

## JOURNAL OF THE HOUSE

## Sixtieth Legislative Assembly

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Bismarck, March 23, 2007

The House convened at 8:00 a.m., with Speaker Delzer presiding.

The prayer was offered by Sister Ivo Schoch with Corpus Christi Catholic Church, Bismarck.

The roll was called and all members were present except Representatives DeKrey, Froelich, Froseth, Hofstad, and Zaiser.

A quorum was declared by the Speaker.

**SIXTH ORDER OF BUSINESS**

**SPEAKER DELZER DEEMED** approval of the amendments to SB 2094, Engrossed SB 2126, and Engrossed SB 2336.

SB 2094, Engrossed SB 2126, and Engrossed SB 2336, as amended, were placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

**CONSIDERATION OF MESSAGE FROM THE SENATE**

**REP. SVEDJAN MOVED** that the House do not concur in the Senate amendments to Engrossed HB 1010 as printed on HJ pages 947-948 and that a conference committee be appointed to meet with a like committee from the Senate, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE SPEAKER APPOINTED** as a Conference Committee on Engrossed HB 1010: Reps. Wieland, Kreidt, Kerzman.

**CONSIDERATION OF MESSAGE FROM THE SENATE**

**REP. KEISER MOVED** that the House do not concur in the Senate amendments to Engrossed HB 1088 as printed on HJ page 858 and that a conference committee be appointed to meet with a like committee from the Senate, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE SPEAKER APPOINTED** as a Conference Committee on Engrossed HB 1088: Reps. Dosch, Dietrich, Amerman.

**CONSIDERATION OF MESSAGE FROM THE SENATE**

**REP. DEKREY MOVED** that the House do not concur in the Senate amendments to Engrossed HB 1092 as printed on HJ pages 907-908 and that a conference committee be appointed to meet with a like committee from the Senate, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE SPEAKER APPOINTED** as a Conference Committee on Engrossed HB 1092: Reps. Kretschmar, Dahl, Delmore.

**CONSIDERATION OF MESSAGE FROM THE SENATE**

**REP. BELTER MOVED** that the House do not concur in the Senate amendments to Engrossed HB 1093 as printed on HJ page 1068 and that a conference committee be appointed to meet with a like committee from the Senate, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE SPEAKER APPOINTED** as a Conference Committee on Engrossed HB 1093: Reps. Weiler, Grande, Pinkerton.

**CONSIDERATION OF MESSAGE FROM THE SENATE**

**REP. PORTER MOVED** that the House do not concur in the Senate amendments to Engrossed HB 1146 as printed on HJ page 1079 and that a conference committee be appointed to meet with a like committee from the Senate, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE SPEAKER APPOINTED** as a Conference Committee on Engrossed HB 1146: Reps. Damschen, Hofstad, Hanson.

**CONSIDERATION OF MESSAGE FROM THE SENATE**

**REP. PORTER MOVED** that the House do not concur in the Senate amendments to HB 1149 as printed on HJ page 844 and that a conference committee be appointed to meet with a like committee from the Senate, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE SPEAKER APPOINTED** as a Conference Committee on HB 1149: Reps. Nottestad, DeKrey, Hunsakor.

**CONSIDERATION OF MESSAGE FROM THE SENATE**

**REP. HERBEL MOVED** that the House do not concur in the Senate amendments to Engrossed HB 1157 as printed on HJ page 948 and that a conference committee be appointed to meet with a like committee from the Senate, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE SPEAKER APPOINTED** as a Conference Committee on Engrossed HB 1157: Reps. N. Johnson, Griffin, Hatlestad.

**CONSIDERATION OF MESSAGE FROM THE SENATE**

**REP. KEISER MOVED** that the House do not concur in the Senate amendments to Engrossed HB 1278 as printed on HJ page 1001 and that a conference committee be appointed to meet with a like committee from the Senate, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE SPEAKER APPOINTED** as a Conference Committee on Engrossed HB 1278: Reps. Vigesaa, Dosch, Thorpe.

**CONSIDERATION OF MESSAGE FROM THE SENATE**

**REP. BELTER MOVED** that the House do not concur in the Senate amendments to Engrossed HB 1303 as printed on HJ pages 1025-1026 and that a conference committee be appointed to meet with a like committee from the Senate, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE SPEAKER APPOINTED** as a Conference Committee on Engrossed HB 1303: Reps. Drovdal, Headland, Vig.

