

## JOURNAL OF THE SENATE

## Sixty-fifth Legislative Assembly

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Bismarck, March 29, 2017

The Senate convened at 1:00 p.m., with President Sanford presiding.

The prayer was offered by Pastor Bob GreyEagle, Prairie Family Church, Bismarck.

The roll was called and all members were present.

A quorum was declared by the President.

**PROCLAMATION  
VIETNAM VETERANS' DAY  
MARCH 29, 2017**

**WHEREAS**, this year marks the 42nd anniversary of the end of American involvement in the Vietnam conflict; and

**WHEREAS**, thousands of brave Americans served our country in the conflict with courage, honor, and valor; and

**WHEREAS**, more than 58,000 individuals made the ultimate sacrifice in Vietnam and thousands more were wounded in combat; and

**WHEREAS**, many Americans are still missing and unaccounted for from the Vietnam conflict, and their families, friends, and fellow veterans still endure uncertainty concerning their fate; and

**WHEREAS**, North Dakota residents are encouraged to honor and thank our Vietnam Veterans for all they have given in service to this country, and to remember the heroes from this great state whose names are listed on the Vietnam Veterans Memorial Wall in Washington, D.C., and those who are or were missing in action or prisoners of war.

**NOW, THEREFORE**, as Governor of the State of North Dakota, I do hereby proclaim March 29, 2017, **VIETNAM VETERANS' DAY** in the State of North Dakota.

Doug Burgum  
Governor

ATTEST:  
Alvin A. Jaeger  
Secretary of State

**POINT OF PERSONAL PRIVILEGE**

**SEN. HECKAMAN** rose on a point of personal privilege.

**REMARKS OF SENATOR HECKAMAN**

**MR. PRESIDENT:** We just heard the proclamation honoring our Vietnam Veterans.

This point of personal privilege is not meant to slight any of our veterans in this chamber.

I would like to lift one of those veterans for the work he has been honored for at the Heritage Center. Senator Richard Marcellais was selected as the first member in the first class of ND Native Americans to be recognized in the Native American Hall of Honor for his work in the category of Veterans.

This Native American Hall of Honor was a partnership that began in 2016 between the State Historical Society, the State Historical Society Foundation and the ND Indian Affairs Commission. The Hall recognizes Outstanding Native Americans in four categories, Veterans, Arts and Culture, Athletics, and Leadership.

Senator Marcellais' recognition points to his work with Veterans not only for his Tribe, the Turtle Mountain Band of Chippewa, but across the state. If you hear the word Veteran, you will find Senator Marcellais nearby.

Senator Marcellais joined the Army in 1968 and served until 1971 and was a Communication Specialist in Vietnam. He has received several medals of distinction and has dedicated his life to serving not only his Turtle Mountain Veterans, friends and families, but also has provided leadership through his work with various legion and veterans' organizations across the state.

I would invite you all to visit the Native American Hall of Honor at the Heritage Center. This fall, another Native American Veteran will be recognized and Sen. Marcellais' display will be retired. It is truly a special moment when you see and hear of his accomplishments. There is even miniature display of his colorful suit coats that his wife, Betty, had made for that display. But, the most special part of the entire display is when his granddaughter tells why her Grandpa is special. Senator Marcellais, we all think you are pretty special and we thank you for being our colleague and friend. We thank you for serving your country, Senator, along with the other veterans you honored today.

What else can we say about Senator Marcellais, other than we honor you today and join the ND Heritage Center and ND Indian Affairs Commission in recognizing you for all the work you have done and continue to do for veterans and the sacrifice you made during your tour of duty in Vietnam.

Thank you, Mr. President.

#### MOTION

**SEN. KLEIN MOVED** that the remarks of Sen. Marcellais and Heckaman be printed in the Journal, which motion prevailed.

#### MOTION

**SEN. KLEIN MOVED** that Engrossed HB 1201, as amended, be rereferred to the **Industry, Business and Labor Committee**, which motion prevailed. Pursuant to Sen. Klein's motion, Engrossed HB 1201, as amended, was rereferred.

#### CONSIDERATION OF AMENDMENTS

**HB 1334, as engrossed: SEN. MYRDAL (Judiciary Committee) MOVED** that the amendments on SJ pages 958-964 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

#### SECOND READING OF HOUSE BILL

**HB 1334:** A BILL for an Act to amend and reenact section 12.1-32-15 of the North Dakota Century Code, relating to registration requirements for sexual offenders; 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; Armstrong; Bekkedahl; Bowman; Burckhard; Campbell; Casper; Clemens; Cook; Davison; Dever; Dotzenrod; Erbele; Grabinger; Heckaman; Hogue; Holmberg; Kannianen; Kilzer; Klein; Krebsbach; Kreun; Laffen; Larsen, O.; Larson, D.; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Nelson; Oban; Oehlke; Osland; Piepkorn; Poolman; Robinson; Roers; Rust; Schaible; Sorvaag; Unruh; Vedaa; Wanzek; Wardner

Engrossed HB 1334, as amended, passed.

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#### CONSIDERATION OF AMENDMENTS

**HB 1272, as engrossed: SEN. ANDERSON (Political Subdivisions 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 on a voice vote.

#### SECOND READING OF HOUSE BILL

**HB 1272:** A BILL for an Act to create and enact section 47-16-07.6 of the North Dakota Century Code, relating to reasonable accommodations for service animals in rental dwelling units; to amend and reenact section 47-16-07.5 of the North Dakota Century Code, relating to disability documentation for service or assistance animals in a rental dwelling; 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; Armstrong; Bekkedahl; Bowman; Burckhard; Campbell; Casper; Clemens; Cook; Davison; Dever; Dotzenrod; Erbele; Grabinger; Heckaman; Hogue; Holmberg; Kannianen; Kilzer; Klein; Krebsbach; Kreun; Laffen; Larsen, O.; Larson, D.; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Nelson; Oban; Oehlke; Osland; Piepkorn; Poolman; Robinson; Roers; Rust; Schaible; Sorvaag; Unruh; Vedaa; Wanzek; Wardner

Engrossed HB 1272, as amended, passed.

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#### CONSIDERATION OF AMENDMENTS

**HB 1418, as engrossed: SEN. D. LARSON (Political Subdivisions Committee) MOVED** that the amendments on SJ page 969 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

#### SECOND READING OF HOUSE BILL

**HB 1418:** A BILL for an Act to provide for a legislative management study of statements of interests.

#### 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 42 YEAS, 5 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Bekkedahl; Bowman; Burckhard; Campbell; Casper; Clemens; Cook; Dever; Dotzenrod; Erbele; Grabinger; Heckaman; Hogue; Holmberg; Kannianen; Kilzer; Klein; Krebsbach; Kreun; Laffen; Larson, D.; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Nelson; Oban; Oehlke; Osland; Piepkorn; Robinson; Roers; Rust; Schaible; Sorvaag; Vedaa; Wanzek; Wardner

**NAYS:** Armstrong; Davison; Larsen, O.; Poolman; Unruh

Engrossed HB 1418, as amended, passed.

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#### CONSIDERATION OF AMENDMENTS

**HB 1233, as engrossed: SEN. LUICK (Judiciary Committee) MOVED** that the amendments on SJ pages 956-957 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

#### SECOND READING OF HOUSE BILL

**HB 1233:** A BILL for an Act to create and enact a new subdivision to subsection 2 of section 62.1-04-03 of the North Dakota Century Code, relating to licenses to carry concealed weapons; to amend and reenact subdivision m of subsection 2 of section 62.1-02-05 of the North Dakota Century Code, relating to possessing a firearm or dangerous weapon at a public gathering; to provide for a legislative management study; to provide a penalty; 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; Armstrong; Bekkedahl; Bowman; Burckhard; Campbell; Casper; Clemens; Cook; Davison; Dever; Dotzenrod; Erbele; Grabinger; Heckaman; Hogue; Holmberg; Kannianen; Kilzer; Klein; Krebsbach; Kreun; Laffen; Larsen, O.; Larson, D.; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Nelson; Oban; Oehlke; Osland; Piepkorn; Poolman; Robinson; Roers; Rust; Schaible; Sorvaag; Unruh; Vedaa; Wanzek; Wardner

Engrossed HB 1233, as amended, passed and the emergency clause was declared carried.

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**CONSIDERATION OF AMENDMENTS**

**HB 1341, as engrossed: SEN. OSLAND (Judiciary Committee) MOVED** that the amendments on SJ pages 964-965 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

**SECOND READING OF HOUSE BILL**

**HB 1341:** A BILL for an Act to amend and reenact subsections 3 and 7 of section 19-03.1-23 and subsection 1 of section 19-03.1-23.1 of the North Dakota Century Code, relating to enhanced penalties for manufacturing, delivering, or possessing controlled substances near schools; 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 43 YEAS, 4 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Armstrong; Bekkedahl; Bowman; Burckhard; Campbell; Casper; Clemens; Cook; Davison; Dever; Dotzenrod; Erbele; Grabinger; Heckaman; Hogue; Kannianen; Kilzer; Klein; Krebsbach; Kreun; Laffen; Larson, D.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Nelson; Oban; Oehlke; Osland; Poolman; Robinson; Roers; Rust; Schaible; Sorvaag; Unruh; Vedaa; Wanzek; Wardner

**NAYS:** Holmberg; Larsen, O.; Lee, G.; Piepkorn

Engrossed HB 1341, as amended, passed.

