JOURNAL OF THE SENATE

Fifty-eighth Legislative Assembly

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Bismarck, April 1, 2003

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

The prayer was offered by Senator Heitkamp.

The roll was called and all members were present.

A quorum was declared by the President.

REPORT OF PROCEDURAL COMMITTEE

MR. PRESIDENT: Your procedural **Committee on Committees (Sen. Stenehjem, Chairman)** respectfully submits following names for as your **Select Committee** to approve the nominees to the North Dakota Gaming Commission: Sens. Lyson, Bowman, Klein, Christenson, and Bercier.

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

APPOINTMENT OF CONFERENCE COMMITTEE

SEN. TRENBEATH MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on Engrossed HB 1309, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on Engrossed HB 1309: Sens. Mutch, Espegard, Taylor.

APPOINTMENT OF CONFERENCE COMMITTEE

SEN. TRENBEATH MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on Engrossed HB 1439, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on Engrossed HB 1439: Sens. Trenbeath, Nething, Bercier.

APPOINTMENT OF CONFERENCE COMMITTEE

SEN. J. LEE MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on HCR 3037, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on HCR 3037: Sens. Brown, Erbele, Polovitz.

CONSIDERATION OF AMENDMENTS

HB 1068: SEN. TAYLOR (Education Committee) MOVED that the amendments on SJ pages 1012-1014 be adopted and then be placed on the Fourteenth order with **DO PASS,** which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1068: A BILL for an Act to create and enact three new sections to chapter 15-20.4 of the North Dakota Century Code, relating to the issuance, manufacture, and use of false academic degrees or certificates; 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

HB 1068, as amended, passed and the title was agreed to.

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CONSIDERATION OF AMENDMENTS

HB 1086, as reengrossed: SEN. COOK (Education Committee) MOVED that the amendments on SJ page 1014 be adopted and then be placed on the Fourteenth order with **DO PASS,** which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1086: A BILL for an Act to create and enact a new section to chapter 15.1-31 of the North Dakota Century Code, relating to open enrollment and the transfer of students from certain schools.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

Reengrossed HB 1086, as amended, passed and the title was agreed to.

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SECOND READING OF HOUSE BILL

HB 1425: A BILL for an Act to amend and reenact section 25-16-07 of the North Dakota Century Code, relating to confidentiality of treatment or care center records of developmentally disabled persons.

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 29 YEAS, 18 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Brown; Christmann; Cook; Dever; Erbele; Espegard; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lyson; Nething; Polovitz; Schobinger; Stenehjem; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

NAYS: Bercier; Bowman; Christenson; Every; Fairfield; Heitkamp; Krauter; Lindaas; Mathern; Mutch; Nelson; Nichols; O'Connell; Robinson; Seymour; Syverson; Tallackson; Taylor

Engrossed HB 1425, as amended, passed and the title was agreed to.

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SECOND READING OF HOUSE BILL

HB 1430: A BILL 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.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

Engrossed HB 1430, 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 1044: A BILL for an Act to create and enact a new section to chapter 54-57 of the North Dakota Century Code, relating to the office of administrative hearings and indigent defense contracts; to amend and reenact section 27-20-49 and subsection 1 and 4 of section 29-07-01.1 of the North Dakota Century Code, relating to the provision of indigent defense services; to provide for a report to the legislative council; to provide for transition; to provide a statement of legislative intent; 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 1 YEA, 46 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Mathern

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

Reengrossed HB 1044 lost.

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SECOND READING OF HOUSE BILL

HB 1175: A BILL for an Act to amend and reenact subdivision b of subsection 1 of section 23-07-07.5 and section 23-07.7-01 of the North Dakota Century Code, relating to sexual offenses; and to repeal section 12.1-20-10 of the North Dakota Century Code, relating to unlawful cohabitation.

ROLL CALL

The question being on the final passage of the bill, which has been read, and is PLACED ON THE CALENDAR WITHOUT RECOMMENDATION, the roll was called and there were 21 YEAS, 26 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Bercier; Christenson; Espegard; Every; Fairfield; Fischer; Flakoll; Grindberg; Heitkamp; Holmberg; Krebsbach; Kringstad; Lee, J.; Lindaas; Nelson; Nichols; Polovitz; Seymour; Syverson; Taylor; Trenbeath

NAYS: Andrist; Bowman; Brown; Christmann; Cook; Dever; Erbele; Freborg; Kilzer; Klein; Krauter; Lee, G.; Lyson; Mathern; Mutch; Nething; O'Connell; Robinson; Schobinger; Stenehjem; Tallackson; Thane; Tollefson; Traynor; Urlacher; Wardner

HB 1175 lost.

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SECOND READING OF HOUSE BILL

HB 1325: A BILL for an Act to create and enact a new section to chapter 15.1-06 of the North Dakota Century Code, relating to the display of the national motto in schools.

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 35 YEAS, 12 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

NAYS: Bercier; Christenson; Espegard; Every; Heitkamp; Mathern; Nelson; Nichols; Polovitz; Seymour; Taylor; Trenbeath

Engrossed HB 1325 passed and the title was agreed to.

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SECOND READING OF HOUSE BILL

HB 1364: A BILL for an Act to amend and reenact section 49-02-21 of the North Dakota Century Code, relating to the raising and lowering of communication lines.

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, 33 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Cook; Dever; Fischer; Flakoll; Heitkamp; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Schobinger; Syverson; Traynor; Urlacher

NAYS: Andrist; Bercier; Bowman; Brown; Christenson; Christmann; Erbele; Espegard; Every; Fairfield; Freborg; Grindberg; Holmberg; Kilzer; Klein; Kringstad; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Seymour; Stenehjem; Tallackson; Taylor; Thane; Tollefson; Trenbeath; Wardner

HB 1364 lost.

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SECOND READING OF HOUSE BILL

HB 1369: A BILL for an Act to create and enact chapter 4-42, a new subsection to section 26.1-05-19, a new subdivision to subsection 1 of section 57-38-01.2, a new subdivision to subsection 1 of section 57-38-01.3, a new subdivision to subsection 2 of section 57-38-30.3, and a new subsection to section 57-38-30.3 of the North Dakota Century Code, relating to the establishment and operation of the farmers equity trust fund and investments and income tax credits for investments for support of the fund; 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 11 YEAS, 36 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Bercier; Bowman; Erbele; Espegard; Fairfield; Klein; Krauter; Mathern; O'Connell; Tallackson; Taylor

NAYS: Andrist; Brown; Christenson; Christmann; Cook; Dever; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mutch; Nelson; Nething; Nichols; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

Engrossed HB 1369 lost.

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SECOND READING OF HOUSE BILL

HB 1399: A BILL for an Act to create a pharmaceutical manufacturers drug access program within the office of insurance commissioner for low-income individuals; and to provide an appropriation.

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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

Engrossed HB 1399 passed and the title was agreed to.

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SECOND READING OF HOUSE BILL

HB 1403: A BILL for an Act to amend and reenact section 49-09-04.2 of the North Dakota Century Code, relating to the sale of railroad right of way.

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, 47 NAYS, 0 EXCUSED, 0 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; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

Reengrossed HB 1403 lost.

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SECOND READING OF HOUSE BILL

HB 1047: A BILL for an Act to amend and reenact sections 39-06.1-05 and 39-06.1-06, paragraph 33 of subdivision a of subsection 3 of section 39-06.1-10, sections 39-07-09 and 39-08-21, subdivision h of subsection 1 of section 39-09-02, and sections 39-21-16 and 39-21-46 of the North Dakota Century Code, relating to driving in excess of the speed limit.

MOTION

SEN. STENEHJEM MOVED the time certain at 9:33 a.m., which motion prevailed.

