

JOURNAL OF THE SENATE

Fifty-eighth Legislative Assembly

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Bismarck, March 25, 2003

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

The prayer was offered by Pastor Paul Brown, Life Center Church, Spokane, Washington.

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

A quorum was declared by the President.

MOTION

SEN. CHRISTMANN MOVED that Engrossed HB 1320, which is on the Sixth order, be rereferred to the **Judiciary Committee**, which motion prevailed. Pursuant to Sen. Christmann's motion, Engrossed HB 1320 was rereferred.

CONSIDERATION OF AMENDMENTS

HB 1050, as engrossed: SEN. HEITKAMP (Natural Resources Committee) MOVED that the amendments on SJ pages 890-891 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1255, as engrossed: SEN. ESPEGARD (Transportation Committee) MOVED that the amendments on SJ page 892 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1372, as engrossed: SEN. NETHING (Transportation Committee) MOVED that the amendments on SJ page 893 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1394, as engrossed: SEN. ESPEGARD (Transportation Committee) MOVED that the amendments on SJ page 893 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1416, as engrossed: SEN. DEVER (Government and Veterans Affairs Committee) MOVED that the amendments on SJ pages 893-894 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HCR 3053, as engrossed: SEN. NELSON (Government and Veterans Affairs Committee) MOVED that the amendments on SJ page 895 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1087: A BILL for an Act to amend and reenact sections 54-53-02 and 54-53-03 of the North Dakota Century Code, relating to composition of the advisory transportation council and purpose of the upper great plains transportation institute.

ROLL CALL

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

YEAS: Andrist; 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; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

ABSENT AND NOT VOTING: Bercier

Engrossed HB 1087, as amended, passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1271: A BILL for an Act to create and enact a new section to chapter 12-47 of the North Dakota Century Code, relating to the housing of female inmates.

ROLL CALL

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

YEAS: Andrist; 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; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

ABSENT AND NOT VOTING: Bercier

Engrossed HB 1271, as amended, passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1309: A BILL for an Act to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to a corporate income tax credit for a portion of the cost of retrofitting a facility for producing or blending diesel fuel containing biodiesel fuel; and to provide an effective date.

ROLL CALL

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

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

NAYS: Christmann; Syverson

ABSENT AND NOT VOTING: Bercier

Engrossed HB 1309, as amended, passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1024: A BILL for an Act to create and enact a new section to chapter 57-15 of the North Dakota Century Code, relating to optional consolidation of county mill levies.

MOTION

SEN. ERBELE MOVED that Engrossed HB 1024 be amended as follows, which motion failed on a verification vote.

Page 1, line 24, replace ", subject to the right of referendum" with "and approval"

Page 2, line 1, replace "the county electors" with "a majority of the qualified electors voting on the question at any regular or special election held in the county"

Page 2, line 2, remove "preliminary"

Page 2, line 3, remove "preliminary"

Page 2, line 5, remove "preliminary"

Page 2, line 7, remove "The preliminary resolution may be referred to the"

Page 2, remove lines 8 through 15

Page 2, line 16, remove "the board of county commissioners to address the question."

Page 2, line 18, remove "If a petition"

Page 2, remove lines 19 through 21

Page 2, line 22, remove "rescind the preliminary resolution."

Page 2, line 23, remove "resolution of the board of county commissioners"

Page 2, line 24, replace "or by a majority vote of" with a period

Page 2, remove lines 25 through 28

Renumber accordingly

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 34 YEAS, 12 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Brown; Christenson; Cook; Dever; Espegard; Every; Fairfield; Fischer; Flakoll; Grindberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, J.; Lindaas; Lyson; Mathern; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Seymour; Syverson; Tallackson; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

NAYS: Bowman; Christmann; Erbele; Freborg; Heitkamp; Holmberg; Krauter; Lee, G.; Mutch; Schobinger; Stenehjem; Taylor

ABSENT AND NOT VOTING: Bercier

Engrossed HB 1024 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1358: A BILL for an Act to amend and reenact subsection 1 of section 20.1-03-07 and sections 20.1-03-07.1, 20.1-03-12, and 20.1-03-12.1 of the North Dakota Century Code, relating to nonresident hunting and fishing licenses and fees; to provide an appropriation; to provide a statement of legislative intent with respect to a short-term lease program; and to provide an effective date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 38 YEAS, 8 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Brown; Christenson; Cook; Dever; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; Polovitz; Robinson; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Wardner

NAYS: Bowman; Christmann; Erbele; Klein; Krauter; O'Connell; Schobinger; Urlacher