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**CONSIDERATION OF AMENDMENTS**

**HB 1392, as engrossed: SEN. ARMSTRONG (Judiciary Committee) MOVED** that the amendments on SJ page 967 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

**SECOND READING OF HOUSE BILL**

**HB 1392:** A BILL for an Act to to amend and reenact section 14-09-00.1 and subsection 1 of section 14-09-29 of the North Dakota Century Code, relating to shared parenting time and responsibility; and to provide for a legislative management 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 28 YEAS, 19 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Armstrong; Bekkedahl; Burckhard; Casper; Clemens; Cook; Davison; Dotzenrod; Erbele; Hogue; Kannianen; Kilzer; Klein; Kreun; Laffen; Larsen, O.; Lee, G.; Luick; Meyer; Myrdal; Osland; Roers; Rust; Schaible; Sorvaag; Unruh; Wanzek; Wardner

**NAYS:** Anderson; Bowman; Campbell; Dever; Grabinger; Heckaman; Holmberg; Krebsbach; Larson, D.; Lee, J.; Marcellais; Mathern; Nelson; Oban; Oehlke;

Piepkorn; Poolman; Robinson; Vedaa

Engrossed HB 1392, as amended, passed.

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#### CONSIDERATION OF AMENDMENTS

**HB 1255, as engrossed: SEN. CAMPBELL (Transportation 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 on a voice vote.

#### SECOND READING OF HOUSE BILL

**HB 1255:** A BILL for an Act to create and enact a new chapter to title 24 and a new subsection to section 39-12-05.3 of the North Dakota Century Code, relating to the creation of a large truck primary highway network and the permitting of increased vehicle weights.

#### 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; Armstrong; Bekkedahl; Bowman; Burckhard; Campbell; Casper; Clemens; Cook; Davison; Dever; Dotzenrod; Erbele; Grabinger; Heckaman; Hogue; Holmberg; Kannianen; Kilzer; Klein; Krebsbach; Kreun; Laffen; Larsen, O.; Larson, D.; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Nelson; Oban; Oehlke; Osland; Piepkorn; Poolman; Robinson; Roers; Rust; Schaible; Sorvaag; Unruh; Vedaa; Wanzek; Wardner

Engrossed HB 1255, as amended, passed.

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#### CONSIDERATION OF AMENDMENTS

**HB 1374, as engrossed: SEN. KREUN (Energy and Natural Resources Committee) MOVED** that the amendments on SJ pages 965-967 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

#### SECOND READING OF HOUSE BILL

**HB 1374:** A BILL for an Act to create and enact sections 61-02-14.3, 61-02-80, 61-02-81, and a new section to chapter 61-03 of the North Dakota Century Code, relating to contracts and financial assistance for water projects and duties of the state engineer; and to amend and reenact sections 61-02-01.3, 61-02-01.4, 61-02-02, 61-02-04, 61-02-07, and 61-02-08, subsection 1 of section 61-02-14, and subsection 4 of section 61-02-62 of the North Dakota Century Code, relating to definitions of types of financial assistance for water projects and the composition and operation of the state water commission.

#### 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 25 YEAS, 22 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Armstrong; Bekkedahl; Bowman; Casper; Clemens; Cook; Holmberg; Kannianen; Kilzer; Klein; Kreun; Lee, G.; Luick; Meyer; Myrdal; Oehlke; Osland; Poolman; Roers; Schaible; Sorvaag; Unruh; Vedaa; Wardner

**NAYS:** Burckhard; Campbell; Davison; Dever; Dotzenrod; Erbele; Grabinger; Heckaman; Hogue; Krebsbach; Laffen; Larsen, O.; Larson, D.; Lee, J.; Marcellais; Mathern; Nelson; Oban; Piepkorn; Robinson; Rust; Wanzek

Engrossed HB 1374, as amended, passed.

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**CONSIDERATION OF AMENDMENTS**

**HB 1403, as engrossed: SEN. ANDERSON (Human Services Committee) MOVED** that the amendments on SJ pages 967-969 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

**SECOND READING OF HOUSE BILL**

**HB 1403:** A BILL for an Act to create and enact a new section to chapter 54-52.1 of the North Dakota Century Code, relating to public employee health benefits transparency.

**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 37 YEAS, 10 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Armstrong; Bekkedahl; Bowman; Burckhard; Campbell; Casper; Clemens; Cook; Davison; Dever; Erbele; Hogue; Holmberg; Kannianen; Klein; Krebsbach; Kreun; Laffen; Larsen, O.; Larson, D.; Lee, G.; Lee, J.; Luick; Meyer; Myrdal; Oehlke; Osland; Poolman; Roers; Rust; Schaible; Sorvaag; Unruh; Vedaa; Wanzek; Wardner

**NAYS:** Dotzenrod; Grabinger; Heckaman; Kilzer; Marcellais; Mathern; Nelson; Oban; Piepkorn; Robinson

Engrossed HB 1403, as amended, passed.

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**SECOND READING OF HOUSE BILL**

**HB 1333:** A BILL for an Act to create and enact a new section to chapter 44-04 of the North Dakota Century Code, relating to exempting information regarding individuals applying for certain positions under the authority of the state board of higher education.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of **DO NOT PASS**, the roll was called and there were 2 YEAS, 45 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Dotzenrod; Nelson

**NAYS:** Anderson; Armstrong; Bekkedahl; Bowman; Burckhard; Campbell; Casper; Clemens; Cook; Davison; Dever; Erbele; Grabinger; Heckaman; Hogue; Holmberg; Kannianen; Kilzer; Klein; Krebsbach; Kreun; Laffen; Larsen, O.; Larson, D.; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Oban; Oehlke; Osland; Piepkorn; Poolman; Robinson; Roers; Rust; Schaible; Sorvaag; Unruh; Vedaa; Wanzek; Wardner

Engrossed HB 1333 failed.

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**MOTION**

**SEN. KLEIN MOVED** that HB 1427 be moved to the bottom of the calendar, which motion prevailed.

**SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3014:** A concurrent resolution requesting the Legislative Management to consider studying the various legal notice and publishing requirements of all state agencies and political subdivisions, the related costs required in state and political subdivision budgets, and potential notification alternatives.

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

Engrossed HCR 3014 was declared adopted on a voice vote.

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**MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**  
**MR. SPEAKER:** The Senate has passed, unchanged: HB 1249.

**MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**  
**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1008, HB 1014, HB 1126, HB 1181, HB 1299, HB 1433, HCR 3019.

**MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**  
**MR. SPEAKER:** The Senate has amended, subsequently passed, and the emergency clause carried: HB 1330.

**MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**  
**MR. SPEAKER:** The Senate has failed to pass, unchanged: HB 1031, HB 1054, HB 1124, HB 1129, HB 1193, HB 1200, HB 1241, HB 1310.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has passed, unchanged: SB 2258.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has amended and subsequently passed: SB 2026, SB 2027, SB 2028, SB 2047, SB 2166, SB 2186, SB 2245, SB 2286, SB 2301, SB 2327.

#### HOUSE AMENDMENTS TO SENATE BILL NO. 2026

Page 45, line 24, replace "Present" with "Provide"

ReNUMBER accordingly

#### HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2027

Page 1, line 5, after the semicolon insert "to amend and reenact subsection 19 of section 19-02.1-01 and sections 23-01-01.1 and 23-01-25 of the North Dakota Century Code, relating to the definition of a pesticide chemical and the state department of health; to repeal chapters 19-18, 19-20.1, 19-20.2, and 19-20.3 of the North Dakota Century Code, relating to pesticides and soil conditioners, anhydrous ammonia facilities, and anhydrous ammonia risk management;"

Page 62, after line 16, insert:

**"SECTION 10. AMENDMENT.** Subsection 19 of section 19-02.1-01 of the North Dakota Century Code is amended and reenacted as follows:

19. "Pesticide chemical" means any substance which, alone, in chemical combination, or in formulation with one or more other substances is a pesticide within the meaning of chapter ~~19-184.1-34~~, and which is used in the production, storage, or transportation of raw agricultural commodities.

**SECTION 11. AMENDMENT.** Section 23-01-01.1 of the North Dakota Century Code is amended and reenacted as follows:

#### **23-01-01.1. State department of health to replace state department of health and consolidated laboratories.**

Wherever the terms "North Dakota state department of health", "department of health", "health department", "state department of health and consolidated laboratories", "North Dakota state laboratories department", "state laboratories department", "state laboratories department director", or "state laboratories director"

appear in this code, the term "state department of health" must be substituted therefor.

~~Wherever the terms "state food commissioner and chemist" and "commissioner" when referring to the state food commissioner and chemist appear in chapters 19-17 and 19-18, the term "state department of health" must be substituted therefor.~~

**SECTION 12. AMENDMENT.** Section 23-01-25 of the North Dakota Century Code is amended and reenacted as follows:

**23-01-25. Commercial feed, insecticide, fungicide, rodenticide, fertilizer, and soil conditioner laws - Laboratory function.**

Notwithstanding any other provision of law, any laboratory test or analysis required under chapter ~~4.1-34, 4.1-40, or 19-13.1, 19-18, or 19-20.1~~ must be performed by the state department of health for the agriculture commissioner at no charge.

**SECTION 13. REPEAL.** Chapters 19-18, 19-20.1, 19-20.2, and 19-20.3 of the North Dakota Century Code are repealed."

Renumber accordingly

#### HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2028

Page 4, line 12, replace "2013" with "2015"

Page 16, line 12, replace "2013" with "2015"

Page 16, line 19, replace "2013" with "2015"

Page 16, line 24, replace "2013" with "2015"

Renumber accordingly

#### HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2047

Page 1, line 16, after "is" insert "an easement for"

Page 1, line 18, overstrike "appropriated" and insert immediately thereafter "made available"

Page 1, line 21, after the second "the" insert "easement for the"

Page 1, line 22, replace "Sending" with "Conducting informal negotiations for not less than sixty days."

(b) If informal negotiations fail, the district shall engage in formal negotiations by:

[1] Sending"

Page 2, line 3, replace "(b)" with "[2]"

Page 2, line 8, replace "(c)" with "[3]"

Page 2, line 10, remove "in thirty days"

Page 2, line 17, after "(3)" insert "A district may not include or utilize any reference to quick take eminent domain during negotiations to acquire the necessary easement for a right of way."

