

## JOURNAL OF THE SENATE

## Fifty-eighth Legislative Assembly

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Bismarck, March 28, 2003

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

The prayer was offered by Chaplain Duane Wacker, Medcenter One, Bismarck.

The roll was called and all members were present except Senators Lyson, Nething, and Robinson.

A quorum was declared by the President.

**MOTION**

**SEN. DEVER MOVED** that the Senate reconsider its action whereby Engrossed HB 1434, as amended, passed, which motion prevailed on a verification vote.

**MOTION**

**SEN. CHRISTMANN MOVED** that Engrossed HB 1434, as amended, be placed on the Fourteenth order for immediate second reading, which motion prevailed.

**SECOND READING OF HOUSE BILL**

**HB 1434:** A BILL for an Act to regulate the sale and delivery of tobacco products by certain methods; and to provide a penalty.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 14 YEAS, 30 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Flakoll; Grindberg; Heitkamp; Krauter; Lee, G.; Lee, J.; Lindaas; Mathern; Nelson; Tallackson; Taylor; Thane

**NAYS:** Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fairfield; Fischer; Freborg; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Mutch; Nichols; O'Connell; Polovitz; Schobinger; Seymour; Stenehjem; Syverson; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**ABSENT AND NOT VOTING:** Lyson; Nething; Robinson

Engrossed HB 1434, as amended, lost.

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**VOTING INTENTION**

**SEN. BERCIER REQUESTED** that the record show he intended to vote NAY on Engrossed HB 1434, as amended, which request was granted.

**MOTION**

**SEN. HOLMBERG MOVED** that the Senate reconsider its action whereby Reengrossed HB 1431 passed, which motion prevailed on a verification vote.

Reengrossed HB 1431 was placed at the top of the Fourteenth order for immediate second reading.

**SECOND READING OF HOUSE BILL**

**HB 1431:** A BILL for an Act to create and enact a new subsection to section 57-36-01 and sections 57-36-08.1, 57-36-10.1, 57-36-11.2, 57-36-12.1, 57-36-13.1, and 57-36-13.2 of the North Dakota Century Code, relating to tobacco tax indicia and unfair and deceptive business practices; to amend and reenact sections 57-36-02, 57-36-07, 57-36-09, 57-36-18, and 57-36-33 of the North Dakota Century Code, relating to tobacco tax indicia; to repeal section 57-36-25.1 of the North Dakota Century Code, relating to tobacco tax deductions for distributors; to provide a penalty; and to provide an effective date.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, the roll was called and there were 11 YEAS, 33 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Flakoll; Grindberg; Lee, J.; Mathern; Nelson; Nichols; Tallackson; Taylor; Thane; Wardner

**NAYS:** Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Freborg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lindaas; Mutch; O'Connell; Polovitz; Schobinger; Seymour; Stenehjem; Syverson; Tollefson; Traynor; Trenbeath; Urlacher

**ABSENT AND NOT VOTING:** Lyson; Nething; Robinson

Reengrossed HB 1431 lost.

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**MOTION**

**SEN. ERBELE MOVED** that the Senate reconsider its action whereby Engrossed HB 1123, as amended, passed, but the emergency clause failed. The motion prevailed on a verification vote.

Engrossed HB 1123, as amended, was placed at the top of the Fourteenth order for immediate second reading.

**SECOND READING OF HOUSE BILL**

**HB 1123:** A BILL for an Act to amend and reenact section 23-01-08 of the North Dakota Century Code, relating to authority of the state health officer to appoint a deputy state health officer; and to declare an emergency.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 36 YEAS, 8 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Mathern; Mutch; Nelson; O'Connell; Polovitz; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Christenson; Every; Fairfield; Kilzer; Lindaas; Nichols; Schobinger; Seymour

**ABSENT AND NOT VOTING:** Lyson; Nething; Robinson

Engrossed HB 1123, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

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**MOTION**

**SEN. CHRISTMANN MOVED** that Engrossed HB 1387, which is on the Fourteenth order, be rereferred to the **Industry, Business and Labor Committee**, which motion prevailed. Pursuant to Sen. Christmann's motion, Engrossed HB 1387 was rereferred.

**MOTION**

**SEN. CHRISTMANN MOVED** that HB 1250, which is on the Fourteenth order, be moved to the bottom of the Sixth order, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**SB 2420: SEN. COOK (Political Subdivisions Committee) MOVED** that the amendments on SJ pages 960-961 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed.

**SECOND READING OF SENATE BILL**

**SB 2420:** A BILL for an Act to amend and reenact sections 37-01-01, 37-02-01, 37-02-02, and 37-08-01 of the North Dakota Century Code, relating to the militia.

**ROLL CALL**

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

**YEAS:** Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espesgard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Mathern; Mutch; Nelson; Nichols; O'Connell; Polovitz; Schobinger; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**ABSENT AND NOT VOTING:** Lyson; Nothing; Robinson

Engrossed SB 2420 passed and the title was agreed to.

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#### CONSIDERATION OF AMENDMENTS

**HB 1223, as engrossed: SEN. FREBORG (Natural Resources Committee) MOVED** that the amendments on SJ page 962 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1223:** A BILL for an Act to create and enact a new section to chapter 20.1-04 and a new section to chapter 20.1-08 of the North Dakota Century Code, relating to the opening date of pheasant season and the hunting of pheasants on certain lands in the state.

#### REQUEST

**SEN. HEITKAMP REQUESTED** that the Senate divide Engrossed HB 1223, as amended, which request was granted on a voice vote.

**DIVISION B:** Section 1 of the bill.

**DIVISION A:** The remainder of the bill.

The question being on the final adoption of Division A of Engrossed HB 1223, as amended, the motion passed on a voice vote.

Division A of Engrossed HB 1223, as amended, passed.