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

YEAS: Bowman; Brown; Cook; Dever; Espegard; Fischer; Flakoll; Holmberg; Klein; Krebsbach; Kringstad; Lee, G.; Lee, J.; Mutch; Polovitz; Schobinger; Seymour; Stenehjem; Syverson; Taylor; Traynor; Trenbeath

NAYS: Andrist; Bercier; Christenson; Christmann; Erbele; Every; Fairfield; Freborg; Grindberg; Heitkamp; Kilzer; Krauter; Lindaas; Lyson; Mathern; Nelson; Nething; Nichols; O'Connell; Robinson; Tallackson; Thane; Tollefson; Urlacher; Wardner

Engrossed HB 1047, as amended, lost.

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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 2052, SB 2058, SB 2064, SB 2089, SB 2147, SB 2151, SB 2153, SB 2198, SB 2199, SB 2201, SB 2211, SB 2228, SB 2288, SB 2310, SB 2324, SB 2326, SCR 4005, SCR 4008, SCR 4009, SCR 4016, SCR 4023, SCR 4037.

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

MR. SPEAKER: The President has appointed as a conference committee to act with a like committee from the House on:

HB 1309: Sens. Mutch; Espegard; Taylor
HB 1439: Sens. Trenbeath; Nething; Bercier
HCR3037: Sens. Brown; Erbele; Polovitz

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

MR. PRESIDENT: The Speaker has appointed as a conference committee to act with a like committee from the Senate on:

SB 2148: Reps. Bernstein; Wrangham; Onstad
SB 2190: Reps. Grande; Boehning; Eckre
SB 2282: Reps. Warnke; Svedjan; Aarsvold

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 1088, HB 1092, HB 1116, HB 1223, HB 1236, HB 1340, and HB 1391 and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

HB 1088: Reps. Kretschmar; Maragos; Eckre
HB 1092: Reps. Ruby; Nottestad; Thorpe
HB 1116: Reps. Dosch; M. Klein; Boe
HB 1223: Reps. Porter; F. Klein; Hanson
HB 1236: Reps. M. Klein; Froseth; Zaiser
HB 1340: Reps. Drovdal; Nottestad; S. Kelsh
HB 1391: Reps. DeKrey; D. Johnson; Solberg

MOTION

SEN. CHRISTMANN MOVED that the Senate stand in recess until 1:00 p.m., which motion prevailed.

THE SENATE RECONVENED pursuant to recess taken, with President Dalrymple presiding.

MOTION

SEN. FISCHER MOVED that the Senate send a message to the House requesting the return of HB 1298 for the purpose of reconsideration, which motion prevailed.

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

MR. SPEAKER: The Senate respectfully requests the return of: HB 1298.

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

MR. PRESIDENT: The House accedes to the Senate request for the return of: HB 1298.

SECOND READING OF HOUSE BILL

HB 1107: A BILL for an Act to amend and reenact subsection 2 of section 57-15-01.1 of the North Dakota Century Code, relating to the effect on property tax levy limitations of property exempt from property taxes by local discretion or charitable status.

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 10 YEAS, 36 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Christenson; Espegard; Fischer; Flakoll; Krebsbach; Lee, G.; Lee, J.; Nelson; Taylor; Wardner

NAYS: Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Every; Fairfield; Freborg; Grindberg; Heitkamp; Kilzer; Klein; Krauter; Kringstad; Lindaas; Lyson; Mathern; Mutch; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Thane; Tollefson; Traynor; Trenbeath; Urlacher

ABSENT AND NOT VOTING: Holmberg

HB 1107 lost.

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MOTION

SEN. CHRISTMANN MOVED that HB 1471, which is on the Fourteenth order, be laid over one legislative day, which motion prevailed.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3004: A concurrent resolution directing the Legislative Council to study the state's method of providing legal representation for indigent persons and the feasibility and desirability of establishing a public defender system.

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

HCR 3004 was declared adopted, and the title was agreed to on a voice vote.

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SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3011: A concurrent resolution directing the Legislative Council to study the North Dakota open records statutes and the appropriateness of the penalties for an unauthorized disclosure of certain records.

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

HCR 3011 was declared adopted, and the title was agreed to on a voice vote.

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SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3033: A concurrent resolution directing the Legislative Council to study North Dakota Century Code Chapters 37-01 through 37-11 to revise references to the militia and the National Guard.

The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO NOT PASS.

HCR 3033 was declared lost on a voice vote.

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SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3034: A concurrent resolution directing the Legislative Council to study the civil commitment laws of North Dakota, chapter 25-03.1, court decisions concerning civil commitment, and the civil commitment laws of the other states.

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

HCR 3034 was declared adopted, and the title was agreed to on a voice vote.

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SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3059: A concurrent resolution directing the Legislative Council to study small claims court.

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

Engrossed HCR 3059 was declared adopted, and the title was agreed to on a voice vote.

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MOTION

SEN. FISCHER MOVED that the Senate reconsider its action whereby HB 1298, as amended, failed to pass, which motion prevailed on a verification vote.

HB1298, as amended, was placed on the Fourteenth order for immediate second reading.

SECOND READING OF HOUSE BILL

HB 1298: A BILL for an Act to amend and reenact section 5-01-17 of the North Dakota Century Code, relating to domestic winery licenses; 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 29 YEAS, 18 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Fischer; Freborg; Grindberg; Krauter; Krebsbach; Kringstad; Lyson; Mutch; Nichols; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Taylor; Thane; Tollefson; Traynor; Urlacher; Wardner

NAYS: Christenson; Espegard; Every; Fairfield; Flakoll; Heitkamp; Holmberg; Kilzer; Klein; Lee, G.; Lee, J.; Lindaas; Mathern; Nelson; Nething; Polovitz; Tallackson; Trenbeath

HB 1298, as amended, passed, the title was agreed to, but the emergency clause lost for lack of two-thirds majority.

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MOTION

SEN. CHRISTMANN MOVED that SB 2065 and SB 2418 be moved to the top of the Twelfth order, which motion prevailed.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. FREBORG MOVED that the Senate do not concur in the House amendments to Reengrossed SB 2065 as printed on SJ page 1007 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 Reengrossed SB 2065: Sens. Cook, G. Lee, Christenson.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. FREBORG MOVED that the Senate do not concur in the House amendments to Engrossed SB 2418 as printed on SJ pages 1011-1012 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 2418: Sens. Cook, G. Lee, Christenson.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. J. LEE MOVED that the Senate do concur in the House amendments to SB 2036 as printed on SJ page 906, which motion prevailed on a voice vote.

SB 2036, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2036: A BILL for an Act to amend and reenact section 50-09-02.2 of the North Dakota Century Code, relating to eligibility for certification as a special needs adoption.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 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; 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: Holmberg

Engrossed SB 2036 passed and the title was agreed to.

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CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. MUTCH MOVED that the Senate do concur in the House amendments to SB 2044 as printed on SJ page 849, which motion prevailed on a voice vote.

SB 2044, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2044: A BILL for an Act to amend and reenact subsection 2 of section 6-08-16, subdivision p of subsection 4 of section 12.1-32-07, and section 12.1-32-08 of the North Dakota Century Code, relating to the civil penalty for issuing a check or draft without sufficient funds and the collection of restitution for insufficient funds checks; and to provide for a continuing appropriation.

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, 5 NAYS, 0 EXCUSED, 0 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; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lyson; Mutch; Nelson; Nething; Nichols; Polovitz; Robinson; Schobinger; Seymour; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

NAYS: Krauter; Lindaas; Mathern; O'Connell; Stenehjem

Engrossed SB 2044 passed and the title was agreed to.

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CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. TRAYNOR MOVED that the Senate do concur in the House amendments to Engrossed SB 2061 as printed on SJ page 863, which motion prevailed on a voice vote.