Page 2, line 17, after "If" insert "formal"

Page 2, line 21, replace "sufficient" with "thirty days"



Page 2, line 22, after the underscored period insert "After receiving verification from the district that there has been no reference or threat of quick take eminent domain by the district during negotiations, the commissioners shall vote on whether to approve the taking of the easement for a right of way using quick take eminent domain."

Renumber accordingly

#### HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2166

Page 1, line 1, after "40-05" insert ", a new subsection to section 40-58-20, and a new subsection to section 40-63-03"

Page 1, line 2, after "city" insert "and a prohibition on property receiving benefits from both a renaissance zone and a tax increment financing district"

Page 2, after line 20, insert:

**"SECTION 3.** A new subsection to section 40-58-20 of the North Dakota Century Code is created and enacted as follows:

A lot or parcel of property may not be approved for inclusion in a development or renewal plan after July 31, 2017, for tax increment financing purposes if that lot or parcel of property has been approved for inclusion in a renaissance zone under chapter 40-63."

Page 4, after line 9, insert:

**"SECTION 6.** A new subsection to section 40-63-03 of the North Dakota Century Code is created and enacted as follows:

The department of commerce division of community services may not designate a renaissance zone after July 31, 2017, which includes a lot or parcel of property that has been approved for inclusion in a development or renewal plan for tax increment financing purposes under section 40-58-20."

Page 5, line 30, replace "4" with "6"

Page 5, line 31, replace "December" with "July"

Renumber accordingly

#### HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2186

Page 1, line 2, remove "and"

Page 1, line 3, after "waivers" insert "; and to provide for a report"

Page 1, line 8, remove the overstrike over "~~The superintendent of public instruction may not waive any statute, in whole or in part,~~"

Page 1, remove the overstrike over line 9

Page 1, line 10, remove the overstrike over "2:"

Page 1, line 11, overstrike "section 15.1-21-03" and insert immediately thereafter "chapters 15-20.1, 15.1-06, 15.1-18, 15.1-20, 15.1-21, 15.1-22, 15.1-25, 15.1-32, and 15.1-38"

Page 1, line 11, after "~~provided~~" insert "or any associated rules."

Page 1, line 12, overstrike "Encourages innovation; and" and insert immediately thereafter "Improves the delivery of education;"

Page 1, line 13, overstrike "Has the potential to result in improved educational opportunities or enhanced"

Page 1, line 14, overstrike "academic opportunities for the students" and insert immediately thereafter "Improves the administration of education:

- c. Provides increased educational opportunities for students: or
- d. Improves the academic success of students"

Page 1, line 15, remove the overstrike over "3:"

Page 1, line 15, remove "2."

Page 1, line 19, remove the overstrike over "4:"

Page 1, line 19, remove "3."

Page 1, line 21, overstrike "council" and insert immediately thereafter "management"

Page 2, line 1, overstrike "council" and insert immediately thereafter "management"

Page 2, line 4, remove the overstrike over "5:"

Page 2, line 4, remove "4."

Page 2, line 14, remove "local"

Page 2, line 15, after "must" insert "include evaluation criteria and"

Page 3, remove lines 3 through 5

Page 3, line 6, replace "7." with "6."

Page 3, line 6, remove "or authorization"

Page 3, line 7, remove "this"

Page 3, line 7, after "section" insert "15.1-06-08.1"

Page 3, line 10, replace "8." with "7."

Page 3, line 13, replace "9." with "8."

Page 3, line 13, replace "periodic" with "annual"

Page 3, line 14, after "program" insert: ", including:

- a. The status of the implementation plan:
- b. A summary of any waived statutes or rules; and
- c. A review of evaluation data results"

Renumber accordingly

#### HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2245

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study to examine the desirability and feasibility of creating a state wetlands bank.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - STATE WETLANDS BANK.** During the 2017-18 interim, the legislative management shall consider studying the desirability and feasibility of creating a state wetlands bank. The study must include consultation with stakeholders to examine land parcels under the

control and management of the state which are suitable for wetlands mitigation. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly."

Renumber accordingly

#### HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2286

Page 1, line 1, replace the first "section" with "sections 49-22-03 and"

Page 1, line 3, after "siting" insert "; and to provide for a legislative management study regarding the consideration of local zoning ordinances and zoning provisions during the application and public hearing process."

Page 1, after line 4, insert:

**"SECTION 1. AMENDMENT.** Section 49-22-03 of the North Dakota Century Code is amended and reenacted as follows:

#### **49-22-03. Definitions.**

In this chapter, unless the context or subject matter otherwise requires:

1. "Certificate" means the certificate of site compatibility or the certificate of corridor compatibility issued under this chapter.
2. "Commission" means the North Dakota public service commission.
3. "Construction" includes any clearing of land, excavation, or other action that would affect the environment of the site after April 9, 1975, but does not include activities:
  - a. Conducted wholly within the geographic location for which a utility has previously obtained a certificate or permit under this chapter, or on which a facility was constructed before April 9, 1975, if:
    - (1) The activities are for the construction of the same type of facility as the existing type of facility as identified in a subdivision of subsections 5 or 12 of this section and the activities are:
      - (a) Within the geographic boundaries of a previously issued certificate or permit;
      - (b) For an energy conversion facility constructed before April 9, 1975, within the geographic location on which the facility was built; or
      - (c) For a transmission facility constructed before April 9, 1975, within a width of three hundred fifty feet [106.68 meters] on either side of the centerline;
    - (2) Except as provided in subdivision b, the activities do not affect any known exclusion or avoidance area;
    - (3) The activities are for the construction:
      - (a) Of a new energy conversion facility;
      - (b) Of a new gas, liquid, or electric transmission facility;
      - (c) To improve the existing energy conversion facility or gas, liquid, or electric transmission facility; or

- (d) To increase or decrease the capacity of the existing energy conversion facility or gas, liquid, or electric transmission facility; and
  - (4) Before conducting any activities, the utility certifies in writing to the commission that:
    - (a) The activities will not affect any known exclusion or avoidance area;
    - (b) The activities are for the construction:
      - [1] Of a new energy conversion facility;
      - [2] Of a new gas, liquid, or electric transmission facility;
      - [3] To improve the existing energy conversion or gas, liquid, or electric transmission facility; or
      - [4] To increase or decrease the capacity of the existing energy conversion facility or gas, liquid, or electric transmission facility; and
    - (c) The utility will comply with all applicable conditions and protections in siting laws and rules and commission orders previously issued for any part of the facility.
- b. Otherwise qualifying for exclusion under subdivision a, except that the activities are expected to affect a known avoidance area and the utility before conducting any activities:
  - (1) Certifies in writing to the commission that:
    - (a) The activities will not affect any known exclusion area;
    - (b) The activities are for the construction:
      - [1] Of a new energy conversion facility;
      - [2] Of a new gas, liquid, or electric transmission facility;
      - [3] To improve the existing energy conversion facility or gas, liquid, or electric transmission facility; or
      - [4] To increase or decrease the capacity of the existing energy conversion facility or gas, liquid, or electric transmission facility; and
    - (c) The utility will comply with all applicable conditions and protections in siting laws and rules and commission orders previously issued for any part of the facility;
  - (2) Notifies the commission in writing that the activities are expected to impact an avoidance area and provides information on the specific avoidance area expected to be impacted and the reasons why impact cannot be avoided; and
  - (3) Receives the commission's written approval for the impact to the avoidance area, based on a determination that there is no reasonable alternative to the expected impact. If the commission does not approve impacting the avoidance area, the utility must obtain siting authority under this chapter for the affected portion of the site or route. If the commission fails to act on the notification required by this subdivision within thirty

days of the utility's filing the notification, the impact to the avoidance area is deemed approved.

- c. Incident to preliminary engineering or environmental studies.
4. "Corridor" means the area of land in which a designated route may be established for a transmission facility.
5. "Energy conversion facility" means any plant, addition, or combination of plant and addition, designed for or capable of:
  - a. Generation by wind energy conversion exceeding one-half megawatt of electricity;
  - b. Generation by any means other than wind energy conversion exceeding fifty megawatts of electricity;
  - c. Manufacture or refinement of one hundred million cubic feet [2831684.66 cubic meters] or more of gas per day, regardless of the end use of the gas;
  - d. Manufacture or refinement of fifty thousand barrels [7949.36 cubic meters] or more of liquid hydrocarbon products per day; or
  - e. Enrichment of uranium minerals.
6. "Facility" means an energy conversion facility, transmission facility, or both.
7. "Permit" means the permit for the construction of a transmission facility within a designated corridor issued under this chapter.
8. "Person" includes any individual, firm, association, partnership, cooperative, corporation, limited liability company, or any department, agency, or instrumentality of a state or of the federal government, or any subdivision thereof.
9. "Power emergency" means an electric transmission line and associated facilities that have been damaged or destroyed by natural or manmade causes resulting in a loss of power supply to consumers of the power.
10. "Road use agreement" means permits required for extraordinary road use, road access points, approach or road crossings, public right-of-way setbacks, building rules, physical addressing, dust control measures, or road maintenance and any repair mitigation plans.
11. "Route" means the location of a transmission facility within a designated corridor.
- ~~11-12.~~ "Site" means the location of an energy conversion facility.
- ~~12-13.~~ "Transmission facility" means any of the following:
  - a. An electric transmission line and associated facilities with a design in excess of one hundred fifteen kilovolts. "Transmission facility" does not include:
    - (1) A temporary transmission line loop that is:
      - (a) Connected and adjacent to an existing transmission facility that was sited under this chapter;
      - (b) Within the corridor of the sited facility and does not cross known exclusion or avoidance areas; and

- (c) In place for less than one year; or
- (2) A transmission line that is less than one mile [1.61 kilometers] long.
- b. A gas or liquid transmission line and associated facilities designed for or capable of transporting coal, gas, liquid hydrocarbons, liquid hydrocarbon products, or carbon dioxide. This subdivision does not apply to:
  - (1) An oil or gas pipeline gathering system;
  - (2) A pipeline with an outside diameter of four and one-half inches [11.43 centimeters] or less that will not be trenched and will be plowed in with a power mechanism having a vertical knife or horizontally directionally drilled, and its associated facilities; or
  - (3) A pipeline that is less than one mile [1.61 kilometers] long.

