

## JOURNAL OF THE HOUSE

## Sixty-eighth Legislative Assembly

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Bismarck, February 3, 2023

The House convened at 12:30 p.m., with Speaker D. Johnson presiding.

The prayer was offered by National Chaplain Alice Delzer, AMVETS Ladies Auxiliary, Bismarck.

The roll was called and all members were present except Representative Kiefert.

A quorum was declared by the Speaker.

**COMMUNICATION FROM GOVERNOR DOUG BURGUM**

This is to inform you that on February 2, 2023, I have signed the following: HB 1199.

**SIXTH ORDER OF BUSINESS**

**SPEAKER D. JOHNSON DEEMED** approval of the amendments to HB 1303 and HB 1451.

HB 1451, as amended, was rereferred to the **Appropriations Committee**.

HB 1303, as amended, was placed on the Eleventh order of business on the calendar for the succeeding legislative day.

**SIXTH ORDER OF BUSINESS**

**HB 1439: REP. BOSCH (Finance and Taxation Committee) MOVED** that the amendments on HJ pages 495-496 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion failed on a verification vote.

**MOTION**

**REP. BOSCH MOVED** to suspend rule 601 (3a) and go to the Eleventh order immediately for second reading and final passage, which motion prevailed.

**MOTION**

**REP. LEFOR MOVED** that the House stand in recess for 5 minutes, which motion prevailed.

**THE HOUSE RECONVENED** pursuant to recess taken, with Speaker D. Johnson presiding.

**MOTION**

**REP. BOSCH MOVED** that the House reconsider its action whereby the amendments to HB 1439 lost.

**REQUEST**

**REP. MOCK REQUESTED** a verification vote, which request was granted.

The question being on the motion to reconsider the action whereby the amendments to HB 1439 lost, the motion prevailed on a verification vote.

**SIXTH ORDER OF BUSINESS**

**HB 1439: REP. BOSCH (Finance and Taxation Committee) MOVED** that the amendments on HJ pages 495-496 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a verification vote.

**MOTION**

**REP. BOSCH MOVED** to suspend rule 601 (3a) and go to the Eleventh order immediately for second reading and final passage, which motion prevailed.

**MOTION**

**REP. D. JOHNSON MOVED** that the House stand at ease for 5 minutes, which motion prevailed.

**THE HOUSE RECONVENED** pursuant to recess taken, with Speaker D. Johnson presiding.

**MOTION**

**REP. BOSCH MOVED** to reconsider the motion to suspend the rules and to act on the bill immediately and then **MOVED** to place HB 1439 on the Eleventh order on Monday's calendar, which motion prevailed on a voice vote.

**MOTION**

**REP. BOSCH MOVED** that HB 1439, which is on the Eleventh order, be laid over one legislative day, which motion prevailed.

**MOTION**

**REP. BOSCH MOVED** that HB 1504 be returned to the House floor from the **Industry, Business and Labor Committee** and be rereferred to the **Finance and Taxation Committee**, which motion prevailed.

Pursuant to Rep. Bosch's motion, HB 1504 was rereferred.

**MOTION**

**REP. BOSCH MOVED** that HB 1518, which is on the Eleventh order, be laid over one legislative day, which motion prevailed.

**MOTION**

**REP. SCHATZ MOVED** that the House reconsider its action whereby Engrossed HB 1298 failed to pass.

**REQUEST**

**REP. SCHATZ REQUESTED** a recorded roll call vote, which request was granted.

**ROLL CALL**

The question being on the motion to reconsider the action whereby Engrossed HB 1298 failed to pass, the roll was called and there were 50 YEAS, 43 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Anderson, D.; Anderson, K.; Bahl; Beltz; Bosch; Christensen; Christy; Conmy; Cory; Dakane; Davis; Dobervich; Dockter; Finley-DeVille; Fisher; Hager; Hagert; Hanson; Hauck; Heilman; Ista; Johnson, J.; Jonas; Kasper; Kempenich; Koppelman; Lefor; Longmuir; Louser; Marschall; Mock; Motschenbacher; Ostlie; Porter; Pyle; Ruby, D.; Satrom; Schatz; Schauer; Schobinger; Stemen; Strinden; Swiontek; Thomas; Timmons; Toman; Vetter; Wagner; Warrey; Speaker Johnson, D.