#### REQUEST

**SEN. HEITKAMP REQUESTED** a recorded roll call vote on Division B of Engrossed HB 1223, as amended, which request was granted.

#### ROLL CALL

The question being on the final adoption of Division B of Engrossed HB 1223, as amended, the roll was called and there were 19 YEAS, 25 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christmann; Cook; Erbele; Freborg; Grindberg; Kilzer; Klein; Krebsbach; Kringstad; Mutch; Schobinger; Stenehjerm; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Bercier; Christenson; Dever; Espesgard; Every; Fairfield; Fischer; Flakoll; Heitkamp; Holmberg; Krauter; Lee, G.; Lee, J.; Lindaas; Mathern; Nelson; Nichols; O'Connell; Polovitz; Seymour; Syverson; Tallackson; Taylor; Thane; Tollefson

**ABSENT AND NOT VOTING:** Lyson; Nothing; Robinson

Division B of Engrossed HB 1223, as amended, lost.

Therefore, the question before the Senate is the final passage of Engrossed HB 1123, which includes Division A and excludes Division B.

**HB 1223:** A BILL for an Act to create and enact a new section to chapter 20.1-08 of the North Dakota Century Code, relating to the hunting of pheasants on certain lands in the state.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 42 YEAS, 2 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Brown; Christenson; Christmann; Cook; Erbele; Espesgard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Mathern; Mutch; Nelson;

Nichols; O'Connell; Polovitz; Schobinger; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Bowman; Dever

**ABSENT AND NOT VOTING:** Lyson; Nething; Robinson

Engrossed HB 1223, as amended, passed and the title was agreed to.

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#### CONSIDERATION OF AMENDMENTS

**HB 1320, as engrossed: SEN. NELSON (Judiciary Committee) MOVED** that the amendments on SJ page 963 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1320:** A BILL for an Act to create and enact a new section to chapter 44-04 of the North Dakota Century Code, relating to the privacy of autopsy photographs, images, and recordings.

#### ROLL CALL

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

**YEAS:** Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Mathern; Mutch; Nelson; Nichols; O'Connell; Polovitz; Schobinger; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**ABSENT AND NOT VOTING:** Lyson; Nething; Robinson

Engrossed HB 1320, as amended, passed and the title was agreed to.

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#### CONSIDERATION OF AMENDMENTS

**HB 1079: SEN. COOK (Education Committee) MOVED** that the amendments on SJ pages 961-962 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1079:** A BILL for an Act to create and enact a new section to chapter 15.1-02 of the North Dakota Century Code, relating to teacher and administrator credentials.

#### ROLL CALL

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

**YEAS:** Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Mathern; Mutch; Nelson; Nichols; O'Connell; Polovitz; Schobinger; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**ABSENT AND NOT VOTING:** Lyson; Nething; Robinson

HB 1079, as amended, passed and the title was agreed to.

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#### CONSIDERATION OF AMENDMENTS

**HB 1340, as engrossed: SEN. EVERY (Natural Resources Committee) MOVED** that the amendments on SJ pages 963-964 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**SECOND READING OF HOUSE BILL**

**HB 1340:** A BILL for an Act to provide for the development and enforcement of wind turbine reclamation standards by the public service commission and for the termination of wind energy development leases.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 42 YEAS, 1 NAY, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Mathern; Mutch; Nelson; Nichols; O'Connell; Polovitz; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Urlacher; Wardner

**NAYS:** Trenbeath

**ABSENT AND NOT VOTING:** Holmberg; Lyson; Nothing; Robinson

Engrossed HB 1340, as amended, passed and the title was agreed to.

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**CONSIDERATION OF AMENDMENTS**

**HB 1415: SEN. TRENBEATH (Judiciary Committee) MOVED** that the amendments on SJ page 964 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**SECOND READING OF HOUSE BILL**

**HB 1415:** A BILL for an Act to amend and reenact section 26.1-26.6-09 of the North Dakota Century Code, relating to the return of a forfeiture to a bondsman.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 43 YEAS, 1 NAY, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Mathern; Mutch; Nelson; Nichols; O'Connell; Polovitz; Schobinger; Seymour; Stenehjem; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Syverson

**ABSENT AND NOT VOTING:** Lyson; Nothing; Robinson

HB 1415, as amended, passed and the title was agreed to.

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**CONSIDERATION OF AMENDMENTS**

**HCR 3024, as engrossed: SEN. TAYLOR (Education 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.

**SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3024:** A concurrent resolution directing the Legislative Council to study the feasibility and desirability of establishing a regional school of veterinary medicine and providing preference for North Dakota resident students who specialize in food animal clinical studies at the out-of-state veterinary schools participating in the professional student exchange program within the North Dakota University System budget.

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

Engrossed HCR 3024, as amended, was declared adopted, and the title was agreed to on a voice vote.

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**CONSIDERATION OF AMENDMENTS**

**HB 1250, as engrossed: SEN. WARDNER (Government and Veterans Affairs Committee)**  
**MOVED** that the amendments on SJ pages 913-914 be adopted and then be placed on the Fourteenth order with **DO NOT PASS**, which motion prevailed.

**SECOND READING OF HOUSE BILL**

**HB 1250:** A BILL for an Act to amend and reenact sections 16.1-13-10 and 44-02-02 of the North Dakota Century Code, relating to filling a vacancy in a legislative office and resignation of a member of the legislative assembly.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 16 YEAS, 28 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Bercier; Christenson; Every; Fairfield; Heitkamp; Krauter; Lindaas; Mathern; Nelson; Nichols; O'Connell; Polovitz; Schobinger; Seymour; Tallackson; Taylor

**NAYS:** Andrist; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Lee, J.; Mutch; Stenehjem; Syverson; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**ABSENT AND NOT VOTING:** Lyson; Nething; Robinson

Engrossed HB 1250, as amended, lost.