For purposes of this chapter, a gathering system includes the pipelines and associated facilities used to collect oil from the lease site to the first pipeline storage site where pressure is increased for further transport, or pipelines and associated facilities used to collect gas from the well to the gas processing facility at which end-use consumer-quality gas is produced, with or without the addition of odorant.

- c. A liquid transmission line and associated facilities designed for or capable of transporting water from or to an energy conversion facility.

~~13-14.~~ "Utility" means any person engaged in and controlling the generation, manufacture, refinement, or transmission of electric energy, gas, liquid hydrocarbons, or liquid hydrocarbon products, including electric power generation or transmission, coal gasification, coal liquefaction, petroleum refinement, uranium enrichment, and the transmission of coal, gas, liquid hydrocarbons, or liquid hydrocarbon products, or the transmission of water from or to any energy conversion facility."

Page 1, line 7, after "**agencies**" insert "**and political subdivisions**"

Page 1, line 8, remove the overstrike over "~~may, and is encouraged to,~~"

Page 1, line 8, remove "shall"

Page 1, line 10, remove ". a directly impacted political subdivision."

Page 1, line 12, after the period insert "The commission shall cooperate and exchange technical information with directly impacted political subdivisions as outlined in subsection 2 of 49-22-16."

Page 1, line 15, after "2." insert "a."

Page 1, line 18, overstrike "A" and insert immediately thereafter:

"b. Except as provided in this section, a"

Page 1, line 19, remove "must"

Page 1, line 19, overstrike "supersede" and insert immediately thereafter "supersedes"

Page 1, line 19, overstrike "pre-"

Page 1, line 20, overstrike "empt" and insert immediately thereafter "preempts"

Page 1, line 22, after the underscored period insert:

"c."

Page 1, line 23, remove "approach or road crossing"

Page 1, line 24, replace "permits, public right-of-way setbacks, building rules, or physical addressing" with "road use agreements"

Page 1, line 24, after "the" insert "impacted"

Page 2, line 1, replace "The commission may waive" with "A permit may supersede and preempt"

Page 2, line 5, replace "administrative law" with "laws or rules"

Page 2, line 7, replace "The" with:

"d. When an application for a certificate for a gas or liquid transmission facility is filed, the"

Page 2, line 7, remove "provide notice to all the"

Page 2, remove line 8

Page 2, line 9, replace "under this section" with "notify the townships with retained zoning authority, cities, and counties in which any part of the proposed corridor is located. The commission may not schedule a public hearing sooner than forty-five days from the date notification is sent by mail or electronic mail"

Page 2, line 9, replace "notice" with "notification"

Page 2, line 10, replace "authorized" with "identified"

Page 2, line 10, replace "section" with "subsection"

Page 2, line 10, remove "If the political"

Page 2, line 11, replace "subdivision does not submit the" with "The"

Page 2, line 11, after "requirements" insert "must be filed"

Page 2, line 11, remove "commission"

Page 2, line 12, replace "hearing, all requirements are waived" with "hearing or the requirements are superseded and preempted"

Page 2, line 12, after the underscored period insert:

"e. An applicant shall comply with all local requirements provided to the commission pursuant to subdivision d, which are not otherwise superseded by the commission.

#### **SECTION 4. LEGISLATIVE MANAGEMENT STUDY - COOPERATION BETWEEN THE PUBLIC SERVICE COMMISSION AND POLITICAL SUBDIVISIONS.**

During the 2017-18 interim, the legislative management shall study cooperation and communication between the public service commission and political subdivisions in regard to ensuring local ordinances and zoning provisions are considered and addressed as part of the application and public hearing process. The study must include examination of the impacts on relationships between landowners and the oil and gas industry; impacts on the efficiency of the siting process, including timelines associated with notification and permitting; impacts on the public input process; and impacts on compliance with, and enforcement of, political subdivision zoning ordinances. The legislative management shall report its findings and

recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly."

Renumber accordingly

#### HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2301

Page 1, line 19, replace "A" with "If requested by a plan sponsor contracted payer, a"

Page 1, line 20, replace the second "a" with "the"

Page 2, line 2, remove "fair competition, no self-dealing, and no interference"

Page 2, remove line 3

Page 2, line 4, replace "administrative functions and the mail order pharmacy" with "not participate in a transaction that benefits the pharmacy benefits manager, affiliate, or subsidiary instead of another person owed a fiduciary duty"

Renumber accordingly

#### HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2327

Page 1, line 8, remove "subsection 1 of section 19-01-01,"

Page 1, line 14, replace "subsection 6 of section" with "sections 43-62-01 and"

Page 1, line 14, after the first comma insert "subsection 1 of section 43-62-15,"

Page 1, line 18, remove "sections 61-28-03 and 61-28-05,"

Page 1, line 21, after "quality" insert "and the regulation of x-ray operators"

Page 1, line 23, replace "and" with a comma

Page 1, line 24, after "39-26" insert ", and sections 61-28-03 and 61-28-05"

Page 2, after line 30, insert:

"All orders, determinations, permits, grants, contracts, agreements, certificates, licenses, waivers, bonds, authorizations, and privileges relating to the functions transferred which have been lawfully issued or made before the date of the transition of functions, continue to be effective until revised, amended, repealed, or rescinded. The transition of functions does not abate any suit, action, or other proceeding lawfully commenced by, against, or before an entity affected by the transition of functions. A suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of an entity affected by the transition of functions."

Page 4, line 26, replace "23.1-04-03" with "23.1-04-04"

Page 8, remove lines 28 through 31

Page 9, line 8, replace "environmental review advisory council" with "department of environmental quality"

Page 13, line 24, after the underscored period insert "The director must have a bachelor of science degree or higher from an accredited college in a natural or physical science area of study or be a registered professional engineer. The governor shall seek to appoint a director with at least seven years of environmental health or relevant engineering work experience. Three years of the work experience must include administrative and management responsibilities. Direct work experience in North Dakota is preferred. The director may not engage in any other occupation or business that may conflict with the statutory duties of the director."



Page 13, line 29, replace "eleven" with "the state engineer, state geologist, and director of the game and fish department, who serve as ex officio members, and ten"

Page 13, line 30, replace ", and the" with ". The"

Page 14, line 2, after "The" insert "appointed"

Page 14, line 4, replace "and" with "or agricultural"

Page 14, line 7, after "of" insert "crop"

Page 14, line 8, remove "solid"

Page 14, line 8, after "waste" insert "management"

Page 14, line 9, replace "of the hazardous waste industry" with "with an agronomy or soil sciences degree"

Page 14, line 11, after the underscored semicolon insert "and"

Page 14, line 12, remove "The state engineer; and"

Page 14, line 13, replace "k. The state geologist" with "A representative of the livestock industry"

Page 14, line 15, replace "a" with "an appointed"

Page 14, line 27, after "title" insert "and chapters 61-28, 61-28.1, and 61-28.2"

Page 14, line 29, after "title" insert "and chapters 61-28, 61-28.1, and 61-28.2"

Page 15, line 14, after "title" insert "and chapters 61-28, 61-28.1, and 61-28.2"

Page 17, line 3, after "sections" insert "23.1-08-19 and"

Page 17, line 4, remove "and 23.1-08-21"

Page 18, line 28, replace "23.1-01-02" with "23.1-01-12"

Page 18, after line 31, insert:

**23.1-01-13. Contracts for inspections.**

The department may contract with public health units and other appropriate entities to conduct inspections on behalf of the department or provide other services."

Page 22, line 6, replace "rule" with "rules"

Page 25, line 21, replace "subdivision c" with "this subsection"

Page 26, overstrike lines 14 through 17

Page 26, line 18, replace "23.1-03-11." with "23.1-03-10."

Page 26, line 28, replace "23.1-03-12." with "23.1-03-11."

Page 27, line 9, replace "23.1-03-13." with "23.1-03-12."

Page 27, line 17, replace "23.1-03-14." with "23.1-03-13."

Page 27, line 21, replace "23.1-03-15." with "23.1-03-14."

Page 27, line 25, replace "23.1-03-16." with "23.1-03-15."

Page 29, line 6, after "the" insert "solid waste or hazardous"

Page 29, line 13, remove "producing hazardous waste or acting to cause"

Page 29, line 14, replace "a hazardous waste" with "through act or process produces hazardous waste or first causes a hazardous waste"

Page 30, line 1, remove ", any person that owns or"

Page 30, replace lines 2 and 3 with ":

- a. In use after November 7, 1984, any person that owns or operates an underground storage tank used for the storage, use, or dispensing of regulated substances.
- b. In use before November 8, 1984, but no longer in use after that date, any person that owned or operated such a tank immediately before the discontinuation of the tank's use.

Page 30, line 10, after "at" insert "standard conditions of temperature and pressure ("

Page 30, line 12, after "absolute" insert an underscored closing parenthesis

Page 37, line 24, replace "23.1-09" with "23.1-12"

Page 40, line 26, after "of" insert "new"

Page 140, replace lines 22 through 26 with:

**"SECTION 51. AMENDMENT.** Section 43-62-01 of the North Dakota Century Code is amended and reenacted as follows:

**43-62-01. Definitions.**

1. "Board" means the North Dakota medical imaging and radiation therapy board ~~of examiners~~.
2. "Certification organization" means a national certification organization that specializes in the certification and registration of ~~certification of~~ medical imaging and radiation therapy technical personnel and which has programs accredited by the national commission for certifying agencies, American national standards institute or the international organization for standardization, or other accreditation organization recognized by the board.
3. "Licensed practitioner" means a licensed physician, advanced practice registered nurse, surgeon, chiropractor, dentist, or podiatrist.
4. "Licensee" means an individual licensed by the board to perform medical imaging or radiation therapy procedures and operate medical imaging or radiation therapy equipment, including a nuclear medicine technologist, radiation therapist, radiographer, radiologist assistant, x-ray operator, or sonographer.
5. "Medical imaging" means the performance of any diagnostic or interventional procedure or operation of medical imaging equipment intended for use in the diagnosis or visualization of disease or other medical conditions in human beings, including fluoroscopy, nuclear medicine, sonography, or x-rays.
6. "Medical physicist" means an individual who is certified by the American board of radiology, American board of medical physics, American board of science in nuclear medicine, or Canadian college of physics in medicine in radiological physics or one of the subspecialties of radiological physics.