**CONSIDERATION OF MESSAGE FROM THE SENATE**

**REP. BELTER MOVED** that the House do not concur in the Senate amendments to Engrossed HB 1317 as printed on HJ pages 1046-1047 and that a conference committee be appointed to meet with a like committee from the Senate, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE SPEAKER APPOINTED** as a Conference Committee on Engrossed HB 1317: Reps. Brandenburg, Headland, S. Kelsh.

**CONSIDERATION OF MESSAGE FROM THE SENATE**

**REP. HAAS MOVED** that the House do not concur in the Senate amendments to HB 1380 as printed on HJ page 826 and that a conference committee be appointed to meet with a like committee from the Senate, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE SPEAKER APPOINTED** as a Conference Committee on HB 1380: Reps. Froseth, Boehning, Amerman.

**CONSIDERATION OF MESSAGE FROM THE SENATE**

**REP. PORTER MOVED** that the House do not concur in the Senate amendments to Engrossed HB 1402 as printed on HJ page 845 and that a conference committee be appointed to meet with a like committee from the Senate, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE SPEAKER APPOINTED** as a Conference Committee on Engrossed HB 1402: Reps. Drovdal, Clark, Hanson.

**CONSIDERATION OF MESSAGE FROM THE SENATE**

**REP. PRICE MOVED** that the House do not concur in the Senate amendments to HB 1422 as printed on HJ pages 1068-1070 and that a conference committee be appointed to meet with a like committee from the Senate, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE SPEAKER APPOINTED** as a Conference Committee on HB 1422: Reps. Weisz, Hofstad, Potter.

**CONSIDERATION OF MESSAGE FROM THE SENATE**

**REP. DEKREY MOVED** that the House do not concur in the Senate amendments to Engrossed HB 1507 as printed on HJ pages 1048-1049 and that a conference committee be appointed to meet with a like committee from the Senate, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE SPEAKER APPOINTED** as a Conference Committee on Engrossed HB 1507: Reps. Koppelman, Charging, Griffin.

**CONSIDERATION OF MESSAGE FROM THE SENATE**

**REP. PORTER MOVED** that the House do not concur in the Senate amendments to Engrossed HB 1513 as printed on HJ page 931 and that a conference committee be appointed to meet with a like committee from the Senate, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE SPEAKER APPOINTED** as a Conference Committee on Engrossed HB 1513: Reps. Hofstad, DeKrey, Solberg.

**SECOND READING OF SENATE BILL**

**SB 2238:** A BILL for an Act to amend and reenact section 16.1-05-01, subsection 5 of section 16.1-05-02, subsections 3 and 4 of section 16.1-05-04, and subsections 4 and 5 of section 16.1-05-06 of the North Dakota Century Code, relating to election officers.

**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 77 YEAS, 12 NAYS, 0 EXCUSED, 5 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Belter; Berg; Boe; Boehning; Boucher; Brandenburg; Carlisle; Carlson; Charging; Clark; Conrad; Dahl; Damschen; DeKrey; Delmore; Dietrich; Dosch; Drovdal; Ekstrom; Froelich; Grande; Gruchalla; Haas; Hanson; Hatlestad; Hawken; Headland; Heller; Herbel; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kempenich; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kroeber; Martinson; Meier, L.; Metcalf; Monson; Mueller; Myxter; Nelson; Nottestad; Onstad; Owens; Pietsch; Pinkerton; Pollert; Porter; Potter; Price; Ruby; Schneider; Solberg; Sukut; Svedjan; Thoreson; Thorpe; Uglem; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Wolf

**NAYS:** Aarsvold; Bellew; Griffin; Gulleson; Karls; Kretschmar; Meyer, S.; Schmidt; Skarphol; Vig; Wrangham; Speaker Delzer

**ABSENT AND NOT VOTING:** Froseth; Glassheim; Hofstad; Kerzman; Zaiser

SB 2238, as amended, passed and the title was agreed to.