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**SECOND READING OF HOUSE BILL**

**HB 1050:** A BILL for an Act to create and enact sections 20.1-03-36.1, 20.1-03-36.2, 20.1-03-38, 20.1-03-39, and 20.1-03-40 of the North Dakota Century Code, relating to the licensing of guides and outfitters; to amend and reenact sections 20.1-01-02, 20.1-02-05, 20.1-03-11.2, 20.1-03-12, 20.1-03-36, and 20.1-03-37 of the North Dakota Century Code, relating to guides and outfitters; to provide a penalty; to provide for application; and to provide an effective date.

**MOTION**

**SEN. BOWMAN MOVED** that Engrossed HB 1050 be further amended as follows, which motion prevailed on a voice vote.

In lieu of the amendments adopted by the Senate as printed on pages 890-891 of the Senate Journal, Engrossed House Bill No. 1050 is amended as follows:

Page 4, line 12, replace "a person" with "an individual"

Page 4, line 13, replace "that person" with "the individual's business operation"

Page 4, line 18, after the underscored period insert "The term does not include a person holding title or an equitable interest in business operations if the primary purpose of the business operation is to provide food or lodging to the general public, chamber of commerce activities, travel agencies, or others that offer free information to attract outdoor and recreational use of their communities."

Page 4, line 23, remove "The term does not"

Page 4, remove lines 24 through 27

Page 17, line 8, replace "A person" with "An individual"

Page 17, line 14, after "dollars" insert "for a resident and four hundred dollars for a nonresident"

Page 17, line 15, after "dollars" insert "for a resident and four hundred dollars for a nonresident"

Page 17, line 16, after "dollars" insert "for a resident and two hundred dollars for a nonresident" and replace "a person" with "the individual"

Page 17, line 18, after "dollars" insert "for a resident and two thousand dollars for a nonresident"

Page 18, replace lines 4 and 5 with:

"3. Guide and outfitter licenses expire on December thirty-first of each year unless revoked at earlier date.

4."

Page 18, line 6, remove "department a renewal fee of the same amount of the license fee."

Page 18, line 26, remove "a resident"

Page 18, line 27, remove "and"

Page 19, line 2, replace "person is" with "individual and the individual's business operation are"

Page 19, line 6, replace "A person" with "An individual"

Page 19, line 8, replace "a person" with "an individual" and replace "had any" with "been convicted of a"

Page 19, line 10, after the underscored period insert "As used in this chapter, "conviction" means a finding of guilt, a guilty plea, a plea of no contest, a plea of nolo contendere, a judgment of conviction even though the court suspended execution of a sentence in accordance with subsection 3 of section 12.1-32-02, or a deferred imposition of sentence in accordance with subsection 4 of section 12.1-32-02 or an equivalent statute. The term does not include a finding of guilt which is reversed on appeal."

Page 19, after line 13, insert:

"7. An applicant for a hunting guide license must have legally hunted for part of each of any three years in a manner directly contributing to the individual's experience and competency as a guide."

Page 19, line 17, replace the first "shall" with "may" and replace the second "shall" with "may"

Page 19, line 18, after the underscored period insert "If the director requests a trade secret or proprietary information, the director shall request the information on a separate form, and that information is confidential and is not a public record subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota. The director may release this information, however, if it is aggregated so as not to identify any guide, outfitter, or client."

Page 19, line 20, replace "persons" with "individuals"

Page 19, line 31, after the underscored period insert "The director shall administer examinations at least twice a year; however, an examination may not be given within ninety days after the previous examination."

Page 20, remove lines 1 and 2

Page 21, line 7, replace "Another" with "Notwithstanding the provisions of chapter 45-11 and 47-25, another" and after the first underscored comma insert "business name, fictitious name, trade name, internet address, world wide web uniform resource identifier,"

Page 21, line 8, replace "committed" with "been convicted of"

Page 21, line 9, replace "violation" with "conviction"

Page 21, line 13, replace "person" with "individual"

Page 21, line 18, replace the second "person" with "individual"

Page 21, line 25, replace "a person" with "an individual"

Page 21, remove lines 28 and 29

Renumber accordingly

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 31 YEAS, 13 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Bercier; Christenson; Cook; Dever; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Klein; Krauter; Kringstad; Lee, G.; Lee, J.; Lindaas; Mathern; Nelson; Nichols; Schobinger; Stenehjem; Syverson; Tallackson; Taylor; Tollefson; Traynor; Trenbeath; Wardner

**NAYS:** Andrist; Bowman; Brown; Christmann; Erbele; Kilzer; Krebsbach; Mutch; O'Connell; Polovitz; Seymour; Thane; Urlacher

**ABSENT AND NOT VOTING:** Lyson; Nothing; Robinson

Engrossed HB 1050, as amended, passed and the title was agreed to.

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#### SECOND READING OF HOUSE BILL

**HB 1088:** A BILL for an Act to create and enact three new sections to chapter 27-05.2 of the North Dakota Century Code, relating to establishment of a court facilities improvement and maintenance fund and court facilities improvement advisory committee; to amend and reenact sections 12-48-15, 12-48.1-03, 29-26-22, 39-08-20, and 51-04-03.1 of the North Dakota Century Code, relating to court administration fees; and to provide a continuing appropriation.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 40 YEAS, 4 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Erbele; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Mathern; Nelson; Nichols; O'Connell; Polovitz; Schobinger; Seymour; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Cook; Dever; Mutch; Stenehjem

**ABSENT AND NOT VOTING:** Lyson; Nothing; Robinson

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

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#### MOTION

**SEN. CHRISTMANN MOVED** that the Senate stand in recess until 2:15 p.m., which motion prevailed.

**THE SENATE RECONVENED** pursuant to recess taken, with President Pro Tem Traynor presiding.

#### SECOND READING OF HOUSE BILL

**HB 1166:** A BILL for an Act to amend and reenact sections 15.1-07-16, 15.1-09-46, 15.1-27-20, and 15.1-27-29 of the North Dakota Century Code, relating to reports made to the county superintendent of schools and the superintendent of public instruction.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 41 YEAS, 3 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Mathern; Nelson; Nichols; O'Connell; Polovitz; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Bowman; Mutch; Thane

**ABSENT AND NOT VOTING:** Lyson; Nothing; Robinson

HB 1166, as amended, passed and the title was agreed to.