7. "Radiation therapy" means the performance of any procedure or operation of radiation therapy equipment intended for use in the treatment of disease or other medical conditions in human beings.
8. "Radiation therapist" means a nonphysician licensed by the board to perform radiation therapy procedures and operate radiation therapy equipment.

**SECTION 52. AMENDMENT.** Section 43-62-03 of the North Dakota Century Code is amended and reenacted as follows:

**43-62-03. Exemptions.**

This chapter does not apply to the following:

1. A licensed practitioner performing medical imaging or radiation therapy.
2. A dental assistant or dental hygienist licensed under chapter 43-20.
3. A student enrolled in and attending a school or college of medicine, medical imaging, or radiation therapy who performs medical imaging or radiation therapy procedures on humans while under the supervision of a licensed practitioner or a radiographer, radiation therapist, nuclear medicine technologist, radiologist assistant, or sonographer holding a license in the medical imaging or radiation therapy modality which the student is enrolled or attending under this chapter.
4. An individual administering medical imaging or radiation procedures and who is employed by the United States government when performing duties associated with that employment.
5. A nurse licensed under chapter 43-12.1 who performs sonography on a focused imaging target to assess specific and limited information about a patient's immediate medical condition or to provide real-time visual guidance for another procedure.
6. ~~A limited x-ray machine operator who meets the requirements of rules adopted by the state department of health under section 23-20.1-04.~~
7. ~~Medical imaging performed as a part of a post-mortem examination or on other nonliving remains.~~
8. ~~Medical imaging performed by emergency medical services personnel certified or licensed under section 23-27-04.3.~~

**SECTION 53. AMENDMENT.** Subsection 1 of section 43-62-15 of the North Dakota Century Code is amended and reenacted as follows:

1. The board shall establish licensure standards for the following medical imaging and radiation therapy modalities:
  - a. Nuclear medicine technologist.
  - b. Radiation therapist.
  - c. Radiographer.
  - d. Radiologist assistant.
  - e. Sonographer.
  - f. X-ray operator."

Page 141, line 23, overstrike ", and 61-28-03"

Page 148, remove lines 17 through 31

Page 149, overstrike lines 1 through 28

Page 150, overstrike lines 1 through 4

Page 153, line 1, after "39-26" insert "and sections 61-28-03 and 61-28-05"

Page 153, line 3, replace "75" with "74"

Renumber accordingly

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has amended and subsequently failed to pass: SB 2293.

**MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**  
**MR. SPEAKER:** Your signature is respectfully requested on: SB 2105, SB 2197, SB 2278, SB 2307.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1128.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The Speaker has signed: SB 2105, SB 2197, SB 2278, SB 2307.

**MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**  
**MR. SPEAKER:** The President has signed: SB 2105, SB 2197, SB 2278, SB 2307.

**MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**  
**MR. SPEAKER:** The President has signed: HB 1128.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The Speaker has signed: HB 1254, HB 1402, HB 1428, HB 1431, HCR 3006, HCR 3024.

#### **DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bill was delivered to the Governor for approval on March 29, 2017: SB 2060.

#### **DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bills were delivered to the Governor for approval on March 29, 2017: SB 2169, SB 2170.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has overridden the Governor's veto on HB 1153. The vote was 84 YEAS, 7 NAYS, 3 ABSENT AND NOT VOTING, and your favorable consideration is requested.

#### **MOTION**

**SEN. KLEIN MOVED** that the Senate be on the Fourth, Fifth, Thirteenth, and Sixteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Thursday, March 30, 2017, which motion prevailed.

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

**HB 1004, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1004 was placed on the Sixth order on the calendar.

Page 1, replace lines 10 through 17 with:

"Salaries and wages	\$11,655,646	\$346,975	\$12,002,621
Operating expenses	1,176,806	(14,023)	1,162,783
North Dakota university system information	200,000	(200,000)	0

technology security audits			
Information technology consultants	<u>250,000</u>	<u>(250,000)</u>	<u>0</u>
Total all funds	\$13,282,452	(\$117,048)	\$13,165,404
Less estimated income	<u>3,505,870</u>	<u>(94,383)</u>	<u>3,411,487</u>
Total general fund	\$9,776,582	(\$22,665)	\$9,753,917"

Page 1, line 20, replace "\$163,134" with "\$146,005"

Page 1, line 20, replace "\$123,788" with "\$109,510"

Page 1, line 21, replace "\$1,249" with "\$1,241"

ReNUMBER accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

#### House Bill No. 1004 - State Auditor - Senate Action

	Base Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$11,655,646	\$11,714,840	\$287,781	\$12,002,621
Operating expenses	1,176,806	1,136,039	26,744	1,162,783
University system IT security audits	200,000			
Information technology consultants	250,000			
Total all funds	\$13,282,452	\$12,850,879	\$314,525	\$13,165,404
Less estimated income	<u>3,505,870</u>	<u>3,414,338</u>	<u>(2,851)</u>	<u>3,411,487</u>
General fund	\$9,776,582	\$9,436,541	\$317,376	\$9,753,917
FTE	59.80	57.80	0.00	57.80

#### Department No. 117 - State Auditor - Detail of Senate Changes

	Adjusts Funding for Health Insurance Increases <sup>1</sup>	Restores Salaries and Wages Underfunded <sup>2</sup>	Restores Funding for Operating Expenses <sup>3</sup>	Total Senate Changes
Salaries and wages	(\$17,129)	\$304,910		\$287,781
Operating expenses			26,744	26,744
University system IT security audits				
Information technology consultants				
Total all funds	(\$17,129)	\$304,910	\$26,744	\$314,525
Less estimated income	<u>(2,851)</u>	<u>0</u>	<u>0</u>	<u>(2,851)</u>
General fund	(\$14,278)	\$304,910	\$26,744	\$317,376
FTE	0.00	0.00	0.00	0.00

<sup>1</sup> Funding for employee health insurance is adjusted to reflect the updated premium amount of \$1,241 per month.

<sup>2</sup> A portion of the \$462,085 of general fund salaries and wages underfunding approved by the House is restored to provide salaries and wages underfunding of \$157,175 from the general fund.

<sup>3</sup> Funding is restored for agencywide reductions in operating expenses made by the House.

This amendment also amends Section 2 of the bill to update the amounts appropriated for increases in employee health insurance premiums.

**REPORT OF STANDING COMMITTEE**

**HB 1009, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1009 was placed on the Sixth order on the calendar.

Page 1, remove lines 13 through 23

Page 2, replace line 1 with:

"Salaries and wages	\$12,534,265	(\$161,316)	\$12,372,949
Operating expenses	6,419,121	1,025,215	7,444,336
Capital assets	8,000	5,000	13,000
Grants	8,392,774	545,000	8,937,774
Board of animal health	1,006,773	(141,055)	865,718
Wildlife services	1,401,257	6,743	1,408,000
Crop harmonization board	75,000	0	75,000
Pipeline restoration and reclamation oversight program	<u>400,000</u>	<u>(200,000)</u>	<u>200,000</u>
Total all funds	\$30,237,190	\$1,079,587	\$31,316,777
Less estimated income	<u>20,276,053</u>	<u>1,931,623</u>	<u>22,207,676</u>
Total general fund	\$9,961,137	(\$852,036)	\$9,109,101"

Page 2, line 4, replace "\$208,923" with "\$188,477"

Page 2, line 4, replace "\$114,802" with "\$101,972"

Page 2, line 5, replace "\$1,249" with "\$1,241"

Page 2, line 6, after "FUNDING" insert "- EFFECT ON BASE BUDGET - REPORT TO THE SIXTY-SIXTH LEGISLATIVE ASSEMBLY"

Page 2, line 7, after "biennium" insert "and the 2017-19 biennium one-time funding items included in the appropriation in section 1 of this Act"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1009 - Department of Agriculture - Senate Action**

	<b>Base Budget</b>	<b>House Version</b>	<b>Senate Changes</b>	<b>Senate Version</b>
Salaries and wages	\$12,534,265	\$12,387,671	(\$14,722)	\$12,372,949
Operating expenses	6,419,121	7,444,336		7,444,336
Capital assets	8,000	13,000		13,000
Grants	8,392,774	8,937,774		8,937,774
State Board of Animal Health	1,006,773	865,718		865,718
Wildlife services	1,401,257	1,408,000		1,408,000
Crop Harmonization Board	75,000	75,000		75,000
Pipeline restoration and reclamation	400,000	200,000		200,000
Total all funds	\$30,237,190	\$31,331,499	(\$14,722)	\$31,316,777
Less estimated income	<u>20,276,053</u>	<u>22,214,433</u>	<u>(6,757)</u>	<u>22,207,676</u>
General fund	\$9,961,137	\$9,117,066	(\$7,965)	\$9,109,101
FTE	77.00	73.00	0.00	73.00

**Department No. 602 - Department of Agriculture - Detail of Senate Changes**

	<b>Adjusts Funding for Health Insurance Increases<sup>1</sup></b>	<b>Total Senate Changes</b>
Salaries and wages	(\$14,722)	(\$14,722)

Operating expenses		
Capital assets		
Grants		
State Board of Animal Health		
Wildlife services		
Crop Harmonization Board		
Pipeline restoration and reclamation		
Total all funds	(\$14,722)	(\$14,722)
Less estimated income	(6,757)	(6,757)
General fund	(\$7,965)	(\$7,965)
FTE	0.00	0.00

<sup>1</sup> Funding for employee health insurance is adjusted to reflect the updated premium amount of \$1,241 per month. Section 2 of the bill is also adjusted to reflect the revised premium rate.