**NAYS:** Anderson, B.; Bellew; Boschee; Brandenburg; Dyk; Fegley; Frelich; Grueneich; Hatlestad; Headland; Heinert; Henderson; Holle; Hoverson; Karls; Klemin; Kreidt; Martinson; McLeod; Meier; Mitskog; Monson; Murphy; Nathe; Nelson; Novak; O'Brien; Olson, J.; Olson, S.; Prichard; Richter; Rios; Roers Jones; Rohr; Ruby, M.; Sanford; Schneider; Schreiber-Beck; Steiner; Tveit; VanWinkle; Vigesaa; Weisz

**ABSENT AND NOT VOTING:** Kiefert

The motion prevailed on a recorded roll call vote.

**SECOND READING OF HOUSE BILL**

**HB 1298:** A BILL for an Act to create and enact a new section to chapter 50-11.1 of the North Dakota Century Code, relating to proof of liability insurance for early childhood programs; to provide for application; and to provide an effective date.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 44 YEAS, 49 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Anderson, B.; Bahl; Bosch; Boschee; Brandenburg; Christensen; Christy; Conmy; Cory; Dakane; Dobervich; Dyk; Hager; Hagert; Hanson; Hauck; Heilman; Ista; Johnson, J.; Karls; Kasper; Kempenich; Klemin; Koppelman; Lefor; Louser; McLeod; Mock; Murphy; Ostlie; Pyle; Roers Jones; Ruby, D.; Sanford; Satrom; Schatz;

Schauer; Schneider; Schobinger; Swiontek; Thomas; Timmons; Wagner; Warrey

**NAYS:** Anderson, D.; Anderson, K.; Bellew; Beltz; Davis; Dockter; Fegley; Finley-DeVilleville; Fisher; Frelich; Grueneich; Hatlestad; Headland; Heinert; Henderson; Holle; Hoverson; Jonas; Kreidt; Longmuir; Marschall; Martinson; Meier; Mitskog; Monson; Motschenbacher; Nathe; Nelson; Novak; O'Brien; Olson, J.; Olson, S.; Porter; Prichard; Richter; Rios; Rohr; Ruby, M.; Schreiber-Beck; Steiner; Stemen; Strinden; Toman; Tveit; VanWinkle; Vetter; Vigasaa; Weisz; Speaker Johnson, D.

**ABSENT AND NOT VOTING:** Kiefert

Engrossed HB 1298 failed.

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### SECOND READING OF HOUSE BILL

**HB 1507:** A BILL for an Act to amend and reenact subsection 1 of section 34-06-22 of the North Dakota Century Code, relating to the state minimum wage.

### 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 13 YEAS, 80 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Boschee; Conmy; Dakane; Davis; Dobervich; Finley-DeVilleville; Hager; Hanson; Ista; Mitskog; Mock; Schneider; Swiontek

**NAYS:** Anderson, B.; Anderson, D.; Anderson, K.; Bahl; Bellew; Beltz; Bosch; Brandenburg; Christensen; Christy; Cory; Dockter; Dyk; Fegley; Fisher; Frelich; Grueneich; Hagert; Hatlestad; Hauck; Headland; Heilman; Heinert; Henderson; Holle; Hoverson; Johnson, J.; Jonas; Karls; Kasper; Kempenich; Klemin; Koppelman; Kreidt; Lefor; Longmuir; Louser; Marschall; Martinson; McLeod; Meier; Monson; Motschenbacher; Murphy; Nathe; Nelson; Novak; O'Brien; Olson, J.; Olson, S.; Ostlie; Porter; Prichard; Pyle; Richter; Rios; Roers Jones; Rohr; Ruby, D.; Ruby, M.; Sanford; Satrom; Schatz; Schauer; Schobinger; Schreiber-Beck; Steiner; Stemen; Strinden; Thomas; Timmons; Toman; Tveit; VanWinkle; Vetter; Vigasaa; Wagner; Warrey; Weisz; Speaker Johnson, D.

**ABSENT AND NOT VOTING:** Kiefert

HB 1507 failed.