ABSENT AND NOT VOTING: Bercier

Engrossed HB 1358, as amended, passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1060: A BILL for an Act to create and enact a new section to chapter 65-05 of the North Dakota Century Code, relating to retaliation by an employer against an employee for

seeking workers' compensation benefits; to amend and reenact subdivision b of subsection 5 and subsection 28 of section 65-01-02, sections 65-02-11 and 65-02-20, subsection 5 of section 65-05-07, section 65-05-10, subsection 1 of section 65-05-17, and sections 65-05-21, 65-05-22, 65-05-25, and 65-05-36 of the North Dakota Century Code, relating to calculation of the average weekly wage of self-employed employers, the definition of seasonal employment, subpoenas issued by the workers compensation bureau, dispute resolution of managed care decisions, modifications to real estate for catastrophically injured workers, partial disability benefits, workers' compensation death benefits, structured settlements, and the preferred worker program; to repeal sections 65-02-15 and 65-05-24 of the North Dakota Century Code, relating to binding arbitration in workers' compensation disputes and workers' compensation death benefits; to provide a penalty; 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 43 YEAS, 3 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: 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; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Urlacher; Wardner

NAYS: Andrist; Schobinger; Trenbeath

ABSENT AND NOT VOTING: Bercier

HB 1060 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1206: A BILL for an Act to amend and reenact sections 40-57.1-03 and 40-57.1-04.1 of the North Dakota Century Code, relating to the duration of city or county property tax exemptions for new or expanding businesses; 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, 46 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

NAYS: Andrist; 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; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

ABSENT AND NOT VOTING: Bercier

HB 1206 lost.

SECOND READING OF HOUSE BILL

HB 1256: A BILL for an Act to create and enact a new subsection to section 43-19.1-02, a new subsection to section 43-19.1-14, a new subsection to section 43-19.1-15, and a new section to chapter 43-19.1 of the North Dakota Century Code, relating to definitions, registration of professional engineers, qualifications of engineers in training, and continuing professional education; and to amend and reenact subsections 2 and 3 of section 43-19.1-14 of the North Dakota Century Code, relating to registration of professional engineers.

MOTION

SEN. COOK MOVED that HB 1256 be amended as follows, which motion prevailed on a voice vote.

Page 2, line 26, after the underscored period insert "A professional engineer or land surveyor who is exempt under subsection 5 of section 43-19.1-29 but who has voluntarily

registered under this chapter is exempt from the continuing professional education requirements under this section."

Renumber accordingly

MOTION

SEN. COOK MOVED that HB 1256 be amended as follows, which motion prevailed on a voice vote.

Page 2, line 26, after the underscored period insert "A professional engineer or land surveyor who is exempt under subsection 5 of section 43-19.1-29 but who has voluntarily registered under this chapter is exempt from the continuing professional education requirements under this section."

Renumber accordingly

ROLL CALL

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

YEAS: Andrist; 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; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

ABSENT AND NOT VOTING: Bercier

HB 1256, as amended, passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1257: A BILL for an Act to create and enact a new section to chapter 32-19 of the North Dakota Century Code, relating to requests for notice of intention to foreclose.

ROLL CALL

The question being on the 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, 46 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

NAYS: Andrist; 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; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

ABSENT AND NOT VOTING: Bercier

Engrossed HB 1257 lost.

SECOND READING OF HOUSE BILL

HB 1260: A BILL for an Act to create and enact chapter 26.1-25.1 of the North Dakota Century Code, relating to use of credit information in personal insurance.

ROLL CALL

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

YEAS: Andrist; 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; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour;

Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

ABSENT AND NOT VOTING: Bercier

Engrossed HB 1260 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1282: A BILL for an Act to create and enact two new subsections to section 53-06.2-04 of the North Dakota Century Code, relating to the duties of the racing commission; to amend and reenact subsection 1 of section 53-06.2-02 and subsection 6 of section 53-06.2-11 of the North Dakota Century Code, relating to the appointment of racing commission members and the spending authority of the racing commission; and to provide an expiration 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 14 YEAS, 32 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christenson; Cook; Every; Krauter; Krebsbach; Nelson; Nichols; O'Connell; Robinson; Seymour; Tallackson; Taylor

NAYS: Brown; Christmann; Dever; Erbele; Espegard; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nething; Polovitz; Schobinger; Stenehjem; Syverson; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

ABSENT AND NOT VOTING: Bercier

Reengrossed HB 1282 lost.

SECOND READING OF HOUSE BILL

HB 1330: A BILL for an Act to repeal sections 28-29-04, 28-29-05, and 28-29-06 of the North Dakota Century Code, relating to powers of courts when agricultural prices are confiscatory.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 39 YEAS, 6 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

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

NAYS: Fairfield; Lindaas; Nelson; Seymour; Tallackson; Taylor

ABSENT AND NOT VOTING: Bercier; Every

HB 1330 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1360: A BILL for an Act to amend and reenact section 41-09-86 of the North Dakota Century Code, relating to the duration of filed financing statements.

ROLL CALL

The question being on the final passage of the 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; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

ABSENT AND NOT VOTING: Bercier; Every; Lindaas

HB 1360 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1420: A BILL for an Act to create and enact two new sections to chapter 4-34 of the North Dakota Century Code, relating to records of cattle transactions; to amend and reenact sections 4-34-02, 4-34-03, 4-34-04, 4-34-05, 4-34-06, 4-34-08, and 4-34-10 of the North Dakota Century Code, relating to the North Dakota beef commission; and to provide a penalty.