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**SECOND READING OF SENATE BILL**

**SB 2181:** A BILL for an Act to create and enact a new section to chapter 14-10 of the North Dakota Century Code, relating to consent for prenatal care and other pregnancy care services provided to minors.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 46 YEAS, 46 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Aarsvold; Amerman; Boe; Boucher; Charging; Conrad; Dahl; Delmore; Ekstrom; Froelich; Glassheim; Griffin; Gruchalla; Gulleson; Haas; Hanson; Hatlestad; Hawken; Johnson, N.; Kaldor; Keiser; Kelsch, R.; Kelsh, S.; Kerzman; Klemin; Kroeber; Martinson; Metcalf; Meyer, S.; Mueller; Myxter; Nelson; Nottestad; Onstad; Pietsch; Pinkerton; Porter; Potter; Price; Schmidt; Schneider; Solberg; Thorpe; Uglem; Wolf; Zaiser

**NAYS:** Bellew; Belter; Berg; Boehning; Brandenburg; Carlisle; Carlson; Clark; Damschen; DeKrey; Dietrich; Dosch; Drovdal; Grande; Headland; Heller; Herbel; Hunskor;

Johnson, D.; Karls; Kasper; Kempenich; Kingsbury; Klein; Koppelman; Kreidt; Kretschmar; Meier, L.; Monson; Owens; Pollert; Ruby; Skarphol; Sukut; Svedjan; Thoreson; Vig; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Wrangham; Speaker Delzer

**ABSENT AND NOT VOTING:** Froseth; Hofstad

SB 2181, as amended, lost for want of a Constitutional majority.

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#### MOTION

**REP. MONSON MOVED** that SB 2345 be moved to the top of the Fourteenth order, which motion prevailed.

#### SECOND READING OF SENATE BILL

**SB 2345:** A BILL for an Act to authorize the state water commission to issue bonds for the Red River valley water supply project; and to amend and reenact section 61-02.1-05 of the North Dakota Century Code, relating to the water development trust fund.

#### 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 92 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Aarsvold; Amerman; Bellew; Belter; Berg; Boe; Boehning; Boucher; Brandenburg; Carlisle; Carlson; Charging; Clark; Conrad; Dahl; Damschen; DeKrey; Delmore; Dietrich; Dosch; Drovda; Ekstrom; Froelich; Glassheim; Grande; Griffin; Gruchalla; Gulleston; Haas; Hanson; Hatlestad; Hawken; Headland; Heller; Herbel; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kempenich; Kerzman; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Martinson; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Myxter; Nelson; Nottestad; Onstad; Owens; Pietsch; Pinkerton; Pollert; Porter; Potter; Price; Ruby; Schmidt; Schneider; Skarphol; Solberg; Sukut; Svedjan; Thoreson; Thorpe; Uglem; Vig; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Wolf; Wrangham; Zaiser; Speaker Delzer

**ABSENT AND NOT VOTING:** Froseth; Hofstad

Engrossed SB 2345 passed and the title was agreed to.

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

**MR. SPEAKER:** Your signature is respectfully requested on: SCR 4005, SCR 4006, SCR 4008, SCR 4017, SCR 4018, SCR 4019, SCR 4025, SCR 4028, SCR 4029.

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

**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1073, HB 1365, HB 1477, HCR 3022, HCR 3036, HCR 3041, HCR 3043, HCR 3062.

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

**MR. PRESIDENT:** The Speaker has signed: SB 2160, SB 2201, SB 2305, SCR 4005, SCR 4006, SCR 4008, SCR 4017, SCR 4018, SCR 4019, SCR 4025, SCR 4029.

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

**MR. PRESIDENT:** The House has passed unchanged: SB 2345.

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

**MR. PRESIDENT:** The House has amended and subsequently passed: SB 2238.

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

**MR. PRESIDENT:** The House does not concur in the Senate amendments to HB 1010, HB 1088, HB 1092, HB 1093, HB 1146, HB 1149, HB 1157, HB 1278, HB 1303, HB 1317, HB 1380, HB 1402, HB 1422, HB 1507, and HB 1513 and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

**HB 1010:** Reps. Wieland; Kreidt; Kerzman

**HB 1088:** Reps. Dosch; Dietrich; Amerman

**HB 1092:** Reps. Kretschmar; Dahl; Delmore

**HB 1093:** Reps. Weiler; Grande; Pinkerton  
**HB 1146:** Reps. Damschen; Hofstad; Hanson  
**HB 1149:** Reps. Nottestad; DeKrey; Hunskor  
**HB 1157:** Reps. N. Johnson; Hatlestad; Griffin  
**HB 1278:** Reps. Vigesaa; Dosch; Thorpe  
**HB 1303:** Reps. Drovdal; Headland; Vig  
**HB 1317:** Reps. Brandenburg; Headland; S. Kelsh  
**HB 1380:** Reps. Froseth; Boehning; Amerman  
**HB 1402:** Reps. Drovdal; Clark; Hanson  
**HB 1422:** Reps. Weisz; Hofstad; Potter  
**HB 1507:** Reps. Koppelman; Charging; Griffin  
**HB 1513:** Reps. Hofstad; DeKrey; Solberg

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1197, HB 1246, HB 1319, HB 1394, HB 1429.