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### SECOND READING OF HOUSE BILL

**HB 1103:** A BILL for an Act to amend and reenact section 10 of chapter 80 of the 2021 Session Laws, relating to a department of transportation appropriation; to provide for a transfer; 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 NOT PASS, the roll was called and there were 0 YEAS, 92 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**NAYS:** Anderson, B.; Anderson, D.; Anderson, K.; Bahl; Bellew; Beltz; Bosch; Boschee; Brandenburg; Christensen; Christy; Conmy; Cory; Dakane; Davis; Dobervich; Dockter; Dyk; Fegley; Finley-DeVilleville; Fisher; Frelich; Grueneich; Hagert; Hanson; Hatlestad; Hauck; Headland; Heilman; Heinert; Henderson; Holle; Hoverson; Ista; Johnson, J.; Jonas; Karls; Kasper; Kempenich; Klemin; Koppelman; Kreidt; Lefor; Longmuir; Louser; Marschall; Martinson; McLeod; Meier; Mitskog; Mock; Monson; Motschenbacher; Murphy; Nathe; Nelson; Novak; O'Brien; Olson, J.; Olson, S.; Ostlie; Porter; Prichard; Pyle; Richter; Rios; Roers Jones; Rohr; Ruby, D.; Ruby, M.; Sanford; Satrom; Schatz; Schauer; Schneider; Schobinger; Schreiber-Beck; Steiner; Stemen; Strinden; Swiontek; Thomas; Timmons; Toman; Tveit; VanWinkle; Vetter; Vigasaa; Wagner; Warrey; Weisz; Speaker Johnson, D.

**ABSENT AND NOT VOTING:** Hager; Kiefert

Engrossed HB 1103 failed.

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### SECOND READING OF HOUSE CONCURRENT RESOLUTION

**HCR 3011:** A concurrent resolution urging the Insurance Commissioner to facilitate a change in the essential health benchmark plan for future Affordable Care Act health plans.

#### ROLL CALL

The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO PASS. The roll was called and there were 87 YEAS, 6 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Anderson, B.; Anderson, D.; Anderson, K.; Bahl; Beltz; Bosch; Boschee; Brandenburg; Christensen; Christy; Conmy; Cory; Dakane; Davis; Dobervich; Dockter; Dyk; Fegley; Finley-DeVillie; Fisher; Frellich; Grueneich; Hager; Hagert; Hanson; Hatlestad; Hauck; Headland; Heilman; Heinert; Holle; Hoverson; Ista; Johnson, J.; Jonas; Karls; Kasper; Kempenich; Klemin; Koppelman; Kreidt; Lefor; Longmuir; Louser; Marschall; Martinson; McLeod; Meier; Mitskog; Mock; Monson; Motschenbacher; Nathe; Nelson; Novak; O'Brien; Olson, J.; Olson, S.; Ostlie; Porter; Pyle; Richter; Rios; Roers Jones; Rohr; Ruby, D.; Ruby, M.; Sanford; Satrom; Schauer; Schneider; Schobinger; Schreiber-Beck; Steiner; Stemen; Strinden; Swiontek; Thomas; Toman; Tveit; VanWinkle; Vetter; Vigesaa; Wagner; Warrey; Weisz; Speaker Johnson, D.

**NAYS:** Bellew; Henderson; Murphy; Prichard; Schatz; Timmons

**ABSENT AND NOT VOTING:** Kiefert

HCR 3011 was declared adopted on a recorded roll call vote.

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### SECOND READING OF HOUSE BILL

**HB 1291:** A BILL for an Act to amend and reenact section 28-21-01 of the North Dakota Century Code, relating to execution of a judgment.

#### 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 90 YEAS, 3 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Anderson, B.; Anderson, D.; Anderson, K.; Bahl; Bellew; Beltz; Bosch; Boschee; Brandenburg; Christensen; Christy; Conmy; Cory; Dakane; Davis; Dockter; Dyk; Fegley; Finley-DeVillie; Fisher; Frellich; Grueneich; Hager; Hagert; Hanson; Hatlestad; Hauck; Headland; Heilman; Heinert; Henderson; Holle; Hoverson; Ista; Johnson, J.; Jonas; Karls; Kasper; Kempenich; Klemin; Koppelman; Kreidt; Lefor; Longmuir; Louser; Marschall; Martinson; McLeod; Meier; Mitskog; Mock; Monson; Motschenbacher; Murphy; Nathe; Nelson; Novak; O'Brien; Olson, J.; Olson, S.; Ostlie; Porter; Prichard; Pyle; Richter; Rios; Roers Jones; Rohr; Ruby, D.; Ruby, M.; Sanford; Satrom; Schauer; Schobinger; Schreiber-Beck; Steiner; Stemen; Strinden; Swiontek; Thomas; Timmons; Toman; Tveit; VanWinkle; Vetter; Vigesaa; Wagner; Warrey; Weisz; Speaker Johnson, D.