Engrossed SB 2061, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2061: A BILL for an Act to adopt the Uniform Arbitration Act; and to repeal chapter 32-29.2 of the North Dakota Century Code, relating to the Uniform Arbitration Act.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

Reengrossed SB 2061 passed and the title was agreed to.

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CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. DEVER MOVED that the Senate do concur in the House amendments to SB 2072 as printed on SJ page 770, which motion prevailed on a voice vote.

SB 2072, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2072: A BILL for an Act to create and enact a new section to chapter 54-09 of the North Dakota Century Code, relating to fees to be paid to the secretary of state by government officials when performing their duties; and to amend and reenact sections 54-09-04 and 54-09-07 of the North Dakota Century Code, relating to fees charged by and service of process on the secretary of 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

Engrossed SB 2072 passed and the title was agreed to.

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CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. MUTCH MOVED that the Senate do concur in the House amendments to SB 2111 as printed on SJ page 752, which motion prevailed on a voice vote.

SB 2111, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2111: A BILL for an Act to amend and reenact section 19-20.2-03 of the North Dakota Century Code, relating to licensing of anhydrous ammonia facilities.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

Engrossed SB 2111 passed and the title was agreed to.

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MOTION

SEN. CHRISTMANN MOVED that the Senate stand in recess until 1:50 p.m., which motion prevailed.

THE SENATE RECONVENED pursuant to recess taken, with President Dalrymple presiding.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. URLACHER MOVED that the Senate do concur in the House amendments to Engrossed SB 2173 as printed on SJ page 770, which motion prevailed on a voice vote.

Engrossed SB 2173, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2173: A BILL for an Act to amend and reenact sections 11-11.1-03 and 11-11.1-04 and subsection 29 of section 57-15-06.7 of the North Dakota Century Code, relating to property tax levy authority for tourism promotion by a job development authority or industrial development organization; and to provide an effective date.

ROLL CALL

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

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

NAYS: Bercier; Fairfield; Mutch; Nichols; O'Connell

Reengrossed SB 2173 passed and the title was agreed to.

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CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. FISCHER MOVED that the Senate do concur in the House amendments to SB 2193 as printed on SJ page 850, which motion prevailed on a voice vote.

SB 2193, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2193: A BILL for an Act to amend and reenact section 11 of chapter 535 of the 1999 Session Laws as amended by section 1 of chapter 559 of the 2001 Session Laws, relating to the issuance of bonds for construction of an outlet from Devils Lake.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

Engrossed SB 2193 passed and the title was agreed to.

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CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. TRAYNOR MOVED that the Senate do concur in the House amendments to Engrossed SB 2192 as printed on SJ page 850, which motion prevailed on a voice vote.

Engrossed SB 2192, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2192: A BILL for an Act to create and enact a new subsection to section 57-40.6-01 of the North Dakota Century Code, relating to the definition of automated notification system; and to amend and reenact section 57-40.6-08 of the North Dakota Century Code, relating to liability for emergency services communication systems.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

Reengrossed SB 2192 passed and the title was agreed to.

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

MR. PRESIDENT: The House respectfully requests the return of: SB 2096.

MOTION

SEN. STENEHJEM MOVED that the Senate honor the request from the House for the return of SB 2096, which motion prevailed.

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

MR. SPEAKER: The Senate accedes to the House request for the return of: SB 2096.

MOTION

SEN. CHRISTMANN MOVED that the Senate stand in recess until 4:30 p.m., which motion prevailed.

THE SENATE RECONVENED pursuant to recess taken, with President Dalrymple presiding.

MOTION

SEN. CHRISTMANN MOVED that SB 2344, SB 2029, SB 2086, SB 2188, and SB 2345 be moved to the top of the Twelfth order, which motion prevailed.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. HOLMBERG MOVED that the Senate do not concur in the House amendments to Engrossed SB 2334 as printed on SJ page 959 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 2334: Sens. Bowman, Holmberg, Lindaas.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. J. LEE MOVED that the Senate do not concur in the House amendments to Engrossed SB 2029 as printed on SJ pages 1004-1006 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 2029: Sens. Erbele, J. Lee, Fairfield.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. J. LEE MOVED that the Senate do not concur in the House amendments to Reengrossed SB 2086 as printed on SJ page 1006 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 Reengrossed SB 2086: Sens. Fischer, Brown, Fairfield.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. J. LEE MOVED that the Senate do not concur in the House amendments to SB 2188 as printed on SJ pages 1006-1007 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 2188: Sens. Brown, J. Lee, Polovitz.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. J. LEE MOVED that the Senate do not concur in the House amendments to Engrossed SB 2345 as printed on SJ page 1011 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 2345: Sens. Brown, Erbele, Polovitz.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. TRAYNOR MOVED that the Senate do concur in the House amendments to Engrossed SB 2210 as printed on SJ pages 956-957, which motion prevailed on a voice vote.

Engrossed SB 2210, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2210: A BILL for an Act to create and enact a new section to chapter 26.1-36 of the North Dakota Century Code, relating to alternative group health policy and health service contract substance abuse coverage; and to amend and reenact section 26.1-36-08 of the North Dakota Century Code, relating to group health policy and health service contract substance abuse coverage.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

Reengrossed SB 2210 passed and the title was agreed to.

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CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. J. LEE MOVED that the Senate do concur in the House amendments to Engrossed SB 2217 as printed on SJ page 850, which motion prevailed on a voice vote.

Engrossed SB 2217, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2217: A BILL for an Act to create and enact a new section to chapter 43-20 of the North Dakota Century Code, relating to the administration of anesthesia by dental hygienists under dental supervision.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

Reengrossed SB 2217 passed and the title was agreed to.

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CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. FISCHER MOVED that the Senate do concur in the House amendments to SB 2215 as printed on SJ pages 771-773, which motion prevailed on a voice vote.

SB 2215, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2215: A BILL for an Act to amend and reenact subsections 7 and 8 of section 20.1-03-11 and sections 20.1-08-04.2 and 20.1-08-04.6 of the North Dakota Century Code, relating to the moose and elk hunting license raffles.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

Engrossed SB 2215 passed and the title was agreed to.

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CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. COOK MOVED that the Senate do concur in the House amendments to Engrossed SB 2223 as printed on SJ pages 981-982, which motion prevailed on a voice vote.

Engrossed SB 2223, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2223: A BILL for an Act to authorize for a city or county to require the submission of fingerprints of an applicant for certain city or county employment.

ROLL CALL

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

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

NAYS: Heitkamp; Nichols

Reengrossed SB 2223 passed and the title was agreed to.

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CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. FISCHER MOVED that the Senate do concur in the House amendments to Engrossed SB 2240 as printed on SJ page 851, which motion prevailed on a voice vote.

Engrossed SB 2240, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2240: A BILL for an Act to amend and reenact sections 61-16.1-14, 61-21-45, 61-35-13, and 61-35-88 and subsection 2 of section 61-35-94 of the North Dakota Century Code, relating to bids for water district construction, maintenance, and improvement projects; 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

Reengrossed SB 2240 passed, the title was agreed to, and the emergency clause was declared carried.

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MOTION

SEN. CHRISTMANN MOVED that SB 2299 be moved to the top of the Twelfth order, which motion prevailed.

CONSIDERATION OF MESSAGE FROM THE HOUSE

SEN. KREBSBACH MOVED that the Senate do concur in the House amendments to Engrossed SB 2299 as printed on SJ page 833, which motion prevailed on a voice vote.

Engrossed SB 2299, as amended, was placed on the Eleventh order of business.