**SENATE AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1197**

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

Page 2, line 8, after "offense" insert "or an individual arrested for the commission of a felony offense after July 31, 2009,"

Page 3, line 8, remove "**CONTINGENT**" and replace "is contingent on the receipt" with "becomes effective on August 1, 2009"

Page 3, remove lines 9 through 11

Page 3, line 12, remove "Act"

Renumber accordingly

**SENATE AMENDMENTS TO HOUSE BILL NO. 1246**

Page 1, line 3, after the semicolon insert "to provide for a report to the legislative council; to provide an effective date;"

Page 1, line 7, after "**reimbursement**" insert "**- Report to legislative council**"

Page 1, line 8, after the first "services" insert "for medical assistance recipients from birth through twenty years of age" and after the second "services" insert "and for medical assistance recipients age twenty-one and older at the rate of seventy-five percent of billed services"

Page 1, line 11, after the underscored period insert "By October 1, 2008, the department of human services shall report to the legislative council regarding the impact of this Act on access to dental services by medical assistance recipients."

Page 1, line 13, replace "\$1,150,106" with "\$660,678"

Page 1, line 15, replace "\$2,042,955" with "\$1,173,519"

Page 1, after line 17, insert:

**"SECTION 3. EFFECTIVE DATE.** This Act becomes effective on January 1, 2008."

Renumber accordingly

**SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1319**

Page 1, line 1, replace "three" with "two"

Page 1, replace lines 13 through 24 with:

"b. When used in lawful self-defense, or in lawful defense of others, if such force is necessary to protect the actor or anyone else against death, serious bodily injury, or the commission of a felony involving violence. The use of deadly force is not justified if it can be avoided, with safety to the actor and others, by retreat or other conduct involving minimal interference with the freedom of the ~~person~~ individual menaced. ~~A person~~ An individual seeking to protect

~~someone else~~ another individual must, before using deadly force, try to cause ~~that person~~ the other individual to retreat, or otherwise comply with the requirements of this provision, if safety can be obtained thereby. ~~But, (1) a~~ However, the duty to retreat or avoid force does not apply under the following circumstances:

- (1) A public servant justified in using force in the performance of ~~his~~ the public servant's duties or ~~a person~~ an individual justified in using force in ~~his assistance~~ assisting the public servant need not desist from ~~his~~ the public servant's or individual's efforts because of resistance or threatened resistance by or on behalf of the ~~person~~ other individual against whom ~~his~~ the public servant's or individual's action is directed; and ~~(2) no person~~
- (2) An individual is not required to retreat within or from his that individual's dwelling or place of work or from an occupied motor home or travel trailer as defined in section 39-01-01, unless ~~he~~ the individual was the original aggressor or is assailed by a ~~person~~ another individual who ~~he~~ the individual knows also dwells or works there or who is lawfully in the motor home or travel trailer."

Page 2, remove lines 1 through 3

Page 2, line 5, overstrike "a" and replace "vehicle" with "an occupied motor home or travel trailer as defined in section 39-01-01"

Page 2, line 8, replace "vehicle" with "occupied motor home or travel trailer"

Page 3, line 12, replace "defensive" with "deadly"

Page 3, line 13, after "entered" insert "and remains within"

Page 3, line 14, replace "vehicle" with "motor home or travel trailer as defined in section 39-01-01"

Page 3, line 16, replace "vehicle" with "motor home or travel trailer as defined in section 39-01-01"

Page 3, line 17, replace "defensive" with "deadly"

Page 3, after line 19, insert:

"2. The presumption in subsection 1 may be rebutted by proof beyond a reasonable doubt that the individual who used the deadly force did not have a reasonable fear of imminent peril of death or serious bodily injury to that individual or another."