ROLL CALL

The question being on the final passage of the 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; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

NAYS: Fairfield

ABSENT AND NOT VOTING: Bercier; Every; Lindaas

Engrossed HB 1420 passed and the title was agreed to.

COMMUNICATION FROM GOVERNOR JOHN HOEVEN

This is to inform you that on March 24, 2003, I have signed the following: SB 2224.

COMMUNICATION FROM GOVERNOR JOHN HOEVEN

This is to inform you that on March 25, 2003, I have signed the following: SB 2175, SB 2180, SB 2208, SB 2231, SB 2237, SB 2312, SB 2332, and SB 2401.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following bills were delivered to the Governor for approval on March 25, 2003: SB 2057, SB 2059, SB 2068, SB 2175, SB 2180, SB 2200, SB 2208, SB 2237, SB 2252, SB 2270, SB 2312, SB 2401.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following bills were delivered to the Governor for approval on March 25, 2003: SB 2070, SB 2074, SB 2155, SB 2157, SB 2168, SB 2191, SB 2195, SB 2207, SB 2212, SB 2220, SB 2258, SB 2268, SB 2271, SB 2274, SB 2277, SB 2278, SB 2281, SB 2298, SB 2321, SB 2328, SB 2329, SB 2342, SB 2344, SB 2347, SB 2359, SB 2362, SB 2365, SB 2372, SB 2378, SB 2379, SB 2393, SB 2414, SB 2419.

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

MADAM PRESIDENT: The Speaker has signed: SB 2070, SB 2074, SB 2155, SB 2157, SB 2168, SB 2191, SB 2195, SB 2207, SB 2212, SB 2220, SB 2258, SB 2268, SB 2271, SB 2274, SB 2277, SB 2278, SB 2281, SB 2298, SB 2321, SB 2328, SB 2329, SB 2342, SB 2344, SB 2347, SB 2359, SB 2362, SB 2365, SB 2372, SB 2378, SB 2379, SB 2393, SB 2414, SB 2419.

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

MADAM PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HCR 3038, HCR 3048, HCR 3062, HCR 3064, HCR 3075.

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

MADAM PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1238, HB 1263, HB 1299, HB 1423.

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

MADAM PRESIDENT: The Speaker has signed: SCR 4014, SCR 4019, SCR 4024.

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

MR. PRESIDENT: The House has amended and subsequently passed: SB 2036, SB 2235, SB 2248, SB 2262, SB 2275.

HOUSE AMENDMENTS TO SENATE BILL NO. 2036

Page 1, line 23, overstrike "five" and insert immediately thereafter "seven"

Page 2, line 1, overstrike "handicap" and insert immediately thereafter "disability", replace "is" with "has been diagnosed by a licensed physician to be", and replace "handicap" with "disability"

ReNUMBER accordingly

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2235

Page 1, line 1, replace "create" with "amend" and replace "enact a new subsection to" with "reenact"

Page 1, line 4, replace "A new subsection to section" with "**AMENDMENT.** Section"

Page 1, line 5, replace "created" with "amended" and replace "enacted" with "reenacted"

Page 1, replace lines 6 through 10 with:

"26.1-34-02. Minimum nonforfeiture amount defined. The minimum values as specified in sections 26.1-34-03 through 26.1-34-06 and section 26.1-34-08 of any paid-up annuity, cash surrender, or death benefits available under an annuity contract must be based upon minimum nonforfeiture amounts as defined in this section:.

1. For an annuity contract issued before August 1, 2003:
 - a. With respect to annuity contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments must be equal to an accumulation up to such time at a rate of interest of three percent per year of percentages of the net considerations, as hereinafter defined, paid prior to such time, decreased by the sum of any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three percent per year and the amount of any indebtedness to the company on the contract, including interest due and accrued; and increased by any existing additional amounts credited by the company to the contract. The net considerations for a given contract year used to define the minimum nonforfeiture amount must be an amount not less than zero and must equal the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of thirty dollars and less a collection charge of one dollar and twenty-five cents for each consideration credited to the contract during that contract year. The percentages of net considerations must be sixty-five percent of the net consideration for the first contract year and eighty-seven and one-half percent of the net considerations for the second and later contract years. Notwithstanding the preceding sentence, the percentage must be sixty-five percent of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent.
 - 2- b. With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts must be calculated on the assumption that considerations are paid annually in advance and must be defined as for contracts with flexible considerations which are paid annually, with two exceptions:

- a- (1) The portion of the net consideration for the first contract year to be accumulated is the sum of sixty-five percent of the net consideration for the first contract year plus twenty-two and one-half percent of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years.
 - b- (2) The annual contract charge is the lesser of thirty dollars or ten percent of the gross annual considerations.
 - 3- c. With respect to contracts providing for a single consideration, minimum nonforfeiture amounts must be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount must equal ninety percent and the net consideration must be the gross consideration less a contract charge of seventy-five dollars.
2. For an annuity contract issued after July 31, 2005:
- a. The minimum nonforfeiture amount at any time at or before the commencement of any annuity payments must be equal to an accumulation up to such time at rates of interest, as provided under subdivision c, of the net considerations, as defined under subdivision b, paid before such time, decreased by the sum of:
 - (1) Any prior withdrawals from or partial surrenders of the contract accumulated at rates of interest as provided under subdivision c;
 - (2) An annual contract charge of fifty dollars, accumulated at rates of interest as provided under subdivision c;
 - (3) Any premium tax paid by the company for the contract, accumulated at rates of interest as provided under subdivision c; and
 - (4) The amount of any indebtedness to the company on the contract, including interest due and accrued.
 - b. The net considerations for a given contract year used to define the minimum nonforfeiture amount under subdivision a must be an amount equal to eighty-seven and one-half percent of the gross considerations credited to the contract during that contract year.
 - c. The interest rate used in determining minimum nonforfeiture amounts must be determined as the lesser of:
 - (1) Three percent per annum; or
 - (2) The five-year constant maturity rate reported by the federal reserve as of a date or average over a period, reduced by one hundred twenty-five basis points. The rate calculated under this paragraph may not be less than one percent, must be specified in the contract, and must be determined no more than fifteen months before the contract issue date or redemption date.
 - d. The interest rate used in determining minimum nonforfeiture amounts applies for an initial period and may be redetermined for additional periods. The redetermination date basis and period, if any, must be stated in the contract. The basis is the date or average over a specified period that produces the value of the five-year constant maturity treasury rate to be used at each redetermination date.
 - e. Notwithstanding subdivisions a, b, c, and d, during the period or term that a contract provides substantive participation in an equity indexed benefit, the contract may increase the reduction of one hundred twenty-five basis points under paragraph 2 of subdivision c by an amount not to exceed one hundred basis points, in order to reflect the value of the equity index benefit. The present value at the contract issue date, the present value at each redetermination date, or the

additional reduction may not exceed the market value of the benefit. The commissioner may require a demonstration that the present value of the reduction does not exceed the market value of the benefit. Lacking such a demonstration acceptable to the commissioner, the commissioner may disallow or limit the additional reduction.

- f. The commissioner may adopt rules to implement the provisions of subdivision e and to provide further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity index benefit and for other contracts if the commissioner determines that adjustments are justified.
3. For an annuity contract issued after July 31, 2003, and before August 1, 2005, on a contract form by contract form basis, a company may elect to apply the provisions of subsection 1 or subsection 2."

Renumber accordingly

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2248

Page 2, remove line 23

Page 2, line 24, replace "collecting completed absent voter's ballot applications shall submit all" with "A" and replace the second "applications" with "application must be returned by the applicant"

Page 2, line 25, remove "received from applicants"

Page 2, line 26, replace "each" with "the"

Page 3, line 27, after "auditor" insert "either"

Page 3, line 28, after "instructions" insert "or send to the qualified elector the ballot and instructions by facsimile"

Renumber accordingly

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2262

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative council study of motor vehicle and motorist insurance systems.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY - MOTOR VEHICLE NO-FAULT, UNDERINSURED MOTORIST, AND UNINSURED MOTORIST INSURANCE. The legislative council shall study, during the 2003-04 interim, the motor vehicle no-fault, underinsured motorist, and uninsured motorist insurance systems. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-ninth legislative assembly."

Renumber accordingly

HOUSE AMENDMENTS TO REENGROSSED SENATE BILL NO. 2275

Page 1, line 2, replace "; to repeal chapter 26.1-41 of the" with a period

Page 1, remove lines 3 and 4

Page 2, remove lines 24 through 30

Page 3, remove lines 1 and 2

Renumber accordingly

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The House has amended and subsequently failed to pass: SB 2031, SB 2305.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has amended and subsequently passed: HB 1087, HB 1256, HB 1271, HB 1309, HB 1358, HB 1439.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has failed to pass: HB 1206, HB 1257, HB 1282.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has passed unchanged: HB 1024, HB 1060, HB 1260, HB 1330, HB 1360, HB 1420.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The President has signed and your signature is respectfully requested on: SB 2070, SB 2074, SB 2155, SB 2157, SB 2168, SB 2191, SB 2195, SB 2207, SB 2212, SB 2220, SB 2258, SB 2268, SB 2271, SB 2274, SB 2277, SB 2278, SB 2281, SB 2298, SB 2321, SB 2328, SB 2329, SB 2342, SB 2344, SB 2347, SB 2359, SB 2362, SB 2365, SB 2372, SB 2378, SB 2379, SB 2393, SB 2414, SB 2419, SCR 4014, SCR 4019, SCR 4024.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The President has signed: HB 1065, HB 1067, HB 1070, HB 1096, HB 1102, HB 1106, HB 1108, HB 1115, HB 1119, HB 1129, HB 1136, HB 1139, HB 1142, HB 1148, HB 1167, HB 1186, HB 1192, HB 1279, HB 1343, HB 1348, HB 1362, HB 1378, HB 1400, HB 1443, HB 1503.

MOTION

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

MOTION

SEN. CHRISTMANN MOVED that the Senate be on the Fourth, Fifth, Seventh, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Wednesday, March 26, 2003, which motion prevailed.