SECOND READING OF SENATE BILL

SB 2299: A BILL for an Act to amend and reenact sections 37-15-07, 37-15-10.1, and 37-18.1-03 of the North Dakota Century Code, relating to the administrator of the veterans' home and priorities for admission to the veterans' home; 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 45 YEAS, 2 NAYS, 0 EXCUSED, 0 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; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

NAYS: Robinson; Thane

Reengrossed SB 2299 passed, the title was agreed to, and the emergency clause was declared carried.

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

MR. PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1024, HB 1060, HB 1161, HB 1213, HB 1243, HB 1246, HB 1251, HB 1260, HB 1296, HB 1301, HB 1330, HB 1350, HB 1352, HB 1353, HB 1360, HB 1371, HB 1404, HB 1420, HB 1424, HCR 3008, HCR 3023, HCR 3055, HCR 3056, HCR 3063, HCR 3076.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The Speaker has signed: SB 2052, SB 2058, SB 2064, SB 2089, SB 2147, SB 2151, SB 2153, SB 2198, SB 2199, SB 2201, SB 2211, SB 2228, SB 2288, SB 2310, SB 2324, SB 2326, SCR 4005, SCR 4008, SCR 4009, SCR 4016, SCR 4023, SCR 4037.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The Speaker has signed: SB 2196.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has concurred in the House amendments and subsequently passed: SB 2210, SB 2215, SB 2217, SB 2223, SB 2240, and SB 2299.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has concurred in the House amendments and subsequently passed: SB 2036, SB 2044, SB 2061, SB 2072, SB 2111, SB 2173, SB 2192, and SB 2193.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate does not concur in the House amendments to SB 2065 and SB 2418 and the President has appointed as a conference committee to act with a like committee from the House on:

SB 2065: Sens. Cook; G. Lee; Christenson
SB 2418: Sens. Cook; G. Lee; Christenson

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate does not concur in the House amendments to SB 2029, SB 2086, SB 2188, SB 2334, and SB 2345 and the President has appointed as a conference committee to act with a like committee from the House on:

SB 2029: Sens. Erbele; J. Lee; Fairfield
SB 2086: Sens. Fischer; Brown; Fairfield
SB 2188: Sens. Brown; J. Lee; Polovitz
SB 2334: Sens. Bowman; Holmberg; Lindaas
SB 2345: Sens. Brown; Erbele; Polovitz

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has passed unchanged: HB 1325, HB 1399, HCR 3004, HCR 3011, HCR 3034, HCR 3059.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has amended and subsequently passed: HB 1068, HB 1086, HB 1425.

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 1430.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has amended, subsequently passed, and the emergency clause failed: HB 1298.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has failed to pass: HB 1044, HB 1107, HB 1175, HB 1364, HB 1369, HB 1403, HCR 3033.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
The motion of the House to reconsider its action whereby SB 2096 passed on March 3l, 2003, failed.

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 1066, HB 1087, HB 1271, and HB 1358.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The House has passed unchanged: SB 2032.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The House has amended and subsequently passed: SB 2033, SB 2222, SB 2337, SB 2360, SB 2385, SB 2405.

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2033

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact two new subsections to section 54-52-01, a new section to chapter 54-52, and two new sections to chapter 54-52.6 of the North Dakota Century Code, relating to participation by peace officers and correctional officers in the defined benefit retirement plan and the defined contribution retirement plan; to amend and reenact the two new subsections to section 54-52-01 as created by section 1 of this Act, as approved by the fifty-eighth legislative assembly, subsection 3 of section 54-52-01, section 54-52-02.1, subsection 3 of section 54-52-05, the new section to chapter 54-52 as created by section 6 of this Act, as approved by the fifty-eighth legislative assembly, subsection 3 of section 54-52-17, subsection 3 of section 54-52-17, as amended by section 8 of this Act, as approved by the fifty-eighth legislative assembly, section 54-52.6-01, section 54-52.6-01, as amended by section 10 of this Act, as approved by the fifty-eighth legislative assembly, subsection 1 of section 54-52.6-02, section 54-52.6-02, as amended by section 12 of this Act, as approved by the fifty-eighth legislative assembly, section 54-52.6-03, and the new section to chapter 54-52.6 as created by section 17 of this Act, as approved by the fifty-eighth legislative assembly of the North Dakota Century Code, relating to participation by peace officers and correctional officers in the defined benefit retirement plan and the defined contribution retirement plan; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Two new subsections to section 54-52-01 of the North Dakota Century Code are created and enacted as follows:

"Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.

"Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by a political subdivision.

SECTION 2. AMENDMENT. The two new subsections to section 54-52-01 of the North Dakota Century Code as created by section 1 of this Act, as approved by the fifty-eighth legislative assembly, are amended and reenacted as follows:

"Correctional officer" means a participating member who iscertified by the department of corrections and rehabilitation or the peace officer standards and training board as a correctional officer and is employed ~~as a correctional officer~~ by the department of corrections and rehabilitation or a political subdivision.

"Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer ~~by a political subdivision~~.

SECTION 3. AMENDMENT. Subsection 3 of section 54-52-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials who elect to remain members of the retirement system; provided, that judges of the supreme and district courts eligible under section 54-52-02.3 and appointed officials who elect to participate under section 54-52-02.5 are eligible employees and shall participate in the public employees retirement system. Eligible employee does not include nonclassified state employees, peace officers, and correctional officers who elect to become members of the retirement plan established under chapter 54-52.6 but does include employees of the judicial branch and employees of the board of higher education and state institutions under the jurisdiction of the board.

SECTION 4. AMENDMENT. Section 54-52-02.1 of the North Dakota Century Code is amended and reenacted as follows:

54-52-02.1. Political subdivisions authorized to join public employees retirement system.

1. A political subdivision may, on behalf of its permanent employees, on behalf of its peace officers and correctional officers separately from its other employees, and permanent noncertified employees only in the case of school districts, enter into agreements with the retirement board for the purpose of extending the benefits of the public employees retirement system, as provided in this chapter, to those employees. The agreement may, in accordance with this chapter, contain provisions relating to benefits, contributions, effective date, modification, administration, and other appropriate provisions as the retirement board and the political subdivision agree upon, but the agreement must provide that:

   a. The political subdivision will contribute on behalf of each eligible employee an amount equal to that provided in section 54-52-06 or section 6 of this Act for peace officers and correctional officers participating separately from other political subdivision employees.

   b. A portion of the moneys paid by the political subdivision may be used to pay administrative expenses of the retirement board.

2. Notwithstanding any other provision of law, a political subdivision having an existing police pension plan may merge that plan into the public employees retirement system under rules adopted by and in a manner determined by the board.

3. Notwithstanding any other provision of this chapter, ~~no~~ a political subdivision of this state not currently participating in the public employees retirement system ~~on June 30, 1977,~~ may ~~thereafter~~ not become a participant in the retirement system until an actuarial study is performed under the direction of the board to calculate the ~~cost of that portion of benefits to be paid by the retirement system to the employees of the political subdivision based on any prior service or on any service after June 30, 1977, and before the date of initial participation in the retirement system, or both; and the political subdivision has adopted a method, approved by the board, to pay the costs determined in this subsection over a period not to exceed twenty-five years from June 30, 1977. No political subdivision may discontinue participation in the fund without first making such payment to the fund as may be necessary for the fund to pay the future benefits of the eligible employees of the political subdivision as determined on the basis of rules adopted by the board~~ required employer contribution. The required employer contribution must be an amount determined sufficient to fund the normal cost and amortize any past service liability over a period not to exceed thirty years as determined by the board. Any fees incurred in performing the actuarial study must be paid for by the political subdivision in a manner determined by the board.