Page 3, line 20, replace "2." with "3.", after "presumption" insert "in subsection 1", and after "if" insert "the court finds that any of the following have occurred"

Page 3, line 21, replace "defensive" with "deadly"

Page 3, line 22, replace "vehicle" with "occupied motor home or travel trailer as defined in section 39-01-01"

Page 3, line 23, replace "an injunction for protection from" with "a temporary or permanent"

Page 3, line 24, replace "or a written pretrial supervision" with "protection" and after "order" insert "or any other order"

Page 3, line 26, after "individual" insert "removed or"

Page 3, line 28, replace "defensive" with "deadly"

Page 3, line 29, replace "defensive" with "deadly" and replace "an unlawful activity" with "the commission of a crime"

Page 3, line 30, replace "vehicle" with "motor home or travel trailer as defined in section 39-01-01" and replace "an unlawful" with "the commission of a crime"

Page 3, line 31, remove "activity"

Page 4, line 1, replace "defensive" with "deadly"

Page 4, line 2, replace "vehicle" with "occupied motor home or travel trailer as defined in section 39-01-01"

Page 4, line 3, after "identification" insert ", if required,"

Page 4, line 4, after "law" insert "or warrant from a court," and after the first "or" insert "if"

Page 4, line 11, replace "unless" with "to" and after "used" insert "or to that individual's estate unless that individual"

Page 4, line 13, after "identification" insert ", if required,", after "law" insert "or warrant from a court,", and after "or" insert "if"

Page 4, line 16, replace the first underscored comma with "and" and replace ", compensation for" with "and disbursements"

Page 4, line 17, remove "loss of income, and all expenses"

Page 4, remove lines 20 through 25

Renumber accordingly

#### **SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1394**

Page 1, line 23, after the period insert "A skyrocket, customarily known as a bottle rocket, is not permissible if the outside diameter of the casing is less than five-eighths inch [15.875 millimeters] and the length of the casing is less than three and one-half inches [88.9 millimeters]."

Renumber accordingly

#### **SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1429**

Page 1, line 5, replace "section" with "the provisions of sections 54-27.2-01 and"

Page 1, line 8, replace "The provisions of section" with "This transfer will provide for a total of \$200,000,000 in the budget stabilization fund for the biennium beginning July 1, 2007, and ending June 30, 2009."

Page 1, remove line 9

Renumber accordingly

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

**MR. SPEAKER:** The Senate has passed, the emergency clause carried, unchanged: HB 1128.

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

**MR. SPEAKER:** The Senate has amended and subsequently failed: HB 1228.

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

**MR. SPEAKER:** The Senate has failed to pass: HB 1086.

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

**MR. SPEAKER:** The Senate has passed unchanged: HB 1091.

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

**MR. SPEAKER:** The Senate does not concur in the House amendments to SB 2109, SB 2111, SB 2125, SB 2146, SB 2154, SB 2165, SB 2236, SB 2247, SB 2251, SB 2277, SB 2293, SB 2309, SB 2389, SB 2392, SB 2406, SB 2411, and SCR 4001 and the President has appointed as a conference committee to act with a like committee from the House on:

**SB 2109:** Sens. J. Lee; Dever; Warner

**SB 2111:** Sens. Andrist; G. Lee; Bakke

**SB 2125:** Sens. Klein; Hacker; Heitkamp

**SB 2146:** Sens. G. Lee; Nething; Potter

**SB 2154:** Sens. Klein; Wanzek; Heitkamp

**SB 2165:** Sens. Nething; Andrist; Fiebiger  
**SB 2236:** Sens. Olafson; Hacker; Anderson  
**SB 2247:** Sens. Wanzek; Klein; Behm  
**SB 2251:** Sens. Lyson; Urlacher; Heitkamp  
**SB 2277:** Sens. Erbele; Wanzek; Heckaman  
**SB 2293:** Sens. Tollefson; Freborg; Heitkamp  
**SB 2309:** Sens. G. Lee; Flakoll; Taylor  
**SB 2389:** Sens. Wanzek; Hacker; Behm  
**SB 2392:** Sens. Cook; Hacker; Warner  
**SB 2406:** Sens. G. Lee; Andrist; Bakke  
**SB 2411:** Sens. Hacker; Andrist; Behm  
**SCR4001:** Sens. Tollefson; Urlacher; Triplett

#### MOTION

**REP. MONSON MOVED** that the absent members be excused, which motion prevailed.

#### MOTION

**REP. MONSON MOVED** that the House be on the Fifth and Thirteenth orders of business and at the conclusion of those orders, the House stand adjourned until 1:00 p.m., Monday, March 26, 2007, which motion prevailed.