**NAYS:** Dobervich; Schatz; Schneider

**ABSENT AND NOT VOTING:** Kiefert

HB 1291 passed.

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**SECOND READING OF HOUSE BILL**

**HB 1311:** A BILL for an Act to create and enact a new section to chapter 54-03 of the North Dakota Century Code, relating to house standing committee chairmen; to amend and reenact subsection 2 of section 54-35-01 of the North Dakota Century Code, relating to representation on legislative management; to provide an effective date; and to declare an emergency.

**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, 83 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Anderson, K.; Boschee; Frelich; Hager; Kasper; Meier; Mock; Olson, S.; Rohr; Steiner

**NAYS:** Anderson, B.; Anderson, D.; Bahl; Bellew; Beltz; Bosch; Brandenburg; Christensen; Christy; Conmy; Cory; Dakane; Davis; Dobervich; Dockter; Dyk; Fegley; Finley-DeVille; Fisher; Grueneich; Hagert; Hanson; Hatlestad; Hauck; Headland; Heilman; Heinert; Henderson; Holle; Hoverson; Ista; Johnson, J.; Jonas; Karls; Kempenich; Klemin; Koppelman; Kreidt; Lefor; Longmuir; Louser; Marschall; Martinson; McLeod; Mitskog; Monson; Motschenbacher; Murphy; Nathe; Nelson; Novak; O'Brien; Olson, J.; Ostlie; Porter; Prichard; Pyle; Richter; Rios; Roers Jones; Ruby, D.; Ruby, M.; Sanford; Satrom; Schatz; Schauer; Schneider; Schobinger; Schreiber-Beck; Stemen; Strinden; Swiontek; Thomas; Timmons; Toman; Tveit; VanWinkle; Vetter; Vigasaa; Wagner; Warrey; Weisz; Speaker Johnson, D.

**ABSENT AND NOT VOTING:** Kiefert

HB 1311 failed.

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

**MADAM PRESIDENT:** The House has passed, and your favorable consideration is requested on: HB 1107, HB 1137, HB 1140, HB 1268, HB 1329, HB 1342, HB 1344, HB 1348, HB 1381, HB 1412.

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

**MADAM PRESIDENT:** The House has passed, the emergency clause carried, and your favorable consideration is requested on: HB 1361.

**MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**

**MR. SPEAKER:** The Senate has passed, and your favorable consideration is requested on: SB 2094, SB 2200, SB 2202, SB 2206, SB 2210, SB 2216, SB 2278, SB 2365.

**MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**

**MR. SPEAKER:** The Senate has passed, the emergency clause carried, unchanged: HB 1279.

**MOTION**

**REP. BOSCH MOVED** that the absent member be excused, which motion prevailed.

**MOTION**

**REP. BOSCH MOVED** that the House be on the Fourth, Fifth, and Ninth orders of business and at the conclusion of those orders, the House stand adjourned until 1:00 p.m., Monday, February 6, 2023, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**HB 1099: Agriculture Committee (Rep. Thomas, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1099 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "section 4.1-14-03 and"

Page 1, line 1, after "4.1-47-04" insert "and section 57-43.1-03"

Page 1, line 2, remove "making weed seed free forage inspector"

Page 1, line 3, remove "contracting, and"

Page 1, line 3, remove "; and to repeal section"

Page 1, line 4, replace "57-43.1-03 of the North Dakota Century Code, relating to" with "and the"

Page 1, remove lines 7 through 13

Page 1, replace line 18 with:"

**SECTION 2. AMENDMENT.** Section 57-43.1-03 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.1-03. Refund of tax for fuel used for an industrial purpose - Reduction for agricultural products utilization fund.**

Any consumer who buys or uses any motor vehicle fuel for an industrial 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 provided for in this section must be reduced by one-half cent per gallon [3.79 liters], except for those fuels used in aircraft or with respect to refunds claimed by aircraft fuel users, and the one-half cent per gallon [3.79 liters] withheld from the refund must be deposited in the agricultural products utilization fund.~~"

Re-number accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1183: Government and Veterans Affairs Committee (Rep. Schauer, Chairman)** recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (10 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1183 was rereferred to the **Appropriations Committee**.

**REPORT OF STANDING COMMITTEE**

**HB 1198: Government and Veterans Affairs Committee (Rep. Schauer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (11 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1198 was placed on the Sixth order on the calendar.