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**SECOND READING OF HOUSE BILL**

**HB 1221:** A BILL for an Act to amend and reenact sections 23-07.3-01 and 23-07.3-02, subsections 1 and 10 of section 23-07.5-01, and subsections 3, 5, and 6 of section 23-07.5-02 of the North Dakota Century Code, relating to testing for contagious diseases; 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, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espesgard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Mathern; Mutch; Nelson; Nichols; O'Connell; Polovitz; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**ABSENT AND NOT VOTING:** Klein; Lyson; Nothing; Robinson

Engrossed HB 1221, as amended, passed and the title was agreed to.

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**VOTING INTENTION**

**SEN. KLEIN REQUESTED** that the record show he intended to vote YEA on Engrossed HB 1221, as amended, which request was granted.

**SECOND READING OF HOUSE BILL**

**HB 1231:** A BILL for an Act to create and enact sections 26.1-02.1-02.1, 26.1-02.1-06, 26.1-02.1-07, 26.1-02.1-08, 26.1-02.1-09, 26.1-02.1-10, and 26.1-02.1-11 of the North Dakota Century Code, relating to insurance fraud; to amend and reenact sections 26.1-02.1-01, 26.1-02.1-04, and 26.1-02.1-05 of the North Dakota Century Code, relating to insurance fraud; to repeal sections 26.1-02.1-02 and 26.1-02.1-03 of the North Dakota Century Code, relating to insurance fraud; 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 42 YEAS, 2 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espesgard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Mathern; Mutch; Nelson; Nichols; O'Connell; Polovitz; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Christenson; Krauter

**ABSENT AND NOT VOTING:** Lyson; Nothing; Robinson

Engrossed HB 1231, as amended, passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1236:** A BILL for an Act to amend and reenact section 43-19.1-18 of the North Dakota Century Code, relating to professional engineer and land surveyor registration fees.

**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, 2 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christenson; Cook; Dever; Erbele; Espesgard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Mathern; Mutch; Nelson; Nichols; Polovitz; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Christmann; O'Connell

**ABSENT AND NOT VOTING:** Lyson; Nething; Robinson

HB 1236, as amended, passed and the title was agreed to.

\*\*\*\*\*

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

**HB 1245:** A BILL for an Act to create and enact a new subsection to section 43-12.1-10 and a new section to chapter 43-12.1 of the North Dakota Century Code, relating to transitional nurse licensure and continuing education; to amend and reenact section 43-12.1-02, subsection 2 of section 43-12.1-04, and sections 43-12.1-08 and 43-12.1-09 of the North Dakota Century Code, relating to nursing education programs; and to provide for application.

#### **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 32 YEAS, 12 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Christmann; Cook; Dever; Erbele; Every; Fischer; Freborg; Grindberg; Heitkamp; Klein; Krauter; Krebsbach; Kringstad; Lee, J.; Lindaas; Mutch; Nichols; O'Connell; Polovitz; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Trenbeath; Urlacher; Wardner

**NAYS:** Brown; Christenson; Espgaard; Fairfield; Flakoll; Holmberg; Kilzer; Lee, G.; Mathern; Nelson; Tollefson; Traynor

**ABSENT AND NOT VOTING:** Lyson; Nething; Robinson

Engrossed HB 1245, as amended, passed and the title was agreed to.

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

**HB 1275:** A BILL for an Act to amend and reenact section 54-01.1-03 of the North Dakota Century Code, relating to moving and related expenses as a result of projects undertaken by a state agency; to provide an expiration date; 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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Mathern; Mutch; Nelson; Nichols; O'Connell; Polovitz; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**ABSENT AND NOT VOTING:** Lyson; Nething; Robinson

HB 1275, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

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

**HB 1391:** A BILL for an Act to amend and reenact section 20.1-03-12 of the North Dakota Century Code, relating to big game hunting license fees.

#### **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 39 YEAS, 5 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Bercier; Brown; Christenson; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Mathern; Mutch; Nelson; Nichols; O'Connell; Polovitz; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Wardner

**NAYS:** Andrist; Bowman; Christmann; Schobinger; Urlacher

**ABSENT AND NOT VOTING:** Lyson; Nothing; Robinson

Engrossed HB 1391, as amended, passed and the title was agreed to.

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#### SECOND READING OF HOUSE BILL

**HB 1427:** A BILL for an Act to amend and reenact sections 32-09.1-05, 32-09.1-10, and 32-09.1-14 of the North Dakota Century Code, relating to garnishment disclosure fees and default judgments; and to provide for a legislative council study of garnishment laws.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 9 YEAS, 35 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Brown; Cook; Dever; Fischer; Heitkamp; Kilzer; Lee, J.; Mathern; Trenbeath

**NAYS:** Andrist; Bercier; Bowman; Christenson; Christmann; Erbele; Espegard; Every; Fairfield; Flakoll; Freborg; Grindberg; Holmberg; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lindaas; Mutch; Nelson; Nichols; O'Connell; Polovitz; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Urlacher; Wardner

**ABSENT AND NOT VOTING:** Lyson; Nothing; Robinson

Engrossed HB 1427, as amended, lost.

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#### SECOND READING OF HOUSE BILL

**HB 1469:** A BILL for an Act to amend and reenact section 50-24.1-02.5 of the North Dakota Century Code, relating to eligibility for medical assistance.