#### REPORT OF STANDING COMMITTEE

**SB 2090: Government and Veterans Affairs Committee (Rep. Haas, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (8 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). SB 2090 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "section" with "sections 23-12-10 and"

Page 1, line 2, after "to" insert "smoking restrictions on the capitol grounds and to the"

Page 1, after line 3, insert:

**"SECTION 1. AMENDMENT.** Section 23-12-10 of the North Dakota Century Code is amended and reenacted as follows:

#### **23-12-10. Smoking restrictions - Exceptions - Retaliation - Application.**

1. In order to protect the public health and welfare and to recognize the need for individuals to breathe smoke-free air, smoking is prohibited in all enclosed areas of:
  - a. Public places; and
  - b. Places of employment.
2. The following areas are exempt from subsection 1:
  - a. Private residences, except when operating as a child care facility subject to licensure by the department of human services and when any child cared for under that license is present in that facility.
  - b. Hotel and motel rooms, and other places of lodging, that are rented to guests and are designated as smoking rooms.
  - c. Retail tobacco stores, provided that smoke from these places does not infiltrate into areas where smoking is prohibited under this section.
  - d. Outdoor areas of places of employment, except a sports arena.
  - e. Any area that is not commonly accessible to the public and which is part of an owner-operated business having no employee other than the owner-operator.
  - f. Bars.
  - g. Any place of public access rented or leased for private functions from which the general public and children are excluded and arrangements for the function are under the control of the function sponsor.



- h. Separately enclosed areas in truckstops which are accessible only to adults.
- 3. Smoking is prohibited in the following outdoor areas of the state capitol grounds:
  - a. Within one hundred feet [30.48 meters] of the main public entrances on the north, east, and west sides of the state capitol building;
  - b. With respect to the main public entrance on the south side of the state capitol building, within the greater of one hundred feet [30.48 meters] or the area designated by the office of management and budget as a smoke-free area in the policy that became effective on October 3, 2005; and
  - c. Within one hundred feet [30.48 meters] of the public entrances of all other buildings on the state capitol grounds.
- 4. The prohibition in subdivision a of subsection 3, with respect to the main public entrance on the east side of the state capitol building, does not apply to the enclosed structure, and the area immediately adjacent to the structure, designated as a smoking area, as it existed on January 1, 2007, which is located near the east entrance.
- 5. Smoking as part of a traditional American Indian spiritual or cultural ceremony is not prohibited.
- 4. 6. No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or other person because that person asserts or exercises any rights afforded by this section or reports or attempts to prosecute a violation of this section.
- 5. 7. This section may not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws."

Page 1, line 17, remove the overstrike over "~~Provided further, all moneys and other property in the capitol building fund~~"

Page 1, line 18, remove the overstrike over "~~are hereby dedicated and reserved to the exclusive purpose of the~~"

Page 1, remove the overstrike over lines 19 through 21

Page 1, line 23, after "exceed" insert "one hundred thousand dollars or"

Page 1, line 24, after the comma insert "whichever amount is less,"

Page 2, line 2, overstrike "but shall not exceed", remove "one hundred", and overstrike "thousand dollars per"

Page 2, line 3, overstrike "biennium"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2093, as engrossed: Government and Veterans Affairs Committee (Rep. Haas, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2093 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "to create and enact a new section to chapter 11-10 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to authorizing counties to enter purchasing card agreements;"

Page 1, line 3, after the second comma insert "and" and replace the second "and" with a comma

Page 1, line 4, remove "subsection 4 of section"

Page 1, line 6, replace "expenditures" with "authority"

Page 1, remove lines 17 through 24

Page 2, remove lines 1 through 16

Page 3, replace lines 12 through 31 with:

**"44-08-05.1. Payments - Requirements for approval Purchasing card authority - Penalty - Action for violations.**

1. Any public officer or employee who has the power to approve a payment for a department, agency, or institution for travel expenses or any other state expenditure of public funds shall determine before approving the payment:
  1. a. That the expenditure for travel or other expenditures were for lawful and official purposes.
  2. b. If for employee travel reimbursement, that the travel actually occurred and that the sums claimed for travel expenses are actually due the individual who is seeking reimbursement, allowance, or payment.
  3. c. If the payment is for expenditure other than travel expense, that the expenditure is lawful and that the payment contains no false claims.