REPORT OF STANDING COMMITTEE

HB 1047, as engrossed: Transportation Committee (Sen. Trenbeath, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (4 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). Engrossed HB 1047 was placed on the Sixth order on the calendar.

Page 1, line 1, replace the first comma with "and", after the second comma insert "paragraph 33 of subdivision a of subsection 3 of section 39-06.1-10, sections", replace the third comma with "and", and after the fourth comma insert "subdivision h of subsection 1 of section 39-09-02, and sections"

Page 1, line 2, remove the first comma and remove "the fees for"

Page 2, line 15, remove the overstrike over "~~subsections~~", after the first overstruck comma insert "10 and", remove the overstrike over "~~44~~", and remove "~~subsection 10~~"

Page 4, line 6, after "~~44.~~" insert "10." and remove the overstrike over "~~On a highway on which the speed limit is posted in excess of seventy miles~~"

Page 4, remove the overstrike over line 7

Page 4, line 8, remove the overstrike over "~~ordinance, a fee~~"

Page 4, after line 18, insert:

"of five dollars for each mile per hour over the limit."

Page 4, line 19, replace "10." with "11."

Page 4, after line 29, insert:

"SECTION 3. AMENDMENT. Paragraph 33 of subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

(33) On a highway on which the speed limit is posted in

excess of seventy miles [112.65 kilometers] an hour, operating a motor vehicle in excess of the speed limit in violation of section 39-09-02, or equivalent ordinance

Miles per hour over lawful speed limit	Points
1 - 5	0
6 - 10	4 <u>2</u>
11 - 15	2 <u>4</u>
16 - 20	5
21 - 25	7
26 - 30	10
31 - 35	12
36 +	15"

Page 6, after line 12, insert:

"SECTION 6. AMENDMENT. Subdivision h of subsection 1 of section 39-09-02 of the North Dakota Century Code is amended and reenacted as follows:

- h. ~~Seventy~~ Seventy-five miles [~~112.65~~ 120.70 kilometers] an hour on access-controlled, paved and divided, multilane interstate highways, unless otherwise permitted, restricted, or required by conditions."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1092, 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 1092 was placed on the Sixth order on the calendar.

Page 1, line 6, remove the first "and"

Page 1, line 11, after "opinions" insert "; to provide for application; to provide an effective date; and to declare an emergency"

Page 5, line 4, remove "in the course of an investigation"

Page 6, after line 2, insert:

"SECTION 14. APPLICATION - NOTICE TO PUBLIC. Section 9 of this Act does not apply to recorders until December 1, 2003. From the effective date of this Act until November 30, 2003, each recorder shall provide written notice of the relevant terms of this Act to any individual filing or recording a document if the document contains a social security or federal tax identification number. The notice must also state that a document containing a social security and federal tax identification number may not be filed or recorded after November 30, 2003.

SECTION 15. EFFECTIVE DATE. Sections 1 and 6 of this Act become effective on December 1, 2003.

SECTION 16. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1116, 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 1116 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new subdivision to subsection 1 of section 6-09-15 of the North Dakota Century Code, relating to trust preferred securities transactions; to"

Page 1, line 2, replace "regarding trust preferred" with "to guarantee loans"

Page 1, line 3, remove "securities transactions"

Page 2, after line 20, insert:

"SECTION 2. A new subdivision to subsection 1 of section 6-09-15 of the North Dakota Century Code is created and enacted as follows:"

Page 2, line 21, remove "n."

Page 2, line 23, replace "This" with "Section 1 of this"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1123, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1123 was placed on the Sixth order on the calendar.

Page 1, line 11, replace "The deputy state health officer must hold, at a minimum," with "A deputy state health officer who does not hold a health-related degree may not individually issue an order regarding an individual's health care unless the order is cosigned by a physician who is employed by the department or cosigned by the state epidemiologist"

Page 1, line 12, remove "a baccalaureate degree in a health-related field, such as epidemiology or public health"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1161: Appropriations Committee (Sen. Heitkamp, Chairman) recommends **DO PASS** (11 YEAS, NAYS, 3 ABSENT AND NOT VOTING). HB 1161 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1166: Education Committee (Sen. Freborg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1166 was placed on the Sixth order on the calendar.

Page 2, line 23, overstrike "and in no event later than", remove "June", and overstrike "fifteenth"

Page 3, line 23, overstrike "On or before", remove "June", and overstrike "fifteenth of each" and insert immediately thereafter "Upon termination of the school"

Page 4, line 1, overstrike "On or before", remove "June", and overstrike "fifteenth of each" and insert immediately thereafter "Upon termination of the school"

Page 4, line 11, overstrike "On or before", remove "June", and overstrike "fifteenth of each" and insert immediately thereafter "Upon termination of the school"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1221, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1221 was placed on the Sixth order on the calendar.