SECTION 5. AMENDMENT. Subsection 3 of section 54-52-05 of the North Dakota Century Code is amended and reenacted as follows:

3. Each employer, at its option, may pay the employee contributions required by subsection 2 and sections 54-52-06.1 ~~and~~, 54-52-06.2, and section 6 of this Act. The amount paid must be paid by the employer in lieu of contributions by the employee. If the state determines not to pay the contributions, the amount that would have been paid must continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the employer, they may not be included as gross income of the employee in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee or from the levy authorized by subsection 5 of section 57-15-28.1. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a contribution of a reduction in gross salary and offset against future salary increases. If employee contributions are paid by the employer, they must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made prior to the date on which employee contributions were assumed by the employer.

An employer exercising its option under this subsection shall report its choice to the board, in writing, by June fifteenth of each odd-numbered year.

SECTION 6. A new section to chapter 54-52 of the North Dakota Century Code is created and enacted as follows:

Contribution by peace officers and correctional officers employed by political subdivisions - Employer contribution.Each peace officer or correctional officer employed by a political subdivision that enters into an agreement with the retirement board on behalf of its peace officers and correctional officers separately from its other employees and who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's or correctional officer's employer shall contribute an amount determined by the board to be actuarially required to support the level of benefits specified in section 54-52-17. If the peace officer's or correctional officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace officer's or correctional officer's assessment.

SECTION 7. AMENDMENT. The new section to chapter 54-52 of the North Dakota Century Code as created by section 6 of this Act, as approved by the fifty-eighth legislative assembly, is amended and reenacted as follows:

Contribution by peace officers and correctional officers~~employed by political subdivisions~~ - Employer contribution. Each peace officer or correctional officer ~~employed by a political subdivision that enters into an agreement with the retirement board on behalf of its peace officers and correctional officers separately from its other employees and~~ who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's or correctional officer's employer shall contribute an amount determined by the board to be actuarially required to support the level of benefits specified in section 54-52-17. The employer's contribution must be paid from funds appropriated for salary or from any other funds available for such purposes. If the peace officer's or correctional officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace officer's or correctional officer's assessment.

SECTION 8. AMENDMENT. Subsection 3 of section 54-52-17 of the North Dakota Century Code is amended and reenacted as follows:

3. Retirement dates are defined as follows:

   a. Normal retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by a political subdivision, is:

      (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or

      (2) When the member has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.

   b. Normal retirement date for a national guard security officer or firefighter is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty-five years and has completed at least three consecutive years of employment as a national guard security officer or firefighter immediately preceding retirement.

   c. Normal retirement date for a peace officer or correctional officer employed by a political subdivision is:

      (1) The first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty-five years and has completed at least three consecutive years of

employment as a peace officer or correctional officer immediately preceding retirement; or

(2) When the peace officer or correctional officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.

d. Postponed retirement date is the first day of the month next following the month in which the member, on or after July 1, 1977, actually severs or has severed the member's employment after reaching the normal retirement date.

~~d.~~ e. Early retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by a political subdivision, is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed three years of eligible employment. For a national guard security officer or firefighter, early retirement date is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty years and has completed at least three years of eligible employment. For a peace officer or correctional officer employed by a political subdivision, early retirement date is the first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty years and has completed at least three years of eligible employment.

~~e.~~ f. Disability retirement date is the first day of the month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules of the board, and has completed at least one hundred eighty days of eligible employment. For supreme and district court judges, permanent and total disability is based solely on a judge's inability to perform judicial duties arising out of physical or mental impairment, as determined pursuant to rules adopted by the board or as provided by subdivision a of subsection 3 of section 27-23-03. A member is eligible to receive disability retirement benefits only if the member:

(1) Became disabled during the period of eligible employment; and

(2) Applies for disability retirement benefits within twelve months of the date the member terminates employment.

A member is eligible to continue to receive disability benefits as long as the permanent and total disability continues and the member submits the necessary documentation and undergoes medical testing required by the board, or for as long as the member participates in a rehabilitation program required by the board, or both. If the board determines that a member no longer meets the eligibility definition, the board may discontinue the disability retirement benefit. The board may pay the cost of any medical testing or rehabilitation services it deems necessary and these payments are appropriated from the retirement fund for those purposes.

SECTION 9. AMENDMENT. Subsection 3 of section 54-52-17 of the North Dakota Century Code as amended by section 8 of this Act, as approved by the fifty-eighth legislative assembly, is amended and reenacted as follows:

3. Retirement dates are defined as follows:

a. Normal retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer~~employed by a political subdivision~~, is:

(1) The first day of the month next following the month in which the member attains the age of sixty-five years; or

(2) When the member has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.

b. Normal retirement date for a national guard security officer or firefighter is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty-five years and has completed at least three consecutive years of employment as a national guard security officer or firefighter immediately preceding retirement.

c. Normal retirement date for a peace officer or correctional officer ~~employed by a political subdivision~~ is:

(1) The first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty-five years and has completed at least three consecutive years of employment as a peace officer or correctional officer immediately preceding retirement; or

(2) When the peace officer or correctional officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.

d. Postponed retirement date is the first day of the month next following the month in which the member, on or after July 1, 1977, actually severs or has severed the member's employment after reaching the normal retirement date.

e. Early retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer~~employed by a political subdivision~~, is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed three years of eligible employment. For a national guard security officer or firefighter, early retirement date is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty years and has completed at least three years of eligible employment. For a peace officer or correctional officer ~~employed by a political subdivision~~, early retirement date is the first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty years and has completed at least three years of eligible employment.

f. Disability retirement date is the first day of the month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules of the board, and has completed at least one hundred eighty days of eligible employment. For supreme and district court judges, permanent and total disability is based solely on a judge's inability to perform judicial duties arising out of physical or mental impairment, as determined pursuant to rules adopted by the board or as provided by subdivision a of subsection 3 of section 27-23-03. A member is eligible to receive disability retirement benefits only if the member:

(1) Became disabled during the period of eligible employment; and

(2) Applies for disability retirement benefits within twelve months of the date the member terminates employment.

A member is eligible to continue to receive disability benefits as long as the permanent and total disability continues and the member submits the necessary documentation and undergoes medical testing required by the board, or for as long as the member participates in a rehabilitation program required by the board, or both. If the board determines that a member no longer meets the eligibility definition, the board may discontinue the disability retirement benefit. The board may pay the cost of any medical testing or rehabilitation services it deems necessary and these payments are appropriated from the retirement fund for those purposes.

SECTION 10. AMENDMENT. Section 54-52.6-01 of the North Dakota Century Code is amended and reenacted as follows:

54-52.6-01. Definition of terms. As used in this chapter, unless the context otherwise requires:

1. "Board" means the public employees retirement system board.

2. "Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.

3. "Deferred member" means a person who elected to receive deferred vested retirement benefits under chapter 54-52.

~~3.~~ 4. "Eligible employee" means a permanent state employee, except an employee of the judicial branch or an employee of the board of higher education and state institutions under the jurisdiction of the board, who is eighteen years or more of age and who is in a position not classified by the central personnel division. The term also means a peace officer or correctional officer employed by a political subdivision that elects to participate on behalf of its peace officers and correctional officers separately from its other employees in the defined contribution retirement plan established under this chapter.

~~4.~~ 5. "Employee" means any person employed by the state, whose compensation is paid out of state funds, or funds controlled or administered by the state or paid by the federal government through any of its executive or administrative officials.The term also means a peace officer or correctional officer employed by a political subdivision that elects to participate in the defined contribution retirement plan established under this chapter.

~~5.~~ 6. "Employer" means the state of North Dakota and a political subdivision that elects to participate on behalf of its peace officer and correctional officer employees.

~~6.~~ 7. "Participating member" means an eligible employee who elects to participate in the defined contribution retirement plan established under this chapter.

8. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by a political subdivision.

~~7.~~ 9. "Permanent employee" means ~~a state~~ an employee whose services are not limited in duration and who is filling an approved and regularly funded position and is employed twenty hours or more per week and at least five months each year.

~~8.~~ 10. "Wages" and "salaries" means earnings in eligible employment under this chapter reported as salary on a federal income tax withholding statement plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement, incentive pay, severance pay, medical insurance, workers' compensation benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between an employee and a participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the board.

SECTION 11. AMENDMENT. Section 54-52.6-01 of the North Dakota Century Code as amended by section 10 of this Act, as approved by the fifty-eighth legislative assembly, is amended and reenacted as follows:

54-52.6-01. Definition of terms. As used in this chapter, unless the context otherwise requires:

1. "Board" means the public employees retirement system board.

2. "Correctional officer" means a participating member who is certified by the department of corrections and rehabilitation or the peace officer standards and training board as a correctional officer and is employed ~~as a correctional officer by a political subdivision~~ by the department of corrections and rehabilitation or a political subdivision.

3. "Deferred member" means a person who elected to receive deferred vested retirement benefits under chapter 54-52.

4. "Eligible employee" means a permanent state employee, except an employee of the judicial branch or an employee of the board of higher education and state institutions under the jurisdiction of the board, who is eighteen years or more of age and who is in a position not classified by the central personnel division. The term also means a peace officer or correctional officer employed by the state of North Dakota who elects to become a participating member and a peace officer or correctional officer employed by a political subdivision that elects to participate on behalf of its peace officers and correctional officers separately from its other employees in the defined contribution retirement plan established under this chapter.

5. "Employee" means any person employed by the state, whose compensation is paid out of state funds, or funds controlled or administered by the state or paid by the federal government through any of its executive or administrative officials. The term also means a peace officer or correctional officer employed by a political subdivision that elects to participate in the defined contribution retirement plan established under this chapter.

6. "Employer" means the state of North Dakota and a political subdivision that elects to participate on behalf of its peace officer and correctional officer employees.

7. "Participating member" means an eligible employee who elects to participate in the defined contribution retirement plan established under this chapter.

8. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer ~~by a political subdivision~~.

9. "Permanent employee" means an employee whose services are not limited in duration and who is filling an approved and regularly funded position and is employed twenty hours or more per week and at least five months each year.

10. "Wages" and "salaries" means earnings in eligible employment under this chapter reported as salary on a federal income tax withholding statement plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement, incentive pay, severance pay, medical insurance, workers' compensation benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between an employee and a participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the board.

SECTION 12. AMENDMENT. Subsection 1 of section 54-52.6-02 of the North Dakota Century Code is amended and reenacted as follows:

1. The board shall provide an opportunity for each eligible employee who is a member of the public employees retirement system on September 30, 2001, and who has not made a written election under this section to transfer to the defined contribution retirement plan before October 1, 2001, to elect in writing to terminate membership in the public employees retirement system and elect to become a participating member under this chapter. Except as provided in section 54-52.6-03, an election made by an eligible employee under this section is irrevocable. The board shall accept

written elections under this section from eligible employees during the period beginning on July 1, 1999, and ending 12:01 a.m. December 14, 2001. An eligible employee who does not make a written election or who does not file the election during the period specified in this section continues to be a member of the public employees retirement system. An eligible employee who makes and files a written election under this section ceases to be a member of the public employees retirement system effective twelve midnight December 31, 2001; becomes a participating member in the defined contribution retirement plan under this chapter effective 12:01 a.m. January 1, 2002; and waives all of that person's rights to a pension, annuity, retirement allowance, insurance benefit, or any other benefit under the public employees retirement system effective December 31, 2001. This section does not affect a person's right to health benefits or retiree health benefits under chapter 54-52.1. An eligible employee who is first employed and entered upon the payroll of that person's employer after September 30, 2001, and a peace officer or correctional officer employed by a political subdivision who is first employed and entered upon the payroll of that person's employer after the effective date of this Act, may make an election to participate in the defined contribution retirement plan established under this chapter at any time during the first six months after the date of employment. If the board, in its sole discretion, determines that the employee was not adequately notified of the employee's option to participate in the defined contribution retirement plan, the board may provide the employee a reasonable time within which to make that election, which may extend beyond the original six-month decision window.

SECTION 13. AMENDMENT. Subsection 1 of section 54-52.6-02 of the North Dakota Century Code as amended by section 12 of this Act, as approved by the fifty-eighth legislative assembly, is amended and reenacted as follows:

1. The board shall provide an opportunity for each ~~eligible employee~~ peace officer or correctional officer employed by a state agency or department who is a member of the public employees retirement system on September 30, ~~2001~~ 2005, and who has not made a written election under this section to transfer to the defined contribution retirement plan before October 1,~~2001~~ 2005, to elect in writing to terminate membership in the public employees retirement system and elect to become a participating member under this chapter. Except as provided in section 54-52.6-03, an election made by ~~an eligible employee~~a peace officer of correctional officer employed by a state agency or department under this section is irrevocable. The board shall accept written elections under this section from ~~eligible employees~~ peace officers and correctional officers employed by a state agency or department during the period beginning on July 1, 1999, and ending ~~12:01 a.m.~~ 5:00 p.m. December ~~14, 2001~~ 16, 2005. ~~An eligible employee~~ A peace officer or correctional officer employed by a state agency or department who does not make a written election or who does not file the election during the period specified in this section continues to be a member of the public employees retirement system. ~~An eligible employee~~ A peace officer or correctional officer employed by a state agency or department who makes and files a written election under this section ceases to be a member of the public employees retirement system effective twelve midnight December 31, ~~2001~~ 2005; becomes a participating member in the defined contribution retirement plan under this chapter effective 12:01 a.m. January 1, ~~2002~~2006; and waives all of that person's rights to a pension, annuity, retirement allowance, insurance benefit, or any other benefit under the public employees retirement system effective December 31, ~~2001~~ 2005. This section does not affect a person's right to health benefits or retiree health benefits under chapter 54-52.1. An eligible employee who is first employed and entered upon the payroll of that person's employer after September 30, 2001, and a peace officer or correctional officer employed by a political subdivision who is first employed and entered upon the payroll of that person's employer after the effective date of this Act, and a peace officer or correctional officer employed by a state agency or department who is first employed and entered upon the payroll of that person's employer after September 30, 2005, may make an election to participate in the defined contribution retirement plan established under this chapter at any time during the first six months after the date of employment. If the board, in its sole discretion, determines that the employee was not adequately notified of the

employee's option to participate in the defined contribution retirement plan, the board may provide the employee a reasonable time within which to make that election, which may extend beyond the original six-month decision window.

SECTION 14. A new section to chapter 54-52.6 of the North Dakota Century Code is created and enacted as follows:

Political subdivisions authorized to join defined contribution retirement plan.

1. A political subdivision, on behalf of its peace officers and correctional officers, may enter an agreement with the retirement board for the purpose of extending the benefits of the defined contribution retirement plan, as provided in this chapter, to those employees. The agreement may contain, in accordance with this chapter, provisions relating to contributions, effective date, modification, administration, and other appropriate provisions as the retirement board and the political subdivision may agree, but the agreement must provide that:

   a. The political subdivision will contribute on behalf of each eligible employee an amount equal to that provided in section 6 of this Act.

   b. A portion of the moneys paid by the political subdivision may be used to pay administrative expenses of the retirement board.

2. A political subdivision that merges an existing police pension plan into the public employees retirement system must provide an opportunity for its members to elect to participate in the defined contribution retirement plan under rules adopted by and in a manner determined by the board.