~~For purchases made with the use of a purchasing card authorized under section 54-44.4-11, an~~

2. The director of the office of management and budget, the state board of higher education, the governing body of any political subdivision, and the board of any school district may establish and administer a purchasing card system for use by its officers, employees, representatives, or agents. If the director of the office of management and budget establishes a cooperative purchasing contract under section 54-44.4-13, each participating government entity is responsible for its purchasing card system.
3. An employee of the office of management and budget designated by the director of the office of management and budget, on behalf of all state agencies, may review and approve payments under this section made with a purchasing card and make payments pursuant thereto. The director of the office of management and budget may designate the state agencies that are required to use the purchasing card system.
4. Any public officer or employee who willfully fraudulently uses a purchasing card or knowingly approves a payment with knowledge it contains for false or unlawful claims or that it which does not otherwise meet the requirements of this section for approval is guilty of theft and punishable under chapter 12-1-23 may be subject to criminal prosecution under title 12.1. Any public officer or employee who, without the use of ordinary care and diligence, negligently uses a purchasing card or approves a payment for a department, agency, or institution containing false or unlawful claims or which does not otherwise meet the requirements of this section for approval is personally liable for any funds improperly expended. The director of the office of management and budget, members of the office of the budget, state auditor Any public officer, employee, or any other person individual who has knowledge of an actual or possible violation of this section shall make such that information known to the attorney general or the appropriate state's attorney. The attorney general or appropriate state's attorney shall investigate any alleged violation and, if a violation appears to exist, shall prosecute under chapter 12-1-23. If there is probable cause to believe that a violation has occurred, the attorney general or appropriate state's attorney shall initiate a criminal prosecution under title 12.1 or bring a civil suit against the public officer or employee for the recovery of such the funds as may actually have been improperly paid against the payee and officer or employee who approved the payment in violation of the above requirements or shall bring both such criminal action and civil suit. The officer or employee who approves any payment negligently has the right of subrogation against the payee of the payment in

the event public funds have been improperly paid to the payee, or may initiate a prosecution and a civil suit."

Page 4, remove lines 1 through 10

Page 4, line 11, replace "Subsection 4 of section" with "Section"

Page 4, replace lines 13 through 18 with:

**"54-44.4-11. Small purchases.**

1. A procurement not exceeding the amount established by written directive of the director of the office of management and budget ~~under section 54-44.4-02~~ or by the state board of higher education under subsection 5 of section 15-10-17 may be made in accordance with small purchase procedures.
2. A small purchase need not be made through competitive sealed bidding or competitive sealed proposals. However, small purchases must be made with competition that is practicable under the circumstances.
3. Procurement requirements may not be artificially divided as to constitute a small purchase under this section.
4. ~~The director of the office of management and budget may establish and administer, including by contract with a provider, a system of procurement for commodities agencies are authorized to purchase under this section. If the director establishes a purchasing card system under this subsection, the director may designate which agencies are required to use the purchasing card system for purchasing commodities under this section. The office of management and budget shall develop and operate a searchable web site or on the office's web site provide a link to a searchable web site accessible to the public at no cost to the user which lists, and updates monthly, each purchase made by a state agency through the use of a purchasing card. Each purchase listed must include the recipient of the funds, the amount of the purchase, the agency making the purchase, and any other information required by the office of management and budget."~~

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2121, as engrossed: Government and Veterans Affairs Committee (Rep. Haas, Chairman)** recommends **DO NOT PASS** (8 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2121 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2206, as engrossed: Agriculture Committee (Rep. D. Johnson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2206 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative council study of branding laws, penalties, registration, and certificates of ownership."

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

**SECTION 1. LEGISLATIVE COUNCIL STUDY - ANIMAL BRANDING.** During the 2007-08 interim, the legislative council shall study the branding of animals, brand recording, brand law enforcement, and penalties for violation of the branding laws. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly."

Renumber accordingly

## REPORT OF STANDING COMMITTEE

**SB 2268, as engrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2268 was placed on the Sixth order on the calendar.

Page 2, line 1, replace "hypothocating" with "hypothecating"

Page 3, line 18, after the underscored semicolon insert "and"

Page 3, line 20, remove "and"

Page 3, remove lines 21 and 22

Page 4, line 21, after the underscored semicolon insert "or"

Page 4, remove lines 22 through 25

Page 4, line 26, replace "f." with "e."