#### 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, 1 NAY, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Mathern; Mutch; Nelson; Nichols; O'Connell; Polovitz; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Fairfield

**ABSENT AND NOT VOTING:** Lyson; Nothing; Robinson

Engrossed HB 1469, as amended, passed and the title was agreed to.

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#### SECOND READING OF HOUSE BILL

**HB 1058:** A BILL for an Act to amend and reenact section 57-15-63 of the North Dakota Century Code, relating to relevy by a taxing district of property taxes omitted by mistake; to provide an effective date; and to provide an expiration date.

#### ROLL CALL

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

**YEAS:** Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Mathern; Mutch; Nelson; Nichols; O'Connell; Polovitz; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**ABSENT AND NOT VOTING:** Lyson; Nothing; Robinson

HB 1058, as amended, passed and the title was agreed to.

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#### MOTION

**SEN. CHRISTMANN MOVED** that HB 1312 be moved to the top of the Fourteenth order, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1312:** A BILL for an Act to amend and reenact section 57-15-63 of the North Dakota Century Code, relating to the effect of a mistake in levy by a taxing district; and to provide an effective date.

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

**NAYS:** Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Mathern; Mutch; Nelson; Nichols; O'Connell; Polovitz; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**ABSENT AND NOT VOTING:** Lyson; Nothing; Robinson

HB 1312 lost.

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#### MOTION

**SEN. CHRISTMANN MOVED** that HB 1207 be moved to the top of the Fourteenth order, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1207:** A BILL for an Act to create and enact chapter 11-36, a new subsection to section 57-15-06.7, a new subsection to section 57-15-10, a new subsection to section 57-15-20.2, and two new sections to chapter 57-15 of the North Dakota Century Code, relating to local port authorities.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 40 YEAS, 4 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christenson; Christmann; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Mathern; Mutch; Nelson; Nichols; O'Connell; Polovitz; Schobinger; Seymour; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Bercier; Cook; Fairfield; Stenehjem

**ABSENT AND NOT VOTING:** Lyson; Nothing; Robinson

Engrossed HB 1207, as amended, passed and the title was agreed to.

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**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate proceed to the Twelfth order, which motion prevailed.

**MOTION**

**SEN. CHRISTMANN MOVED** that SB 2149 and SB 2190 be moved to the top of the Twelfth order, which motion prevailed.

**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. TRENBEATH MOVED** that the Senate do not concur in the House amendments to Engrossed SB 2149 as printed on SJ page 753 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT APPOINTED** as a Conference Committee on Engrossed SB 2149: Sens. Trenbeath, Espegard, Taylor.

**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. COOK MOVED** that the Senate do not concur in the House amendments to SB 2190 as printed on SJ pages 770-771 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT APPOINTED** as a Conference Committee on SB 2190: Sens. J. Lee, Syverson, Christenson.

**MOTION**

**SEN. CHRISTMANN MOVED** that Senate Rule 508 be amended to read "sixty-first" in place of "fifty-fifth", thereby extending the deadline for reporting House bills and resolutions out of committee. The motion prevailed.

**COMMUNICATION FROM GOVERNOR JOHN HOEVEN**

This is to inform you that on March 27, 2003, I have signed the following: SB 2157, SB 2252, SB 2258, SB 2270, SB 2277, SB 2278, SB 2321, SB 2328, SB 2362, SB 2379, and SB 2419.

**MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)**

**MR. PRESIDENT:** The House has passed unchanged: SB 2147, SB 2153, SB 2310, SCR 4005, SCR 4008, SCR 4009, SCR 4016, SCR 4018, SCR 4023, SCR 4037.

**MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)**

**MR. PRESIDENT:** The House has passed, the emergency clause carried, unchanged: SB 2064, SB 2089.

**MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)**

**MR. PRESIDENT:** The House has amended and subsequently passed: SB 2150, SB 2223, SB 2297, SCR 4010, SCR 4022.

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2150**

Page 1, line 10, after "furnish" insert ", upon request and payment of a fee of three dollars," and after "information" insert "from the commercial driver's license information system"

Page 1, line 11, after the first "employer" insert an underscored comma, after "or" insert "a", after the second "employer" insert "if the person has given written consent to the prospective employer for this information", and remove "upon"

Page 1, line 12, remove "request and payment of a fee of three dollars"

Page 8, line 22, after "vehicle" insert ", and either conviction results in the revocation, cancellation, or suspension of an operator's license, including a commercial driver's license"

Page 8, line 26, after "vehicle" insert ", and either conviction results in the revocation, cancellation, or suspension of an operator's license, including a commercial driver's license"

Renumber accordingly

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2223**

Page 1, line 5, after the second "by" insert "ordinance or"

Renumber accordingly

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2297**

Page 1, line 2, remove "and" and after "appropriation" insert "; and to provide for an exemption"

Page 3, after line 7, insert:

**"SECTION 4. EXEMPTION.** The appropriation contained in section 5 of chapter 250 of the 2001 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available, in addition to any other moneys appropriated, for grants for the purpose of funding city, county, and state employee tobacco education and cessation programs under section 3 of this Act, for the biennium beginning July 1, 2003, and ending June 30, 2005."

Renumber accordingly

**HOUSE AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4010**

Page 1, line 1, replace "adopt" with "adequately fund and the Secretary of Agriculture to expeditiously implement and expand"

Page 1, line 19, replace "adopt" with "adequately fund and the Secretary of Agriculture to expeditiously implement and expand"

Renumber accordingly

**HOUSE AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4022**

Page 1, line 7, replace "have" with "assert"

Renumber accordingly

**MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)**

**MR. PRESIDENT:** The House has failed to pass: SB 2343, SB 2380.

**MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)**

**MR. PRESIDENT:** The House has amended and failed to pass: SCR 4007.

**MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)**

**MR. PRESIDENT:** The House has concurred in the Senate amendments and subsequently passed: HB 1213, HB 1243, HB 1246, and HB 1251.

**MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)**

**MR. PRESIDENT:** The House does not concur in the Senate amendments to HB 1035, HB 1037, HB 1043, HB 1051, HB 1112, HB 1197, HB 1218, and HB 1292 and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

**HB 1035:** Reps. DeKrey; Grande; Eckre  
**HB 1037:** Reps. Porter; Pietsch; Potter  
**HB 1043:** Reps. Grande; Klemin; Winrich  
**HB 1051:** Reps. Klemin; Kretschmar; Delmore  
**HB 1112:** Reps. Ruby; Weisz; Thorpe  
**HB 1197:** Reps. Pollert; Uglem; Mueller  
**HB 1218:** Reps. Drovdal; F. Klein; Solberg  
**HB 1292:** Reps. Hawken; Weiler; Delmore

**MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)**

**MR. PRESIDENT:** The House does not concur in the Senate amendments to HB 1269, HB 1397, HB 1414, and HB 1438 and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

**HB 1269:** Reps. Porter; Uglem; Niemeier  
**HB 1397:** Reps. Hawken; Norland; Williams  
**HB 1414:** Reps. Devlin; Uglem; Amerman  
**HB 1438:** Reps. Devlin; Wieland; Niemeier

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**

**MR. SPEAKER:** The Senate has passed and your favorable consideration is requested on: SB 2420.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1050, HB 1058, HB 1079, HB 1088, HB 1166, HB 1207, HB 1221, HB 1231, HB 1236, HB 1245, HB 1320, HB 1340, HB 1391, HB 1415, HB 1469, HCR 3024.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** The Senate has amended, subsequently passed, and the emergency clause carried: HB 1275.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** The Senate has amended, subsequently passed, and the emergency clause carried: HB 1123.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1223.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** The Senate has failed to pass: HB 1312, HB 1431.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** The Senate has amended and subsequently failed to pass: HB 1250, HB 1427, HB 1434.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** The Senate does not concur in the House amendments to SB 2149 and SB 2190 and the President has appointed as a conference committee to act with a like committee from the House on:

**SB 2149:** Sens. Trenbeath; Espegard; Taylor

**SB 2190:** Sens. J. Lee; Syverson; Christenson

#### MOTION

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

#### MOTION

**SEN. CHRISTMANN MOVED** that the Senate be on the Fourth, Fifth, Seventh, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 9:00 a.m., Monday, March 31, 2003, which motion prevailed.

#### REPORT OF STANDING COMMITTEE

**HB 1044, as reengrossed: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed HB 1044 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1138, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1138 was placed on the Sixth order on the calendar.

Page 1, line 2, after "26.1-22-05" insert ", 26.1-22-10,"

Page 1, line 4, after "fund" insert ", optional coverage for the state mill and elevator association,"

Page 1, line 10, after "association" insert "if the association exercises the option provided in section 26.1-22-10"

Page 1, after line 21, insert:

**"SECTION 2. AMENDMENT.** Section 26.1-22-10 of the North Dakota Century Code is amended and reenacted as follows:

**26.1-22-10. Commissioner to provide insurance on all buildings.** Upon application the commissioner shall provide for insurance against loss by fire, lightning, inherent explosion, windstorm, cyclone, tornado and hail, explosions, riot attending a strike, aircraft, smoke, vehicles, or any other risks of direct physical loss, all in the manner and subject to the restrictions of the standard fire insurance policy and standard endorsement, and no other hazards, in the fund, on all buildings owned by the state, state industries, political subdivisions, international peace gardens, and winter shows,

and the fixtures and permanent contents in such buildings, to the extent of not to exceed the insurable value of such property, as the value is agreed to between the commissioner and the officer or board having control of such property, or, in case of disagreement, by approval through arbitration.

All buildings and the contents of the buildings owned by the state mill and elevator association, in lieu of coverage under this chapter, may, at the option of the industrial commission, be insured by private insurance companies licensed to do business in this state, against at least all the types of hazards insured against by the fund. If the industrial commission exercises the option provided in this section, the commission shall seek competitive sealed bids, shall invite the fund to submit a bid, and may reject any or all bids received.

All public buildings owned by a political subdivision, in lieu of coverage provided for in this section, may at the option of the governing body of the political subdivision be insured on the basis of competitive sealed bids, through the fund which must be invited to submit a sealed bid or private insurance companies licensed to do business in this state, against damage resulting from hazards, which include those types of hazards that may be insured against by the fund. The governing body may reject any or all such bids.

All public libraries owned by the state or political subdivisions may, in addition to the coverage provided for in this section, be covered against damage through vandalism. If this coverage cannot be extended to the public libraries situated within this state, the libraries may contract for this coverage with private insurance companies; provided, that this coverage meets the recommendations of the insurance code of the American library association."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1175: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)** recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1175 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1179, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1179 was placed on the Sixth order on the calendar.

Page 1, line 8, after "organization" insert "that is physically located in the state"

Page 1, line 11, after the period insert "As used in this section, "customer" means any person that is a resident of or is domiciled in this state and that has or is transacting business with or has used or is using the services of an insurance company, nonprofit health service corporation, or health maintenance organization."

Page 1, line 22, after the underscored period insert "As used in this section, "affiliate" includes those companies that are related to one another through a management contract in which one company controls the operations of another."

Page 1, remove lines 23 and 24

Page 2, remove lines 1 through 6

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1204, as engrossed: Political Subdivisions Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1204 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact two new sections to chapter 43-03 of the North Dakota Century Code, relating to regulation of landscape architects; to"



Page 1, line 16, replace "means a service in which landscape architectural" with "does not include the practice of engineering and practice of professional engineering as defined under section 43-19.1-02."