Page 1, line 19, after "information" insert ", unless the individual is a victim of a crime seeking information contained in a criminal record related to the crime, including an individual who self-identifies as a victim"

Re-number accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1219: Government and Veterans Affairs Committee (Rep. Schauer, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1219 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1235: Government and Veterans Affairs Committee (Rep. Schauer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1235 was placed on the Sixth order on the calendar.

Page 1, line 9, replace "fifteenth" with "first"

Re-number accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1255: Agriculture Committee (Rep. Thomas, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1255 was placed on the Sixth order on the calendar.

Page 1, line 20, remove the second "and"

Page 1, line 21, after "donkeys" insert "; and

d. Camliidae, including llamas, alpacas, and camels"

Page 2, line 14, after the fourth comma insert "butter,"

Page 4, line 7, remove the second "and"

Page 4, line 8, after "donkeys" insert "; and

d. Camelidae, including llamas, alpacas, and camels"

Page 6, line 22, remove the second "and"

Page 6, line 23, after "donkeys" insert "; and

d. Camelidae, including llamas, alpacas, and camels"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1309: Government and Veterans Affairs Committee (Rep. Schauer, Chairman)** recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (11 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1309 was rereferred to the **Appropriations Committee**.

**REPORT OF STANDING COMMITTEE**

**HB 1324: Government and Veterans Affairs Committee (Rep. Schauer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1324 was placed on the Sixth order on the calendar.

Page 1, after line 7, insert:

"1."

Page 1, line 18, replace "a preponderance of the evidence" with "clear and convincing evidence"

Page 1, after line 20, insert:

"2. For purposes of this section "clear and convincing evidence" means that degree of proof which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition on which the challenging party has the burden of proof is true."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1325: Transportation Committee (Rep. D. Ruby, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1325 was placed on the Sixth order on the calendar.

Page 1, line 1, after "reenact" insert "section 12.1-01-05,"

Page 1, line 1, after "39-06.1-06" insert ", and subsection 2 of section 40-05-06"

Page 1, line 2, after "the" insert "effect of state law on city or county ordinances,"

Page 1, line 2, after "offenses" insert ", and limits on city fines and penalties"

Page 1, after line 4, insert:

**"SECTION 1. AMENDMENT.** Section 12.1-01-05 of the North Dakota Century Code is amended and reenacted as follows:

**12.1-01-05. Crimes defined by state law shall not be superseded by city or county ordinance or by home rule city's or county's charter or ordinance.**

Except as provided in section ~~40-05-06~~, an offense defined in this title or elsewhere by law may not be superseded by any city or county ordinance, or city or county home rule charter, or by an ordinance adopted pursuant to such a charter, and all such offense definitions shall have full force and effect within the territorial limits and other jurisdiction of home rule cities or counties. This section does not preclude any city or county from enacting any ordinance containing penal language when otherwise authorized to do so by law."

Page 2, after line 8, insert:

**"SECTION 3. AMENDMENT.** Subsection 2 of section 40-05-06 of the North Dakota Century Code is amended and reenacted as follows:

2. For every violation of a city ordinance that regulates the operation or equipment of a motor vehicle or which regulates traffic, except those ordinances listed in section 39-06.1-05, a fee may be established, by ordinance, which may not exceed, ~~by up to one hundred percent~~, the limit, for an equivalent category of violation, set forth in section 39-06.1-06."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1394: Transportation Committee (Rep. D. Ruby, Chairman)** recommends **DO NOT PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1394 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1417: Transportation Committee (Rep. D. Ruby, Chairman)** recommends **DO PASS** (8 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). HB 1417 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1418: Human Services Committee (Rep. Weisz, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1418 was placed on the Sixth order on the calendar.

Page 1, line 7, replace "six" with "eight"

Page 1, line 12, overstrike "one" and insert immediately thereafter "two"

Page 1, line 12, overstrike "survivor" and insert immediately thereafter "survivors"

Page 1, line 13, overstrike "one" and insert immediately thereafter "two"

Page 1, line 13, overstrike "member" and insert immediately thereafter "members"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1440: Transportation Committee (Rep. D. Ruby, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14



YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1440 was placed on the Sixth order on the calendar.