### REPORT OF STANDING COMMITTEE

**HB 1016, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1016 was placed on the Sixth order on the calendar.

Page 1, remove lines 14 through 24

Page 2, replace lines 1 and 2 with:

"Salaries and wages	\$6,640,086	\$26,439	\$6,666,525
Operating expenses	3,685,547	(159,613)	3,525,934
Capital assets	249,046	32,975,000	33,224,046
Grants	509,514	(190,961)	318,553
Civil air patrol	311,773	(12,193)	299,580
Tuition, recruiting, and retention	2,517,500	100,000	2,617,500
Air guard contract	8,054,554	44,028	8,098,582
Army guard contract	59,870,605	(2,152,661)	57,717,944
Veterans' cemetery	811,486	69,798	881,284
Reintegration program	<u>1,903,743</u>	<u>(642,359)</u>	<u>1,261,384</u>
Total all funds	\$84,553,854	\$30,057,478	\$114,611,332
Less estimated income	<u>66,864,852</u>	<u>31,309,926</u>	<u>98,174,778</u>
Total general fund	\$17,689,002	(\$1,252,448)	\$16,436,554"

Page 2, replace lines 7 through 14 with:

"Salaries and wages	\$12,441,232	\$159,887	\$12,601,119
Operating expenses	8,905,310	(1,616,859)	7,288,451
Capital assets	740,000	(171,000)	569,000
Grants	18,673,247	(1,784,088)	16,889,159
Disaster costs	<u>108,165,484</u>	<u>(56,719,643)</u>	<u>51,445,841</u>
Total all funds	\$148,925,273	(\$60,131,703)	\$88,793,570
Less estimated income	<u>137,518,175</u>	<u>(58,224,473)</u>	<u>79,293,702</u>
Total general fund	\$11,407,098	(\$1,907,230)	\$9,499,868"

Page 2, replace lines 19 through 21 with:

"Grand total general fund	\$29,096,100	(\$3,159,678)	\$25,936,422
Grand total special funds	<u>204,383,027</u>	<u>(26,914,547)</u>	<u>177,468,480</u>
Grand total all funds	\$233,479,127	(\$30,074,225)	\$203,404,902"

Page 2, line 24, replace "\$638,219" with "\$591,978"

Page 2, line 24, replace "\$253,000" with "\$234,453"

Page 2, line 25, replace "\$1,249" with "\$1,241"

Page 2, line 26, after "FUNDING" insert "- EFFECT ON BASE BUDGET - REPORT TO THE SIXTY-SIXTH LEGISLATIVE ASSEMBLY"

Page 2, line 27, after "biennium" insert "and the 2017-19 biennium one-time funding items in the appropriation in section 1 of this Act"

Page 3, after line 15, insert:

"The 2017-19 biennium one-time funding amounts are not a part of the entity's base budget for the 2019-21 biennium. The adjutant general shall report to the appropriations committees of the sixty-sixth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2017, and ending June 30, 2019."

Page 4, line 16, remove ", contingent upon the adjutant general"

Page 4, remove line 17

Page 4, line 18, remove "assignment in association with the Grand Forks air force base"

ReNUMBER accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1016 - Summary of Senate Action**

	Base Budget	House Version	Senate Changes	Senate Version
Adjutant General				
Total all funds	\$84,553,854	\$114,563,814	\$47,518	\$114,611,332
Less estimated income	66,864,852	98,195,447	(20,669)	98,174,778
General fund	\$17,689,002	\$16,368,367	\$68,187	\$16,436,554
Department of Emergency Services				
Total all funds	\$148,925,273	\$88,659,329	\$134,241	\$88,793,570
Less estimated income	137,518,175	79,300,727	(7,025)	79,293,702
General fund	\$11,407,098	\$9,358,602	\$141,266	\$9,499,868
Bill total				
Total all funds	\$233,479,127	\$203,223,143	\$181,759	\$203,404,902
Less estimated income	204,383,027	177,496,174	(27,694)	177,468,480
General fund	\$29,096,100	\$25,726,969	\$209,453	\$25,936,422

**House Bill No. 1016 - Adjutant General - Senate Action**

	Base Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$6,640,086	\$6,673,161	(\$6,636)	\$6,666,525
Operating expenses	3,685,547	3,492,934	33,000	3,525,934
Capital assets	249,046	33,224,046		33,224,046
Grants	509,514	318,553		318,553
Civil air patrol	311,773	299,787	(207)	299,580
Tuition, recruiting, and retention	2,517,500	2,617,500		2,617,500
Air guard contract	8,054,554	8,089,803	8,779	8,098,582
Army guard contract	59,870,605	57,703,081	14,863	57,717,944
Veterans' Cemetery	811,486	882,321	(1,037)	881,284
Reintegration program	1,903,743	1,262,628	(1,244)	1,261,384
Total all funds	\$84,553,854	\$114,563,814	\$47,518	\$114,611,332
Less estimated income	66,864,852	98,195,447	(20,669)	98,174,778
General fund	\$17,689,002	\$16,368,367	\$68,187	\$16,436,554
FTE	155.00	155.00	0.00	155.00

**Department No. 540 - Adjutant General - Detail of Senate Changes**

Adjusts Funding for Health Insurance Increases <sup>1</sup>	Restores Funding for Maintenance and Repairs <sup>2</sup>	Total Senate Changes



Salaries and wages	(\$6,636)		(\$6,636)
Operating expenses		33,000	33,000
Capital assets			
Grants			
Civil air patrol	(207)		(207)
Tuition, recruiting, and retention			
Air guard contract	(6,221)	15,000	8,779
Army guard contract	(15,137)	30,000	14,863
Veterans' Cemetery	(1,037)		(1,037)
Reintegration program	(1,244)		(1,244)
Total all funds	(\$30,482)	\$78,000	\$47,518
Less estimated income	(20,669)	0	(20,669)
General fund	(\$9,813)	\$78,000	\$68,187
FTE	0.00	0.00	0.00

<sup>1</sup> Funding for employee health insurance is adjusted to reflect the updated premium amount of \$1,241 per month. Section 2 is also adjusted to reflect the change.

<sup>2</sup> Funding of \$78,000 from the general fund for maintenance and repairs is restored. The House had reduced funding for maintenance and repairs by \$178,000 from the general fund.

### House Bill No. 1016 - Department of Emergency Services - Senate Action

	Base Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$12,441,232	\$12,465,927	\$135,192	\$12,601,119
Operating expenses	8,905,310	7,288,451		7,288,451
Capital assets	740,000	569,000		569,000
Grants	18,673,247	16,889,159		16,889,159
Disaster costs	108,165,484	51,446,792	(951)	51,445,841
Total all funds	\$148,925,273	\$88,659,329	\$134,241	\$88,793,570
Less estimated income	137,518,175	79,300,727	(7,025)	79,293,702
General fund	\$11,407,098	\$9,358,602	\$141,266	\$9,499,868
FTE	79.00	79.00	0.00	79.00

### Department No. 542 - Department of Emergency Services - Detail of Senate Changes

	Adjusts Funding for Health Insurance Increases <sup>1</sup>	Restores Funding for Salaries and Wages <sup>2</sup>	Total Senate Changes
Salaries and wages	(\$14,808)	\$150,000	\$135,192
Operating expenses			
Capital assets			
Grants			
Disaster costs	(951)		(951)
Total all funds	(\$15,759)	\$150,000	\$134,241
Less estimated income	(7,025)	0	(7,025)
General fund	(\$8,734)	\$150,000	\$141,266
FTE	0.00	0.00	0.00

<sup>1</sup> Funding for employee health insurance is adjusted to reflect the updated premium amount of \$1,241 per month. Section 2 is also adjusted to reflect the change.

<sup>2</sup> Funding of \$150,000 from the general fund for salaries and wages is restored. The House had reduced salaries and wages funding by \$200,000 from the general fund.

This amendment also removes contingency language from Section 9 to allow the Adjutant

General to spend the money carried over from the 2015-17 biennium in the tuition, recruiting, and retention line item without certifying to the Office of Management and Budget that the National Guard has received a new assignment in association with the Grand Forks Air Force Base.

#### REPORT OF STANDING COMMITTEE

**HB 1041, as reengrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1041, as amended, was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the Senate as printed on pages 872-874 of the Senate Journal, Reengrossed House Bill No. 1041 is amended as follows:

Page 1, line 4, replace "subsections" with "subsection"

Page 1, line 4, remove "and 6"

Page 1, line 7, replace "section 43-45-06" with "subsection 2 of section 39-20-01"

Page 1, line 11, remove "addiction counseling services,"

Page 1, line 14, remove "and"

Page 1, line 14, after "assembly" insert "; to provide an appropriation; to provide an effective date; and to declare an emergency"

Page 3, line 26, remove overstrike over "one"

Page 3, line 26, remove "two"

Page 3, line 26, remove "five hundred"

Page 6, remove lines 26 through 30

Page 7, remove lines 1 through 30

Page 8, remove lines 1 through 5

Page 8, after line 8 insert:

"1"

Page 8, line 11, remove "involving domestic violence: an offense"

Page 8, line 11, replace "section 12.1-17-07.1" with "chapters 12.1-06.2, 12.1-08, and 12.1-09, section 12.1-16-03"

Page 8, line 11, remove "chapter"

Page 8, line 12, replace "12.1-41, or sections" with "chapters 12.1-17, 12.1-18, and 12.1-22, section 12.1-23-02.1, chapter 12.1-25, an offense subject to registration under section 12.1-32-15, chapter 12.1-36, or section"

Page 8, line 12, replace "or 14-09-22" with ", including attempt, serving as an accomplice to an offense, or conspiracy to commit the offense"

Page 8, line 12, after the underscored semicolon insert "an attempt to commit"

Page 8, line 13, after "weapon" insert "or serving as an accomplice or in a conspiracy to commit an offense involving a firearm or dangerous weapon"

Page 8, line 13, remove "The sentencing court may"

Page 8, remove lines 14 and 15

Page 8, line 16, remove "aggravating factors on the record at the time of sentencing."