SECTION 15. AMENDMENT. Section 54-52.6-03 of the North Dakota Century Code is amended and reenacted as follows:

54-52.6-03. Transfer of accumulated fund balances. For an individual who elects to terminate membership in the public employees retirement system under chapter 54-52, the board shall transfer a lump sum amount from the retirement fund to the participating member's account in the defined contribution retirement plan under this chapter. However, if the individual terminates employment prior to receiving the lump sum transfer under this section, the election made under section 54-52.6-02 is ineffective and the individual remains a member of the public employees retirement system under chapter 54-52 and retains all the rights and benefits provided under that chapter. The board shall calculate the amount to be transferred for ~~persons~~ peace officers and correctional officers employed by a state agency or department before October 1, ~~2001~~ 2005, using the two following formulas, and shall transfer the greater of the two amounts obtained:

1. The actuarial present value of the individual's accumulated benefit obligation under the public employees retirement system based on the assumption that the individual will retire under the earliest applicable normal retirement age, plus interest from January 1,~~2004~~ 2006, to the date of transfer, at the rate of one-half of one percent less than the actuarial interest assumption at the time of the election; or

2. The actual employer contribution made, less vested employer contributions made pursuant to section 54-52-11.1, plus compound interest at the rate of one-half of one percent less than the actuarial interest assumption at the time of the election plus the employee account balance.

The board shall calculate the amount to be transferred for persons employed after September 30, ~~2001~~ 2005, using only the formula contained in subsection 2.

SECTION 16. A new section to chapter 54-52.6 of the North Dakota Century Code is created and enacted as follows:

Contribution by peace officers and correctional officers employed by political subdivisions - Employer contribution.Each peace officer and correctional officer employed by a political subdivision who participates in the defined contribution retirement plan established under this chapter is assessed and shall pay monthly four percent of the employee's monthly salary or wage paid to the participant. The assessment must be deducted and retained out of the employee's salary in equal

monthly installments. The peace officer's or correctional officer's employer shall contribute an amount equal to that paid by the employer under section 6 of this Act for peace officer and correctional officer members of the public employees retirement system defined benefit retirement plan. The employer's contribution must be paid from funds appropriated for salary or from any other funds available for such purposes. If the peace officer's or correctional officer's assessment is paid by the employer under subsection 3 of section 54-52.6-09, the employer shall contribute, in addition, an amount equal to the required peace officer's or correctional officer's assessment.

SECTION 17. AMENDMENT. The new section to chapter 54-52.6 of the North Dakota Century Code as created by section 17 of this Act, as approved by the fifty-eighth legislative assembly, is amended and reenacted as follows:

Contribution by peace officers and correctional officers~~employed by political subdivisions~~ - Employer contribution. Each peace officer and correctional officer ~~employed by a political subdivision~~ who participates in the defined contribution retirement plan established under this chapter is assessed and shall pay monthly four percent of the employee's monthly salary or wage paid to the participant. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's or correctional officer's employer shall contribute an amount equal to that paid by the employer under section 6 of this Act for peace officer and correctional officer members of the public employees retirement system defined benefit retirement plan. The employer's contribution must be paid from funds appropriated for salary or from any other funds available for such purposes. If the peace officer's or correctional officer's assessment is paid by the employer under subsection 3 of section 54-52.6-09, the employer shall contribute, in addition, an amount equal to the required peace officer's or correctional officer's assessment.

SECTION 18. EFFECTIVE DATE. Sections 2, 7, 9, 11, 13, 15, and 17 become effective on July 1, 2005."

Renumber accordingly

HOUSE AMENDMENTS TO REENGROSSED SENATE BILL NO. 2222

In lieu of the amendments adopted by the House as printed on pages 923 and 924 of the House Journal, Reengrossed Senate Bill No. 2222 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact four new sections to chapter 4-14.1 of the North Dakota Century Code, relating to ethanol production subsidies; to amend and reenact sections 4-14.1-07, 39-04-39, and 57-43.1-03.1 of the North Dakota Century Code, relating to the distribution of motor vehicle registration fees and the taxation of motor vehicle fuel for agricultural purposes; to repeal section 4-14.1-07 of the North Dakota Century Code, relating to the duration and limitation of ethanol plant production incentives; to provide for a continuing appropriation; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 4-14.1 of the North Dakota Century Code is created and enacted as follows:

Definition. In this chapter, unless the context otherwise requires, "eligible facility" means an ethanol production plant constructed in this state after July 31, 2003.

SECTION 2. A new section to chapter 4-14.1 of the North Dakota Century Code is created and enacted as follows:

Ethanol production incentive - Calculation - Payment. The agricultural products utilization commission shall provide quarterly to each eligible facility a production incentive based on the average North Dakota price per bushel of corn received by farmers during the quarter, as established by the North Dakota agricultural statistics service and the average North Dakota rack price per gallon [3.79 liters] of ethanol during the quarter, as compiled by the American coalition for ethanol. The amount payable as a production incentive must be calculated by including the sum arrived at under subsection 1 with the sum arrived at under subsection 2.

1. a. If the average quarterly price per bushel of corn is above one dollar and eighty cents, for each one cent by which the quarterly price is

above one dollar and eighty cents, the agricultural products utilization commission shall add to the amount payable under this section one-tenth of one cent times the number of gallons of ethanol produced by the eligible facility during the quarter.

b. If the average quarterly price per bushel of corn is one dollar and eighty cents, the agricultural products utilization commission shall add zero to any amount payable under this section.

c. If the average quarterly price per bushel of corn is below one dollar and eighty cents, for each one cent by which the quarterly price is below one dollar and eighty cents, the agricultural products utilization commission shall subtract from the amount payable under this section one-tenth of one cent times the number of gallons of ethanol produced by the eligible facility during the quarter.

2. a. If the average quarterly rack price per gallon of ethanol is above one dollar and thirty cents, for each one cent by which the average quarterly rack price is above one dollar and thirty cents, the agricultural products utilization commission shall subtract from the amount payable under this section, two-tenths of one cent times the number of gallons of ethanol produced by the eligible facility during the quarter.

b. If the average quarterly rack price per gallon of ethanol is one dollar and thirty cents, the agricultural products utilization commission shall subtract zero from any amount payable under this section.

c. If the average quarterly rack price per gallon of ethanol is below one dollar and thirty cents, for each one cent by which the average quarterly rack price is below one dollar and thirty cents, the agricultural products utilization commission shall add to the amount payable under this section two-tenths of one cent times the number of gallons of ethanol produced by the eligible facility during the quarter.

SECTION 3. A new section to chapter 4-14.1 of the North Dakota Century Code is created and enacted as follows:

Subsidy limitations. The agricultural products utilization commission may not distribute more than one million six hundred thousand dollars annually in payments under section 2 of this Act. No eligible facility may receive state ethanol payments that exceed a cumulative total of ten million dollars. Change in ownership of an eligible facility does not affect the ten million dollar cumulative total allowed to be paid to that eligible facility under this section.

SECTION 4. A new section to chapter 4-14.1 of the North Dakota Century Code is created and enacted as follows:

Ethanol production incentive fund - Continuing appropriation. There is created in the state treasury a special fund known as the ethanol production incentive fund. The fund consists of transfers made in accordance with section 39-04-39 and deposits made in accordance with section 57-43.1-03.1. All moneys in the fund are appropriated on a continuing basis to the agricultural products utilization commission for use in paying ethanol production incentives under sections 2 and 3 of this Act and section 4-14.1-07.