Page 1, remove lines 17 through 24

Page 2, remove lines 1 through 5

Page 2, line 20, replace "an" with ":

a. An"

Page 2, line 22, replace "a" with:

"b. A"

Page 2, line 25, replace "an" with:

"c. An"

Page 3, line 13, replace "A" with "After December 31, 2004, a"

Page 3, line 18, replace "Terms" with "terms"

Page 3, line 23, overstrike "in accordance"

Page 3, line 28, replace "an" with "a landscape"

Page 4, line 6, overstrike "a" and insert immediately thereafter "an examination" and overstrike "fifty" and insert immediately thereafter "not more than one hundred"

Page 4, line 7, after the first "a" insert "reexamination" and overstrike "twenty-five" and insert immediately thereafter "not more than one hundred"

Page 5, line 3, after "boards" insert "if such guidelines are adopted by the board"

Page 5, after line 3, insert:

"5. Must satisfy registration criteria adopted by the board."

Page 5, line 18, overstrike "one year upon the payment of the"

Page 5, line 19, overstrike "proper fee and, upon" and insert immediately thereafter "a term established by the board. Upon" and after the second comma insert "a certificate of registration"

Page 5, line 22, after the second boldfaced period insert:

"1."

Page 5, line 24, overstrike "1." and insert immediately thereafter "a."

Page 5, line 26, overstrike "2." and insert immediately thereafter "b."

Page 5, line 28, overstrike "3." and insert immediately thereafter "c.", overstrike "annual", overstrike "of not" and insert immediately thereafter ", which need not be collected annually, but which must be based on no", and after "dollars" insert "per year"

Page 5, line 30, replace "4." with "d."

Page 6, line 1, replace "5. An annual" with "e. A" and replace "of not" with ", which need not be collected annually, but which must be based on no"

Page 6, line 2, after "dollars" insert "per year"

Page 6, after line 2, insert:

"2. If in any year the board incurs expenses related to regulation of landscape architects which are in excess of the income generated through landscape architect fees for that year, the board may assess a special fee to cover"

these excess expenses. The board may continue an annual special fee assessed under this subsection until the excess obligations are met. Landscape architect fees set by the board may not exceed the amount reasonably necessary to regulate the profession of landscape architecture.

3. If in any year the board incurs expenses related to regulation of architects which are in excess of the income generated through architect fees for that year, the board may assess a special fee to cover these excess expenses. The board may continue an annual special fee assessed under this subsection until the excess obligations are met. Architect fees set by the board may not exceed the amount reasonably necessary to regulate the profession of architecture."

Page 6, line 5, overstrike "**renewal**"

Page 6, line 7, overstrike "annual" and after "fee" insert "or a special fee"

Page 6, line 9, overstrike "That"

Page 6, line 10, after "~~person~~" insert "If application for renewal is made within one year, that" and overstrike "renewal" and insert immediately thereafter "delinquent"

Page 6, line 13, overstrike "of one hundred dollars" and insert immediately thereafter "as set by the board"

Page 7, after line 28, insert:

**"SECTION 17.** Two new sections to chapter 43-03 of the North Dakota Century Code are created and enacted as follows:

Landscape architect and architect advisory committees. Before July 15, 2003, the board shall appoint a landscape architect advisory committee to assist in implementation and coordination of landscape architect regulation. The committee must consist of three landscape architects. Committee members serve on a voluntary basis and are not entitled to receive from the board compensation or reimbursement of expenses incurred in serving on the committee. Before July 15, 2003, the board shall appoint an architect advisory committee to assist in implementation and coordination of landscape architect regulation. The committee must consist of three architects. Committee members serve on a voluntary basis and are not entitled to receive from the board compensation or reimbursement of expenses incurred in serving on the committee.

Use of additional funds. The board may apply for, solicit, accept, and expend any contribution, grant, or gift made available from a public or private source for the purpose of regulating landscape architects."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1291, as engrossed: Transportation Committee (Sen. Trenbeath, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1291 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "section" with "sections" and after "49-09-04.2" insert "and 49-09-04.3"

Page 1, line 2, after "the" insert "abandonment and the" and after the first "of" insert "abandoned"

Page 1, line 9, remove the overstrike over "~~property must first be offered~~" and replace "present" with "to the following persons in the order of priority as follows:

- a. The present lessee of the abandoned property described in the lease;
- b. A person presenting a reasonable plan for public recreational use of the abandoned property; and
- c. The adjoining landowner if the adjoining land, at the time of abandonment, is assessed for tax purposes as agricultural land"

Page 1, remove lines 10 through 12

Page 1, line 13, remove "acquire adjoining railroad property"

Page 1, line 19, after "~~land~~" insert "The railroad company shall publish notice of its intent to dispose of abandoned railroad right of way in two consecutive issues of the official county newspaper in each county in which the property is located. A railroad company is not required to give a priority party an option to purchase the property unless the party provides a written statement of interest to purchase the property within thirty days after final publication of notice of the railroad company's intent to dispose of the property. The sale price of abandoned railroad property must be equitable" and remove the overstrike over the overstruck period

Page 1, line 20, remove the overstrike over "3:"

Page 1, after line 24, insert:

**"SECTION 2. AMENDMENT.** Section 49-09-04.3 of the North Dakota Century Code is amended and reenacted as follows:

**49-09-04.3. Abandoned railway lines - Removal of abandoned materials - Charge by city, county, or state.** Unless otherwise allowed by the commission, any railroad corporation abandoning the use of any railway line in this state shall remove and clear all rail, ties, materials, supplies, and debris from the railway line and leave the surface in a condition easily traversable by a motor vehicle, and shall control noxious weeds on; the railway line right of way within a reasonable time. On request of a city or county in which there is an abandoned line, the commission shall require the railroad corporation, as to railway line right of way in that city or county, within a reasonable time, to take the action required by this section. On request of any state agency having an interest in any property abutting an abandoned railway line right of way, the commission shall require the railroad corporation, as to that railway line right of way, within a reasonable time, to take the action required by this section. The commission shall take all action necessary and appropriate, including the adoption of rules under chapter 28-32, to enforce this section. If a railroad corporation fails to take action required by this section, the requesting entity may do the work on the parts of the abandoned railway line right of way under that entity's jurisdiction. A county may do the work on the parts of the abandoned railway line right of way in the county, regardless of whether those parts are inside city limits. The entity doing the work may charge the railroad corporation the reasonable expense of doing the work. If the charges remain unpaid after ninety days, the entity may certify to the county auditor the amount of the charges imposed under this section. These charges become part of the taxes levied against the land for the ensuing year and must be collected in the same manner as other real estate taxes and placed to the credit of the jurisdiction entitled to the charges. The taxpayer's right to appeal the assessment is governed by chapter 57-23."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1298: Judiciary Committee (Sen. Traynor, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1298 was placed on the Sixth order on the calendar.

Page 1, line 9, remove "majority of the wine produced by a domestic" and overstrike "winery"

Page 1, line 10, overstrike "must be"

Page 1, line 11, remove "produced" and overstrike "from grapes, grape juice, other fruit bases, or honey"

Page 1, line 12, overstrike "grown and produced in"

Page 1, line 13, overstrike "this state" and after "~~winery~~" insert "majority of the ingredients by volume, excluding water, of wine produced by a domestic winery, must be grown and produced in this state"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1372, as engrossed and amended: Transportation Committee (Sen. Trenbeath, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1372, as amended, was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the Senate as printed on page 893 of the Senate Journal, Engrossed House Bill No. 1372 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 49-11-19 of the North Dakota Century Code, relating to obstructing a crossing by a train; and to provide a penalty.

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

**SECTION 1. AMENDMENT.** Section 49-11-19 of the North Dakota Century Code is amended and reenacted as follows:

**49-11-19. Blocking or obstructing crossing with train - Penalty.** ~~No~~ A person ~~shall~~ may not operate any train in ~~such~~ a manner as to prevent vehicular use of any roadway for a period of time in excess of ten consecutive minutes except:

1. When necessary to comply with safety signals affecting the safety of the movement of trains;
2. When necessary to avoid striking any object or person on the track;
3. When the train is disabled, by accident or otherwise;
4. When the train is in motion except when engaged in switching operations or loading or unloading operations;
5. When ~~there is no~~ vehicular traffic is not waiting to use the crossing; or
6. When necessary to comply with a government statute or regulation.
7. When allowed by written agreement between the railroad company and all interested government and commercial entities.

~~Any~~ A person ~~who~~ that violates this section is guilty of ~~an infraction a class B misdemeanor.~~ The provisions of this section do not apply to cities which have on the date of such obstruction ordinances a city that has an ordinance covering the same subject matter."

Re-number accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1399, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed HB 1399 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1477, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1477 was placed on the Sixth order on the calendar.

Page 1, line 9, after the period insert "As used in this section, "affiliate" includes those companies that are related to one another through a management contract in which one company controls the operations of another."

Page 1, line 10, remove "registered agent, a", after the third comma insert "or", and remove the second ", an"

Page 1, line 11, remove "investment adviser representative, or an issuer" and after "state" insert "and physically located in this state"

Page 1, line 16, remove "a."

Page 1, remove lines 19 through 23

Page 2, remove lines 1 through 11

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HCR 3004: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3004 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HCR 3034: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3034 was placed on the Fourteenth order on the calendar.

#### REPORT OF CONFERENCE COMMITTEE

**SB 2099, as engrossed:** Your conference committee (Sens. Tollefson, Syverson, Seymour and Reps. Drovdal, Schmidt, Grosz) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 645, adopt amendments as follows, and place SB 2099 on the Seventh order:

That the House recede from its amendments as printed on page 645 of the Senate Journal and page 785 of the House Journal and that Senate Bill No. 2099 be amended as follows:

Page 1, line 1, after "57-38" insert "and a new subdivision to subsection 2 of section 57-38-30.3"

Page 1, line 3, after "documents" insert "and an individual income tax deduction for the new and expanding business exemption; to repeal subdivision b of subsection 2 of section 57-35.3-02, subdivision i of subsection 1 of section 57-38-01.2, and subdivision g of subsection 1 of section 57-38-01.3 of the North Dakota Century Code, relating to the tax deduction for dividends; to provide an effective date; and to provide for retroactive application"

Page 1, line 8, replace "1. The tax commissioner shall provide, with" with "With"

Page 1, line 10, replace ", that if the amount of the item is other than a whole dollar" with "and for purposes of amounts in tax tables prescribed under subsection 12 of section 57-38-30.3 and subsection 3 of section 57-38-59, the amount may be rounded to the nearest dollar. The cents must be disregarded if the cents amount to less than one-half dollar. If the cents amount to one-half dollar or more, the amount must be increased to the next whole dollar.

**SECTION 2.** A new subdivision to subsection 2 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

Reduced by income from a new and expanding business exempt from state income tax under section 40-57.1-04.

**SECTION 3. REPEAL.** Subdivision b of subsection 2 of section 57-35.3-02, subdivision i of subsection 1 of section 57-38-01.2, and subdivision g of subsection 1 of section 57-38-01.3 of the North Dakota Century Code are repealed.

**SECTION 4. EFFECTIVE DATE.** Section 2 of this Act is effective for taxable years beginning after December 31, 2002.

**SECTION 5. RETROACTIVE APPLICATION.** Section 3 of this Act applies retroactively to taxable years beginning after December 31, 1999."

Page 1, remove lines 11 through 22

Renumber accordingly

Engrossed SB 2099 was placed on the Seventh order of business on the calendar.

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

**WILLIAM R. HORTON, Secretary**