Page 8, after line 19, insert:

- "2. This section does not apply to an offense committed under subsection 1 of section 12.1-22-02.
3. This section does not apply if the sentencing court finds there are aggravating factors present to justify a departure from presumptive probation. The sentencing court shall state the aggravating factors on the record at the time of sentencing. Aggravating factors include:
  - a. That the individual has plead guilty to, or has been found guilty of, a felony offense or class A misdemeanor offense prior to the date of the commission of the offense or offenses charged in the complaint, information, or indictment;
  - b. The age and vulnerability of the victim, whether the individual was in a position of responsibility or trust over the victim, or whether the individual abused a public position of responsibility or trust; or
  - c. If the individual used threats or coercion in the commission of the offense."

Page 12, replace lines 16 through 26 with:

**"SECTION 15. AMENDMENT.** Subsection 2 of section 39-20-01 of the North Dakota Century Code is amended and reenacted as follows:

2. The test or tests must be administered at the direction of a law enforcement officer only after placing the individual, ~~except individuals mentioned in section 39-20-03,~~ under arrest and informing that individual that the individual is or will be charged with the offense of driving or being in actual physical control of a vehicle upon the public highways while under the influence of intoxicating liquor, drugs, or a combination thereof. For the purposes of this chapter, the taking into custody of a child under section 27-20-13 or an individual under twenty-one years of age satisfies the requirement of an arrest. The law enforcement officer shall determine which of the tests is to be used."

Page 16, after line 29, insert:

**"SECTION 20. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$110,916, or so much of the sum as may be necessary, and \$1,532,785 from federal funds, or so much of the sum as may be necessary, to the department of human services for the purpose of implementing sections 16 and 17 of this Act, for the biennium beginning July 1, 2017, and ending June 30, 2019.

**SECTION 21. EFFECTIVE DATE.** Sections 7 and 8 of this Act become effective January 1, 2018.

**SECTION 22. EMERGENCY.** Sections 1 through 6, 9 through 14, and 16 and 17 of this Act are declared to be an emergency measure."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1170, as engrossed: Judiciary Committee (Sen. Armstrong, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1170 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1221, as engrossed: Judiciary Committee (Sen. Armstrong, Chairman)**

recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1221 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 amend and reenact subsection 4 of section 12-60-07 and section 12-63-04 of the North Dakota Century Code, relating to powers, duties, and functions of bureau of criminal investigation and powers and duties of the peace officer standards and training board.

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

**SECTION 1. AMENDMENT.** Subsection 4 of section 12-60-07 of the North Dakota Century Code is amended and reenacted as follows:

4. The bureau shall assist the sheriffs and other peace officers in establishing a system for the apprehension of criminals and detection of crime. The assistance must include offering guidelines and training for the proper handling of confidential informants.

**SECTION 2. AMENDMENT.** Section 12-63-04 of the North Dakota Century Code is amended and reenacted as follows:

**12-63-04. Board - Powers - Duties - Authority.**

The board shall administer, coordinate, and enforce the provisions of this chapter, evaluate the qualifications of applicants, and approve the examinations for licensing under this chapter.

1. The board shall:
  - a. Prescribe the criteria for certification of basic, advanced, and specialized peace officer training curriculum, instructors, and schools;
  - b. Certify curriculum, instructors, schools, and officers that have met the training certification criteria;
  - c. Establish the curriculum for basic and advanced peace officer training; and
  - d. Prescribe minimum standards of sidearm training and certification for peace officers before they may carry a sidearm.
2. The board shall keep records and minutes necessary to carry out its functions. The board may:
  - a. Issue subpoenas, examine witnesses, administer oaths, and investigate allegations of practices violating the provisions of this chapter or rules adopted by the board.
  - b. Examine, under oath, any applicant for licensing.
  - c. Examine, under oath, any licensed peace officer during a hearing to suspend, revoke, or to not renew a license of a peace officer.
  - d. ~~Adopt rules relating to the professional conduct of peace officers and to implement the requirements of this chapter, including rules relating to professional licensure, continuing education, and ethical standards of practice, for persons holding a license to practice peace officer duties.~~
3. The board shall adopt rules relating to the professional conduct of licensed peace officers and to implement the requirements of this chapter, including rules:

- a. Relating to professional licensure and continuing education;
- b. Establishing ethical standards of practice; and
- c. Establishing standards for proper confidential informant handling procedures and setting limits on officer conduct in recruiting an individual to operate as a confidential informant."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1269, as engrossed: Judiciary Committee (Sen. Armstrong, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1269 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 12.1-32-09.1 of the North Dakota Century Code, relating to sentencing for aggravated assault; to amend and reenact subdivision k of subsection 3 of section 12.1-23-05, subsection 5 of section 12.1-32-01, subdivision b of subsection 1 of section 12.1-32-02.1, sections 19-03.1-22.3 and 19-03.1-23, subsection 2 of section 19-03.1-23.1, section 19-03.1-23.4, paragraph 3 of subdivision e of subsection 1 of section 19-03.1-36, subdivision e of subsection 5 of section 19-03.1-36, subsection 1 of section 19-03.1-45, and subsection 29 of section 40-05-02 of the North Dakota Century Code, relating to grading of theft offenses, illegal possession of prescription capsules, pills, or tablets, possession of marijuana, ingesting a controlled substance, and misdemeanor marijuana convictions being excluded as prior offenses for purposes of determining mandatory terms of imprisonment; and to provide a penalty.

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

**SECTION 1. AMENDMENT.** Subdivision k of subsection 3 of section 12.1-23-05 of the North Dakota Century Code is amended and reenacted as follows:

- k. The property stolen is a prescription drug as defined in section 43-15.3-01, except when the quantity stolen is five or fewer capsules, pills, or tablets.

**SECTION 2. AMENDMENT.** Subsection 5 of section 12.1-32-01 of the North Dakota Century Code is amended and reenacted as follows:

- 5. Class A misdemeanor, for which a maximum penalty of ~~one year's~~ imprisonment for three hundred sixty days, a fine of three thousand dollars, or both, may be imposed.

**SECTION 3. AMENDMENT.** Subdivision b of subsection 1 of section 12.1-32-02.1 of the North Dakota Century Code is amended and reenacted as follows:

- b. The offender possesses or has within immediate reach and control a dangerous weapon, explosive, destructive device, or firearm while in the course of committing any felony offense under subsection 1, ~~23~~, or ~~78~~ of section 19-03.1-23.

**SECTION 4.** A new subsection to section 12.1-32-09.1 of the North Dakota Century Code is created and enacted as follows:

An offender who is convicted of a class C felony in violation of section 12.1-17-02, or an attempt to commit the offense, and who has received a sentence of imprisonment or a sentence of imprisonment upon revocation of probation before August 1, 2015, is eligible to have the offender's sentence considered by the parole board.

**SECTION 5. AMENDMENT.** Section 19-03.1-22.3 of the North Dakota Century Code is amended and reenacted as follows:

**19-03.1-22.3. Ingesting a controlled substance - Venue for violation - Penalty.**

A person who intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance, unless the substance was obtained directly from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, is guilty of a class B misdemeanor if the controlled substance is marijuana. Otherwise, the offense is a class A misdemeanor. The venue for a violation of this section exists in either the jurisdiction in which the controlled substance was ingested, inhaled, injected, or otherwise taken into the body or the jurisdiction in which the controlled substance was detected in the body of the accused.

**SECTION 6. AMENDMENT.** Section 19-03.1-23 of the North Dakota Century Code is amended and reenacted as follows:

**19-03.1-23. Prohibited acts A - Mandatory terms of imprisonment and fines - Unclassified offenses - Penalties.**

1. Except as authorized by this chapter, it is unlawful for anya person to willfully, as defined in section 12.1-02-02, manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance, or to deliver, distribute, or dispense a controlled substance by means of the internet, but anya person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. AnyA person who violates this subsection with respect to:
  - a. A controlled substance classified in schedule I or II which is a narcotic drug, or methamphetamine, is guilty of a class AB felony and must be sentenced:
    - (1) For a second offense, to imprisonment for at least five~~three~~ years.
    - (2) For a third or subsequent offense, to imprisonment for twenty~~ten~~ years.
  - b. Any other controlled substance classified in schedule I, II, or III, or a controlled substance analog is guilty of a class B felony. Except for a person who manufactures, delivers, or possesses with the intent to manufacture or deliver marijuana, any person found guilty under this subdivision must be sentenced:
    - (1) For a second offense, to imprisonment for at least three~~two~~ years.
    - (2) For a third or subsequent offense, to imprisonment for ten~~five~~ years.
  - c. A substance classified in schedule IV, is guilty of a class C felony and must be sentenced:
    - (1) For a second offense, to imprisonment for at least six~~three~~ months.
    - (2) For a third offense, to imprisonment for at least one year~~six~~ six~~months~~ months.
    - (3) For a fourth or subsequent offense, to imprisonment for five~~three~~ years.