Page 6, line 23, replace "and" with an underscored comma and after "department" insert ", and any other person authorized by law"

Page 6, line 29, overstrike "A person who discloses the identity of a"

Page 6, line 30, remove "test subject" and overstrike "under subsection 3, 4, 5, 6, 7, or 8 is guilty of a class C"

Page 6, line 31, overstrike "felony."

Page 7, line 18, after "subsection" insert "because the facility was not aware of the exposure or it was not reasonably possible to conduct testing"

Page 7, line 29, overstrike "may" and insert immediately thereafter "must" and overstrike "the most" and insert immediately thereafter "a reasonably"

Page 7, line 30, overstrike "possible" and remove the overstrike over "has"

ReNUMBER accordingly

REPORT OF STANDING COMMITTEE

HB 1231, 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 1231 was placed on the Sixth order on the calendar.

Page 3, line 8, after the first "debtor" insert ", between a credit union and debtor,"

Page 3, line 9, after "debtor" insert ", between a credit union and debtor,"

Page 3, line 17, after "bank" insert ", credit union,"

ReNUMBER accordingly

REPORT OF STANDING COMMITTEE

HB 1236: 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). HB 1236 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "sections" with "section" and remove "and 43-19.1-25"

Page 1, line 2, replace the second "and" with a period

Page 1, remove line 3

Page 1, remove lines 14 through 24

Page 2, remove lines 1 through 7

ReNUMBER accordingly

REPORT OF STANDING COMMITTEE

HB 1245, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1245 was placed on the Sixth order on the calendar.

Page 3, line 6, replace "A" with "Upon notification of the board, a"

Page 4, line 6, remove the overstrike over "~~Periodically review and approve~~" and remove "Establish standards for"

Page 4, line 7, after "to" insert "initial or advanced" and remove "and collaborate with nursing education program"

Page 4, line 8, remove "approval organizations and accreditation organizations"

Page 4, line 10, after the underscored comma insert "incorporated,"

Page 4, line 11, after "education" insert "if the programs meet the same or equivalent education standards required by the board for North Dakota programs"

Page 4, line 13, remove the overstrike over "~~Establish standards for assessing the competence of licensees and registrants~~"

Page 4, line 14, remove the overstrike over "~~continuing in or returning to practice~~" and remove "Approve for licensure graduates of nursing"

Page 4, remove lines 15 through 21

Page 4, line 22, remove "commission on collegiate nursing education"

Page 7, line 13, replace "An" with "The board shall issue a licensed practical nurse license or a registered nurse license to each"

Page 7, line 14, replace ", may renew that license for the 2004 licensure" with ". A newly issued license under this section replaces the transitional license."

Page 7, remove lines 15 and 16

Page 7, line 22, remove "The"

Page 7, remove lines 23 and 24

Re-number accordingly

REPORT OF STANDING COMMITTEE

HB 1250, as engrossed: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (3 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1250 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 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.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-13-10 of the North Dakota Century Code is amended and reenacted as follows:

16.1-13-10. Vacancy existing in office of member of legislative assembly - Special election to fill. If a vacancy in the office of a member of the legislative assembly occurs, the county auditor of the county in which the former member resides or resided shall notify the ~~chairman of the legislative council~~ governor of the vacancy. The county auditor need not notify the ~~chairman of the legislative council~~ governor of the resignation of a member of the legislative assembly when the resignation was made under section 44-02-02. Upon receiving notification of a vacancy, the ~~chairman of the legislative council~~ shall notify the district committee of the political party that the former member represented in the district in which the vacancy exists. The district committee shall hold a meeting within twenty one days after receiving the notification and select an individual to fill the vacancy. If the former member was elected as an independent candidate or if the district committee does not make an appointment within twenty one days after receiving the notice from the chairman of the legislative council, the chairman of the legislative council shall appoint a resident of the district to fill the vacancy. If eight hundred twenty eight days or more remain until the expiration of the term of office for that office, the individual appointed to fill the vacancy shall serve until a successor is elected at the next general election to serve for the remainder of the term of office for that office governor, if there is a session of the legislative assembly between the time the vacancy occurs and the time of the holding of the next general election, shall issue a writ of election directed to the auditor of each affected county directing the auditor to notify the boards of election in the county or district in which the vacancy exists to hold a special election to fill the vacancy at a time designated by the governor. If there is no session of the legislative assembly between the time the vacancy occurs and the time of the holding of the next general election, the special election must be held at the same time as the general election. If the term of office of the member whose office is vacated expires before the next session of the legislative assembly, no election may be held to fill the vacancy.