Page 6, line 6, replace "contact" with "contract"

Page 7, line 20, replace "on" with "one"

Page 9, line 19, after "policy" insert "that has been or will be the subject of a viatical settlement contract"

Page 11, line 12, after "fee" insert "for a provider license and a two hundred dollar fee for a broker license"

Page 12, line 10, replace "two" with "one"

Page 12, line 16, replace "two" with "one"

Page 12, line 20, replace "paragraph" with "section"

Page 12, line 25, remove "shall be in the favor"

Page 12, line 26, remove "of this state and" and replace "commission" with "commissioner"

Page 14, line 15, replace "on" with "one"

Page 14, line 27, remove "At the commissioner's discretion, the commissioner may"

Page 14, remove line 28

Page 23, line 25, replace "paid" with "delivered" and replace "viator" with "escrow agent by or on behalf of the settlement provider"

Page 23, line 28, after "loans" insert an underscored comma

Page 23, line 29, after "settlement" insert "provider"

Page 24, line 3, after "viator" insert "by the later of the expiration of the rescission period or"

Page 25, line 14, replace ", including the amount and" with an underscored semicolon

Page 25, removes lines 15 through 17

Page 26, line 1, remove "State whether the funds will be escrowed with an independent third party"

Page 26, line 2, replace "during the transfer process, and if so, provide" with "Provide"

Page 30, line 1, after "a" insert "viatical settlement", after the underscored comma insert "viatical settlement", and after "transaction" insert an underscored comma

Page 30, line 2, after "of" insert "viatical settlement"

Page 30, line 3, after "disclose" insert "all nonproprietary information" and replace "a" with "the details of the"

Page 30, line 7, after the underscored period insert "Any disclosure required under this section must be in writing."

Page 31, line 30, replace "an absolute" with "a"

Page 32, line 2, replace "viator" with "escrow agent by or on behalf of the viatical settlement provider"

Page 33, line 2, after the second "the" insert "later to occur of the expiration of any then remaining rescission period or the"

Page 33, line 28, after "application" insert "for"

Page 34, line 13, after "dies" insert "or no remaining beneficiaries are then surviving"

Page 35, line 7, after "settlement" insert "in connection with the issuance of the policy"

Page 35, line 10, remove "or other party entering into a"

Page 35, line 11, remove "viatical settlement contract with a viator"

Page 36, line 19, replace "No viatical settlement provider shall enter into a viatical settlement contract unless" with "It is unlawful for an insurance company to engage in any transaction, act, or practice or course of business or dealing which restricts, limits, or impairs in any way the lawful transfer of ownership, change of beneficiary, or assignment of a policy to effectuate a viatical settlement contract."

Page 36, remove lines 20 through 30

Page 37, line 1, remove "The purpose of this section is to"

Page 37, remove lines 2 through 14

Page 37, line 15, remove "2."

Page 37, line 24, after the underscored period insert "The commissioner may adopt rules to implement this section."

Page 37, remove lines 25 through 30

Page 38, remove lines 1 through 31

Page 39, remove lines 1 through 31

Page 40, remove lines 1 through 31

Page 41, remove lines 1 through 30

Page 42, remove lines 1 through 15

ReNUMBER accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2353, as reengrossed: Government and Veterans Affairs Committee (Rep. Haas, Chairman)** recommends **DO PASS** (10 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). Reengrossed SB 2353 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SCR 4022, as engrossed: Government and Veterans Affairs Committee (Rep. Haas, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SCR 4022 was placed on the Sixth order on the calendar.

Page 1, line 5, replace "a successful" with "at the" and after "efforts" insert ", it"

Page 1, line 14, after "Delegation" insert "and to the President of the United States"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SCR 4026, as engrossed: Government and Veterans Affairs Committee (Rep. Haas, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SCR 4026 was placed on the Tenth order on the calendar.**

**FIRST READING OF SENATE CONCURRENT RESOLUTION**

**SCR 4034:** A concurrent resolution proclaiming Monday, November 12, 2007, Smith-Lemli-Opitz Syndrome Awareness Day.  
Was read the first time and referred to the **Human Services Committee.**

The House stood adjourned pursuant to Representative Monson's motion.

**Buell J. Reich, Chief Clerk**