- d. A substance classified in schedule V, is guilty of a class A misdemeanor.
2. A prior misdemeanor conviction under subsection 8 or a prior conviction under subsection 3 or 4 of section 19-03.4-03 may not be considered a prior offense under subsections 1 and 4.
3. Except as authorized by this chapter, it is unlawful for any person to willfully, as defined in section 12.1-02-02, create, deliver, distribute, or dispense a counterfeit substance by means of the internet or any other means, or possess with intent to deliver, a counterfeit substance by means of the internet or any other means, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. Any person who violates this subsection with respect to:
  - a. ~~A counterfeit substance classified in schedule I or II which is a narcotic drug, is guilty of a class A felony.~~
  - b. ~~Any other~~ A counterfeit substance classified in schedule I, II, or III, is guilty of a class B felony.
  - e.b. A counterfeit substance classified in schedule IV, is guilty of a class C felony.
  - d.c. A counterfeit substance classified in schedule V, is guilty of a class A misdemeanor.
- 3.4. For second or subsequent offenders, in addition to any other penalty imposed under this section, a person who violates this chapter, except a person who manufactures, delivers, or possesses with the intent to manufacture or deliver marijuana, is subject to, and the court shall impose, the following penalties to run consecutively to any other sentence imposed:
  - a. ~~Any~~ A person, eighteen years of age or older, who violates this section by willfully manufacturing, delivering, or possessing with intent to manufacture or deliver a controlled substance in or on, or within one thousand feet [300.48 meters] of the real property comprising a public or private elementary or secondary school or a public career and technical education school is subject to ~~an eight-year~~ a four-year term of imprisonment.
  - b. If the defendant was at least twenty-one years of age at the time of the offense, and delivered a controlled substance to a person under the age of eighteen, the defendant must be sentenced to imprisonment for at least ~~eight~~ four years. It is not a defense that the defendant did not know the age of a person protected under this subdivision.
- 4.5. A person at least eighteen years of age who solicits, induces, intimidates, employs, hires, or uses a person under eighteen years of age to aid or assist in the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance for the purpose of receiving consideration or payment for the manufacture or delivery of any controlled substance is guilty of a class B felony and must be sentenced:
  - a. For a second or subsequent offense, to imprisonment for at least ~~five~~ three years.
  - b. It is not a defense to a violation of this subsection that the defendant did not know the age of a person protected under this subsection.
5. A

6. Except for a prior conviction equivalent to a misdemeanor violation of subsection 8 or a prior conviction under subsection 3 or 4 of section 19-03.4-03, a violation of this chapter or a law of another state or the federal government which is equivalent to an offense under this chapter committed while the offender was an adult and which resulted in a plea or finding of guilt must be considered a prior offense under subsections 1, 34, and 45. The prior offense must be alleged in the complaint, information, or indictment. The plea or finding of guilt for the prior offense must have occurred before the date of the commission of the offense or offenses charged in the complaint, information, or indictment.

6-7. It is unlawful for a person to willfully, as defined in section 12.1-02-02:

- a. Serve as an agent, intermediary, or other entity that causes the internet to be used to bring together a buyer and seller to engage in the delivery, distribution, or dispensing of a controlled substance in a manner not authorized by this chapter; or
- b. Offer to fill or refill a prescription for a controlled substance based solely on a consumer's completion of an online medical questionnaire.

A person who violates this subsection is guilty of a class C felony.

- 7-8. a. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess a controlled substance or a controlled substance analog unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this chapter, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection.
- b. Except as otherwise provided in this subsection, any person who violates this subsection is guilty of a class C felony.
- c. If, at the time of the offense the person is in or on, or within one thousand feet [300.48 meters] of the real property comprising a public or private elementary or secondary school or a public career and technical education school, the person is guilty of a class B felony, unless the offense involves one ounce [28.35 grams] or less of marijuana. ~~Any~~
- d. A person who violates this subsection regarding possession of one ounce [28.35 grams] or less of marijuana is guilty of a class B misdemeanor.
- e. A person who violates this subsection regarding possession of five or fewer capsules, pills, or tablets of a schedule II, III, IV, or V controlled substance or controlled substance analog is guilty of a class A misdemeanor.

8-9. Except as provided by section 19-03.1-45, a court may order a person who violates this chapter or chapter 19-03.4 to undergo a drug addiction evaluation by a licensed addiction counselor. The evaluation must indicate the prospects for rehabilitation and whether addiction treatment is required. If ordered, the evaluation must be submitted to the court before imposing punishment for a felony violation or a misdemeanor violation. A court shall order a person who violates subdivision e of subsection 8 to undergo the drug addiction evaluation.

9-10. If a person pleads guilty or is found guilty of a first offense regarding possession of one ounce [28.35 grams] or less of marijuana and a judgment of guilt is entered, a court, upon motion, shall seal the court



record of that conviction if the person is not subsequently convicted within two years of a further violation of this chapter. Once sealed, the court record may not be opened even by order of the court.

**SECTION 7. AMENDMENT.** Subsection 2 of section 19-03.1-23.1 of the North Dakota Century Code is amended and reenacted as follows:

2. The offense is:
  - a. ~~A class AA felony if the violation of section 19-03.1-23 is designated as a class A felony.~~
  - b. A class A felony if the violation of section 19-03.1-23 is designated as a class B felony.
  - ~~e.b.~~ A class B felony if the violation of section 19-03.1-23 is designated as a class C felony.
  - ~~d.c.~~ A class C felony if the violation of section 19-03.1-23 is designated as a class A misdemeanor.

**SECTION 8. AMENDMENT.** Section 19-03.1-23.4 of the North Dakota Century Code is amended and reenacted as follows:

**19-03.1-23.4. Overdose prevention and immunity.**

An individual is immune from criminal prosecution under sections 19-03.1-22.1, 19-03.1-22.3, 19-03.1-22.5, subsection 7 of section 19-03.1-23, subsection 3 of section 19-03.2-03, and section 19-03.4-03 if in good faith that individual contacted law enforcement or emergency medical services and reported that the individual was or that seeks medical assistance for another individual was in need of emergency medical assistance due to a drug overdose. To receive immunity under this section, the individual receiving immunity must have remained on the scene until assistance arrived, cooperated with emergency medical services and law enforcement personnel in the medical treatment of the reported drug overdosed individual, and the overdosed individual must have been in need of emergency medical services. The maximum number of individuals that may be immune for any one occurrence is three individuals a condition a layperson would reasonably believe to be a drug overdose requiring immediate medical assistance. Neither the individual who experiences a drug-related overdose and is in need of emergency medical assistance nor the cooperating individual seeking medical assistance may be charged or prosecuted for the criminal offenses listed in this section or for the sharing of controlled substances among those present. Immunity from prosecution under this section is not applicable for a violation under section 19-03.1-23.1 does not apply unless the evidence for the charge or prosecution was obtained as a result of the drug-related overdose and the need for emergency medical assistance. Good faith does not include seeking medical assistance during the course of the execution of an arrest warrant or search warrant or during a lawful search.

**SECTION 9. AMENDMENT.** Paragraph 3 of subdivision e of subsection 1 of section 19-03.1-36 of the North Dakota Century Code is amended and reenacted as follows:

- (3) A conveyance is not subject to forfeiture for a violation of subsection ~~7~~ of section 19-03.1-23 or subsection 3 of section 19-03.2-03.

**SECTION 10. AMENDMENT.** Subdivision e of subsection 5 of section 19-03.1-36 of the North Dakota Century Code is amended and reenacted as follows:

- e. Use the property, including controlled substances, imitation controlled substances, and plants forfeited under subsections 6 and 7, in enforcement of this chapter. However, in a case involving the delivery of a forfeited controlled substance by a law enforcement officer or a person acting as an agent of a law enforcement officer,

no prosecution or conviction for simple possession of a controlled substance under subsection 67 of section 19-03.1-23 may be based upon the forfeited controlled substances supplied by the law enforcement officer or the officer's agent.

**SECTION 11. AMENDMENT.** Subsection 1 of section 19-03.1-45 of the North Dakota Century Code is amended and reenacted as follows:

1. If a person has pled guilty or has been found guilty of a felony violation of subsection 78 of section 19-03.1-23, if that person has not previously pled guilty or been found guilty of any offense involving the use, possession, manufacture, or delivery of a controlled substance or of any other felony offense of this or another state or the federal government, the court shall impose a period of probation up to the length authorized under section 12.1-32-06.1 with a suspended execution of a sentence of imprisonment, a sentence to probation, or an order deferring imposition of sentence.

**SECTION 12. AMENDMENT.** Subsection 29 of section 40-05-02 of the North Dakota Century Code is amended and reenacted as follows:

29. Marijuana possession. To prohibit by ordinance any person, except a person operating a motor vehicle, from possessing not more than one-half ounce [14.175 grams] of marijuana, as defined by section 19-03.1-01, within the jurisdiction of a city, and to prescribe the punishment, provided the penalty assessed is subject to subsection 910 of section 19-03.1-23."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1321: Transportation Committee (Sen. Laffen, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1321 was placed on the Sixth order on the calendar.

In lieu of the amendments as printed on page 932 of the Senate Journal, House Bill No. 1321 is amended as follows:

Page 1, line 1, after the first "of" insert "section"

Page 1, line 2, replace "and the movement of agricultural products during harvest" with "for vehicles on highways other than the interstate system"

Page 1, line 6, after "4." insert "a."

Page 1, line 7, overstrike "a specific motor vehicle" and insert immediately thereafter ":

- (1) A farmer's farm vehicle or a motor carrier hired by a farmer"

Page 1, line 11, after "from" insert ":

- (a) From"

Page 1, line 11, remove the overstrike over "~~the field of harvest to the point of initial storage~~"

Page 1, line 11, after "site" insert "or to the first point of sale and transfer of possession"

Page 1, line 12, replace ", and for the" with ":", or

- (b) From the point of initial storage to the first point of sale and transfer of possession during the current year's harvest; or

- (2) A specific motor vehicle to exceed the weight limitations stated in subsections 1 and 2 by ten percent. The permits may not provide for a gross weight in excess of one hundred five thousand five hundred pounds [47854 kilograms]. The permits must provide only for the"

Page 1, line 14, after the period insert:

"b."

Renumber accordingly

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

**Shanda Morgan, Secretary**