SECTION 5. AMENDMENT. Section 4-14.1-07 of the North Dakota Century Code is amended and reenacted as follows:

4-14.1-07. Duration and limitation of ethanol plant production incentives - Report to budget section**.**~~Notwithstanding any other provision of law, an ethanol plant may not receive production incentives except as permitted under this section.~~

1. ~~An ethanol plant that was in operation before July 1, 1995, may not receive production incentives in the form of direct payments from the state for more than fourteen fiscal years of operation after June 30, 1995. An ethanol plant that begins operation after June 30, 1995, may not receive production incentives in the form of direct payments from the state for more than fourteen fiscal years of operation. After December 31, 2009, the state may not provide production incentives in the form of direct payments to any ethanol plant.~~

~~2.~~ An ethanol plant that was in operation before July 1, 1995, and which has a production capacity of fewer than fifteen million gallons [56781000 liters] of ethanol may receive up to ~~seven~~ six hundred ~~fifty~~ thousand dollars in production incentives from the state for production in a fiscal year. An ethanol plant that was in operation before July 1, 1995, and which produced fifteen million [56781000 liters] or more gallons in the previous fiscal year ~~and an ethanol plant that begins operations after June 30, 1995, are each~~ is eligible to receive ~~an equal share in~~ up to~~five~~ three hundred thousand dollars in production incentives from the state in a fiscal year.

2. The agricultural products utilization commission shall determine the amount of production incentives to which a plant is entitled under this section by multiplying the number of gallons of ethanol produced by the plant and marketed to a distributor or wholesaler by forty cents. The commission shall forward the production incentives to the plant upon receipt of an affidavit by the plant indicating that the ethanol is to be sold at retail to consumers. The affidavit must be accompanied by an affidavit from a wholesaler or retailer indicating that the ethanol is to be sold at retail to consumers. Within ninety days after the conclusion of the plant's fiscal year, the plant shall submit to the budget section of the legislative council a statement by a certified public accountant indicating whether the plant produced a profit from its operation in the preceding fiscal year, after deducting the payments received under this section.

SECTION 6. AMENDMENT. Section 39-04-39 of the North Dakota Century Code is amended and reenacted as follows:

39-04-39. Distribution of registration fees collected. Any moneys in the registration fund accruing from license fees or from other like sources, in excess of the amount required to pay salaries and other necessary expenses, in accordance with the legislative assembly's appropriation for such purposes, must be promptly deposited in the highway tax distribution fund which must be distributed in the manner as prescribed by law. The state treasurer shall transfer annually from the highway tax distribution fund to the ethanol production incentive fund an amount equal to forty percent of all sums collected for the registration of farm vehicles under subsection 5 of section 39-04-19 except that no transfer may be made in an amount that would result in the balance of the ethanol production incentive fund exceeding five million dollars.

SECTION 7. AMENDMENT. Section 57-43.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

57-43.1-03.1. ~~(Effective through December 31, 2003)~~ Refund of tax for fuel used for agricultural purposes - Reductions. Any consumer who buys or uses any motor vehicle fuel for an agricultural purpose on which the motor vehicle fuel tax has been paid may file a claim with the commissioner for a refund under this chapter. The amount of the tax refund under this section must be reduced by seven cents per gallon [3.79 liters] except for those fuels used in aircraft or with respect to refunds claimed by aircraft fuel users. Two cents per gallon [3.79 liters] withheld from the refund must be deposited in the agricultural fuel tax fund, one cent per gallon [3.79 liters] withheld from the refund must be~~retained~~ deposited in the ~~highway tax distribution~~ ethanol production incentive fund, and four cents per gallon [3.79 liters] withheld from the refund must be deposited in the agricultural research fund.

~~**(Effective January 1, 2004) Refund of tax for fuel used for agricultural purposes - Reductions.** Any consumer who buys or uses any motor vehicle fuel for an agricultural purpose on which the motor vehicle fuel tax has been paid may file a claim with the commissioner for a refund under this chapter. The amount of the tax refund under this section must be reduced by six cents per gallon [3.79 liters] except for those fuels used in aircraft or with respect to refunds claimed by aircraft fuel users. Two cents per gallon [3.79 liters] withheld from the refund must be deposited in the agricultural fuel tax fund and four cents per gallon [3.79 liters] withheld from the refund must be deposited in the agricultural research fund.~~

SECTION 8. REPEAL. Section 4-14.1-07 of the North Dakota Century Code is repealed.

SECTION 9. EFFECTIVE DATE. Section 8 of this Act becomes effective on July 1, 2005."

Renumber accordingly

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2337

Page 1, line 3, replace "a continuing" with "an"

Page 1, line 13, after "must" insert "not" and remove "deposited in the"

Page 1, remove line 14

Page 1, line 15, remove "section 57-39.2-26 or"

Page 1, line 16, remove "The amounts in the Lewis and Clark bicentennial"

Page 1, replace lines 17 through 19 with:

"**SECTION 2. APPROPRIATION - DEPARTMENT OF COMMERCE - TOURISM DIVISION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of $2,900,000, or so much of the sum as may be necessary, to the department of commerce division of tourism for the purpose of defraying the expenses of out-of-state marketing relating to the Lewis and Clark bicentennial celebration, for the biennium beginning July 1, 2003, and ending June 30, 2005. The amount spent pursuant to this section may not exceed the amount of revenue generated from the separate and additional tax imposed under section 1 of this Act, for the biennium beginning July 1, 2003, and ending June 30, 2005."

Page 1, line 20, replace "This" with "Section 1 of this"

Renumber accordingly

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2360

Page 1, line 3, replace "appropriation" with "expiration date"

Page 1, line 7, remove "**and grants**"

Page 1, line 10, remove "The Bank may issue up to one"

Page 1, line 11, remove "hundred fifty loans during the biennium."

Page 1, line 12, replace "four" with "seven", after "thousand" insert "five hundred", and after "dollars" insert ", less any amount received by the student in the form of employer matching grants, financial aid, third-party training program dollars, income, unemployment insurance benefits, or workers' compensation benefits, during the period of the truckdriver training program"

Page 1, line 15, after "of" insert "or withdrawal from"

Page 1, line 16, replace "thirty-six" with "sixty"

Page 1, replace lines 18 through 24 with:

"**SECTION 2. EXPIRATION DATE.** This Act is effective through June 30, 2007, and after that date is ineffective."

Page 2, remove lines 1 through 10

Renumber accordingly

HOUSE AMENDMENTS TO SENATE BILL NO. 2385

Page 2, line 26, remove "In"

Page 2, remove lines 27 through 30

Renumber accordingly

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2405

Page 4, line 21, after "through" insert "eighty days following"

Renumber accordingly

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

MR. PRESIDENT: The House has amended, subsequently passed, and the emergency clause carried: SB 2261.

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2261

Page 1, line 1, remove "a new section to chapter 6-09,"

Page 1, remove lines 10 through 16

Page 9, line 13, after the third "agreement" insert "entered as part of a long-term lease and leaseback transaction"

Renumber accordingly

MOTION

SEN. CHRISTMANN MOVED that the Senate be on the Fourth, Fifth, Seventh, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 8:00 a.m., Wednesday, April 2, 2003, which motion prevailed.

REPORT OF STANDING COMMITTEE

HB 1264, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1264 was placed on the Sixth order on the calendar.

Page 1, line 14, remove "a"

Page 1, line 15, replace "licensee to the owners of the licensee who were owners as of January 1," with "business entity licensed as an insurance producer for crop insurance between August 1, 2001, and December 31, 2002."

Page 1, remove line 16

Page 1, line 23, replace "twenty-five" with "fifty"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1478, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1478 was placed on the Fourteenth order on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2190: Your conference committee (Sens. J. Lee, Christenson, Syverson and Reps. Grande, Eckre, Boehning) recommends that the **SENATE ACCEDE** to the House amendments on SJ pages 770-771 and place SB 2190 on the Seventh order.

SB 2190 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