SECTION 2. AMENDMENT. Section 44-02-02 of the North Dakota Century Code is amended and reenacted as follows:

44-02-02. Resignations of officers - To whom made. The resignation of an officer must be in writing and must be made as follows:

1. The governor and lieutenant governor, to the legislative assembly, if it is in session, and if not, to the secretary of state.
2. Any other state or district officer, to the governor.
3. A member of the legislative assembly, to the presiding officer of the branch of which the individual is a member, when in session, and when not in session, to the ~~chairman of the legislative council~~ governor. When made to the presiding officer, the presiding officer at once shall notify the ~~chairman of the legislative council~~ governor of the resignation.
4. An officer of the legislative assembly, to the branch of which the individual is an officer.
5. An elective county officer, by filing or depositing the resignation in the office of the county auditor, except that the resignation of the county auditor must be filed or deposited with the board of county commissioners. Any resignation under this subsection, unless a different time is fixed therein, takes effect upon the filing or deposit.
6. An officer of a civil township, to the board of supervisors of the township, except that a member of the board shall submit the member's resignation to the township clerk, and the township clerk forthwith shall give to the county auditor notice of the resignation of all officers whose bonds are filed with that officer.
7. Any officer holding office by appointment, to the body, board, court, or officer which appointed the officer."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1274, as engrossed: Judiciary Committee (Sen. Traynor, Chairman) recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1274 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1275: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1275 was placed on the Sixth order on the calendar.

Page 1, line 2, after "agency" insert "; to provide an expiration date; and to declare an emergency"

Page 2, after line 11, insert:

"SECTION 2. EXPIRATION DATE. This Act is effective through July 31, 2007, and after that date is ineffective.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1371, as engrossed: Judiciary Committee (Sen. Traynor, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1371 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1387, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO NOT PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1387 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1404, as engrossed: Judiciary Committee (Sen. Traynor, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1404 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1427, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1427 was placed on the Sixth order on the calendar.

Page 1, line 3, replace "forms" with "laws"

Page 2, line 4, replace "**FORMS**" with "**LAWS**"

Page 2, line 5, after "studying" insert "garnishment laws and procedures of the state, including"

Page 2, line 6, after "to" insert "update," and after "clarify" insert a comma

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1430, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1430 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 establish a medical assistance drug use review program and drug prior authorization program within the department of human services; to provide for a legislative council study of medical assistance pharmacy benefit management; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Definitions. As used in this Act, unless the context otherwise requires:

1. "Board" means the drug use review board.
2. "Compendium" means the American hospital formulary service drug information, United States pharmacopeia-drug information, the DRUGDEX information system, American medical association drug evaluations, or nonproprietary peer-reviewed medical literature.
3. "Department" means the department of human services.
4. "Drug use review" means a program as described in 42 U.S.C. 1396r-8(g)(2).
5. "Drug use review criteria" means standards approved by the board for use in determining whether use of a drug is likely to be medically appropriate, to be medically necessary, and not result in adverse medical outcomes.
6. "Prior authorization" means a process requiring the prescriber or the dispenser to verify with the department or the department's contractor that proposed medical use of a particular drug for a medical assistance program recipient meets predetermined criteria for coverage by the medical assistance program.

SECTION 2. Drug use review board.

1. The board is established within the department for the implementation of a drug use review program.
2. The board consists of fifteen members. The pharmacy administrator of the department and the medical consultant to the department are ex officio nonvoting board members who shall provide administrative services to the

board. The executive director of the department shall appoint the remaining thirteen board members. A majority of the appointed members must be physicians and pharmacists participating in the medical assistance program. Four or more of the appointed members must have experience with a drug use review process or have participated in programs in which prior authorization is used. The appointed members of the board must be:

- a. Six physicians licensed in this state and actively engaged in the practice of medicine, one of whom is a psychiatrist, and four of whom are chosen from a list of nominees provided by the North Dakota medical association;
 - b. Six pharmacists licensed in this state and actively engaged in the practice of pharmacy, four of whom are chosen from a list of nominees provided by the North Dakota pharmaceutical association; and
 - c. One pharmacist or physician representing the pharmaceutical industry who is chosen from a list of nominees provided by the pharmaceutical research manufacturers of America.
3. Appointed board members shall serve staggered three-year terms. Two physicians and two pharmacists must be initially appointed for two-year terms, and two physicians and two pharmacists must be initially appointed for one-year terms. An appointed member may be reappointed for a period not to exceed three 3-year terms. A vacancy on the board must be filled for the balance of the unexpired term from the appropriate board category as provided under subsection 2. The executive director of the department may replace an appointed member of the board who fails to attend three consecutive meetings of the board without advance excuse or who fails to perform the duties expected of a board member. The pharmaceutical industry representative is a nonvoting board member.
 4. Voting board members shall select a chairman and a vice chairman on an annual basis from the board's voting membership.
 5. The board shall meet in person at least once every three months and may meet at other times by teleconference or electronically at the discretion of the chairman. A board member is entitled to receive from the department per diem compensation and reimbursement of expenses as determined by the department, except that no compensation under this section may be paid to any board member who receives compensation or salary as a state employee or official.

SECTION 3. Duties of the board. The board shall:

1. Cooperate with the department to create and implement a prospective and retrospective drug use review program for outpatient prescription drugs under the medical assistance program. This drug use review program must be based on a compendium and drug use review criteria and must comply with 42 U.S.C. 1396r-8(g)(3).
2. Advise and make recommendations regarding any rule proposed for adoption by the department to implement the provisions of state and federal law related to drug use review.
3. Receive and consider information regarding the drug use review process which is provided by the department and by interested parties, including prescribers who treat significant numbers of patients under the department's medical assistance program.
4. Review and recommend to the department any drugs to be included on prior authorization status.
5. Review no less than once each year the status of the list of drugs that have been placed on prior authorization.
6. Review and approve the prior authorization program process used by the department, including the process to accommodate the provision of a drug benefit in an emergency situation.

