for water retention projects. The state water commission shall develop policies, including cost-sharing guidelines, which further the development of water retention projects for flood control. The commission shall provide a report regarding the policies to the sixty-second legislative assembly."

Renumber accordingly

Engrossed SB 2316 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1110, as engrossed: Your conference committee (Sens. Wanzek, Flakoll, Heckaman and Reps. Wall, Uglem, Boe) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 906, adopt amendments as follows, and place HB 1110 on the Seventh order:

That the Senate recede from its amendments as printed on page 906 of the House Journal and page 691 of the Senate Journal and that Engrossed House Bill No. 1110 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 chapter 36-26 of the North Dakota Century Code, relating to feral swine; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 36-26 of the North Dakota Century Code is created and enacted as follows:

36-26-01. Definitions. As used in this chapter:

1. "Board" means the state board of animal health.
2. "Feral swine" means a hog, boar, or pig that:
 - a. Appears to be untamed or undomesticated;
 - b. Appears to have reverted from a domesticated to a wild state; and
 - c. Is freeroaming.

36-26-02. Board - Authority. The board is responsible for the control and eradication of feral swine on state lands and on private lands in this state.

36-26-03. Prohibited actions.

1. A person may not import, transport, or possess live feral swine.
2. A person may not intentionally, knowingly, or negligently allow swine to live in a feral state.
3. a. A person may not:
 - (1) Hunt or trap feral swine;
 - (2) Sponsor or promote the hunting or trapping of feral swine;
 - (3) Assist in the hunting or trapping of feral swine;
 - (4) Profit from the release of feral swine; or
 - (5) Profit from the hunting or trapping of feral swine.
- b. Paragraphs 1 through 3 of subdivision a do not apply to a state or federal agency or any person authorized by a state or federal agency to engage in the control or eradication of feral swine.

36-26-04. Presence of feral swine - Notification of board - Immediate threat.

1. Any person having reason to believe that feral swine are present on property owned by or legally occupied by that person shall notify the board and cooperate with the board in controlling or eradicating the feral swine.
2. a. Notwithstanding any other provision of this chapter, if a person encounters a feral swine on property owned by or legally occupied by

that person and determines that the feral swine poses a threat of harm or destruction of property, the person may immediately eradicate the feral swine.

- b. Any person eradicating a swine under this subsection shall notify the board as soon as practicable, but in no event later than twenty-four hours after the time of the eradication. The person shall follow any instructions given by the board with respect to the handling of the carcass, preservation of the carcass for testing, and disposal of the carcass.

36-26-05. Civil penalty.

1. Any person violating section 36-26-03 is subject to:
 - a. A civil penalty in an amount not exceeding five thousand dollars per violation; and
 - b. A claim for the actual costs of control or eradication incurred by any state or federal government agency as a result of the person's violation.
2. Any person violating section 36-26-04 is subject to a civil penalty in an amount not exceeding two hundred fifty dollars for a first offense and a civil penalty in an amount not exceeding five thousand dollars for a subsequent offense."

Renumber accordingly

Engrossed HB 1110 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1116, as engrossed: Your conference committee (Sens. J. Lee, Erbele, Marcellais and Reps. Nathe, L. Meier, Conklin) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ page 1117 and place HB 1116 on the Seventh order.

Engrossed HB 1116 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1490: Your conference committee (Sens. Dever, Oehlke, Horne and Reps. Froseth, Karls, Winrich) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1177, adopt amendments as follows, and place HB 1490 on the Seventh order:

That the Senate recede from its amendments as printed on page 1177 of the House Journal and pages 1013 and 1014 of the Senate Journal and that House Bill No. 1490 be amended as follows:

Page 1, line 2, after the first comma insert "and" and remove ", and section 16.1-08.1-03.10 and"

Page 1, line 3, remove "16.1-08.1-03.11"

Page 2, remove lines 21 through 31

Page 3, remove lines 1 through 31

Page 4, remove lines 1 through 31

Page 5, remove lines 1 through 19

Renumber accordingly

HB 1490 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1510, as engrossed: Your conference committee (Sens. Wanzek, Nodland, Horne and Reps. Dahl, L. Meier, Winrich) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ page 1066 and place HB 1510 on the Seventh order.

Engrossed HB 1510 was placed on the Seventh order of business on the calendar.

FIRST READING OF HOUSE CONCURRENT RESOLUTION

HCR 3067: A concurrent resolution urging the restoration, through legal or political means, of the Environmental Protection Agency's final rule exempting pesticides from the Clean Water Act's permitting requirements.

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

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

Fran A. Gronberg, Secretary