7. Propose remedial strategies to improve the quality of care and to promote effective use of medical assistance program funds or recipient expenditures.

SECTION 4. Prior authorization program.

1. The department shall develop and implement a prior authorization program that meets the requirements of 42 U.S.C. 1396r-8(d) to determine coverage of drug products when a medical assistance recipient's health care provider prescribes a drug that is identified as requiring prior authorization. Authorization must be granted for provision of the drug if:
 - a. The drug not requiring prior authorization has not been effective, or with reasonable certainty is not expected to be effective, in treating the recipient's condition;
 - b. The drug not requiring prior authorization causes or is reasonably expected to cause adverse or harmful reactions to the health of the recipient; or
 - c. The drug is prescribed for a medically accepted use supported by a compendium or by approved product labeling unless there is a therapeutically equivalent drug that is available without prior authorization.
2. For any drug placed on the prior authorization program, the department shall provide medical and clinical criteria, cost information, and utilization data to the drug use review board for review and consideration. The board may consider department data and information from other sources to make a decision about placement of the drug on prior authorization.
3. The department may use contractors to collect and analyze the documentation required under this section and to facilitate the prior authorization program.
4. The department shall consult with the board in the course of adopting rules to implement the prior authorization program. The rules must:
 - a. Establish policies and procedures necessary to implement the prior authorization program.
 - b. Develop a process that allows prescribers to furnish documentation required to obtain approval for a drug without interfering with patient care activities.
 - c. Allow the board to establish panels of physicians and pharmacists which provide expert guidance and recommendations to the board in considering specific drugs or therapeutic classes of drugs to be included in the prior authorization program.

SECTION 5. Public notice - Applicability.

1. The department shall provide thirty days' notice of all meetings of the board. The notice requirement is met if the department provides notice of the meeting on the department's web site and provides, by written or electronic means, individual notice to each person that has requested such notice. If the meeting agenda includes board consideration of a change to the prior authorization program, the department shall include in the notice a list of the affected drugs, and upon request the board shall provide background information. Any interested party may attend a meeting of the board and provide information or recommendations related to the inclusion of a drug in a prior authorization program.
2. The department shall post on the department's web site:
 - a. The most current and applicable list of drugs requiring prior authorization, together with any limits on coverage of these drugs.

- b. In downloadable format, forms necessary to complete prior authorization requests.
 - c. Decisions regarding changes to the prior authorization program list. The department shall allow a period of no less than thirty days for public comment following posting on the web site.
 - d. Meeting notice.
3. The department may not discontinue the provision of prescription drug benefits being provided to medical assistance recipients before the effective date of this Act based solely on the subsequent placement of the drug on the prior authorization program.

SECTION 6. Grievances. The department shall adopt rules for a grievance procedure by which an interested person may appeal a department decision to place a drug on prior authorization.

SECTION 7. Appeals. A medical assistance recipient who is aggrieved by the placement of a drug on prior authorization may appeal as authorized under chapter 28-32.

SECTION 8. Financial incentives prohibited. The department may not offer or pay, directly or indirectly, any material inducement, bonus, or other financial incentive to a participating provider based on the denial or delay of medically necessary and appropriate prescription drug therapy or based on a reduction in the proportion of recipients who receive prescription drug therapy under the medical assistance program.

SECTION 9. Maximum allowable costs and use of edits. To promote efficiency and savings in the department's service to eligible medical assistance program recipients, the department shall create and implement the broadest possible list of drugs that can be paid at the maximum allowable costs. To further promote efficiency and savings, the department shall maximize use of edit programs that pertain to payment of medical assistance program pharmaceutical claims. Upon request of a member of the legislative assembly, the department shall provide to that member a summary of edit programs available to the medical assistance program and a description of the department's progress in implementing the edit programs.

SECTION 10. Adoption of rules. The department shall adopt rules to implement sections 1 through 9 of this Act.

SECTION 11. MEDICAL ASSISTANCE PHARMACY BENEFIT MANAGEMENT - LEGISLATIVE COUNCIL STUDY. The legislative council shall consider studying, during the 2003-04 interim, the value of medical assistance program use of benefit purchasing pools, preferred drug lists, and other pharmacy benefit management concepts, including the fiscal impact of the appeals and grievance process on existing programs. If the study is conducted by the legislative council, the legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-ninth legislative assembly.

SECTION 12. EXPIRATION DATE. Section 6 of this Act is effective through June 30, 2005, and after that date is ineffective.

SECTION 13. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1469, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1469 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "create and enact a new section to chapter 50-24.1 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to eligibility for medical assistance; and to"

Page 1, line 16, remove "home health care coverage."

Page 1, remove lines 22 through 24

Page 2, remove lines 1 through 17

Renumber accordingly

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

WILLIAM R. HORTON, Secretary