Page 1, remove lines 6 through 23

Page 2, remove lines 1 through 31

Page 3, remove lines 1 through 31

Page 4, remove lines 1 through 31

Page 5, remove lines 1 through 29

Page 6, replace lines 1 through 12 with:

**"SECTION 1.** Chapter 26.1-40.2 of the North Dakota Century Code is created and enacted as follows:

**26.1-40.2-01. Definitions.**

1. "Delivery available period" means the period when a driver:
  - a. Has logged on to a digital network and is available to receive requests to provide delivery services from a delivery network company;
  - b. Is operating a personal vehicle; and
  - c. Is not providing delivery services or operating in the delivery service period.
2. "Delivery network company" means a corporation, partnership, sole proprietorship, or other entity that operates in the state and uses a digital network to connect a delivery network company customer to a delivery network driver to provide delivery services. A delivery network company may not be deemed to control, direct, or manage the personal vehicle or delivery network drivers that connect to the delivery network company's digital network, unless agreed to by written contract.
3. "Delivery network company customer" means a person that orders the delivery of goods, where the delivery network driver delivers the goods at the direction of the delivery network company customer.
4. "Delivery network driver" means an individual who provides delivery services through a delivery network company's digital network using a personal vehicle.
5. "Delivery service period" means the period:
  - a. Beginning when a driver starts operating a personal vehicle en route to pick up a good for a delivery as documented via a digital network controlled by a delivery network company;
  - b. Continuing while the driver transports the requested delivery; and
  - c. Ending upon delivery of the requested good to:
    - (1) The delivery network company customer or the last delivery network company customer in a series of deliveries; or
    - (2) A location designated by the delivery network company, including for purposes of returning the good.
6. "Delivery services" means the fulfillment of delivery requests made by a delivery network company customer through a digital network, including

the pickup of any good and the delivery of the good to a delivery network company customer by a delivery network driver. Delivery services may include a series of deliveries to different customers.

7. "Digital network" means any online-enabled application, software, website, or system offered or used by a delivery network company which enables deliveries with delivery network drivers.
8. "Personal injury protection" means basic no-fault benefits as defined under section 26.1-41-01.
9. "Personal vehicle" means a vehicle that is:
  - a. Used by a delivery network driver to provide delivery services via a digital network; or
  - b. Owned, leased, or otherwise authorized for use by the delivery network driver.

#### **26.1-40.2-02. Required disclosures.**

A delivery network company shall disclose in writing or electronic form to a participating delivery network driver, as part of the delivery network company's agreement with the driver:

1. The insurance coverage, including the types of coverage and the limits for each coverage, the delivery network company provides while the driver uses a personal vehicle in connection with a delivery network company's digital network; and
2. That the driver's automobile insurance policy might not provide any coverage during the delivery available period, if it applies, or the delivery service period.

#### **26.1-40.2-03. Insurance requirements - Delivery network companies and delivery network company drivers.**

1. A delivery network company shall ensure that during the delivery available period, if it applies, and during the delivery service period, primary automobile liability insurance is in place which recognizes the driver is a delivery network driver or that does not exclude coverage for use of a personal vehicle to provide deliveries.
2. During the delivery service period and delivery available period, the delivery network driver, delivery network company, or any combination of the two shall maintain:
  - a. Insurance that insures the driver for liability to third parties of not less than fifty thousand dollars for damages arising out of bodily injury sustained by any one person in an accident, of not less than one hundred thousand dollars for damages arising out of bodily injury sustained by all persons injured in an accident, and of not less than twenty-five thousand dollars for all damages arising out of damage to or destruction of property in an accident;
  - b. Uninsured motorist coverage under section 26.1-40-15.2;
  - c. Underinsured motorist coverage under section 26.1-40-15.3; and
  - d. Personal injury protection under chapter 26.1-41.
3. If the insurance coverage maintained by a delivery network driver under subsections 1 and 2 has lapsed or does not provide the required coverage, insurance maintained by the delivery network company must provide the coverage required by subsections 1 and 2 beginning with the

- first dollar of a claim and the insurance maintained by the delivery network company has the duty to defend the claim.
4. Coverage under an automobile insurance policy maintained by the delivery network company may not be dependent on another motor vehicle liability insurer first denying a claim, or on another motor vehicle liability insurance policy being required to first deny a claim.
  5. Insurance coverage required by this section may be obtained from an insurance company duly licensed to transact business under title 26.1 or by an eligible surplus lines broker.
  6. During a claim coverage investigation, a delivery network company or a delivery network company's insurer shall cooperate with all insurers involved in the claim coverage investigation to facilitate the exchange of information and shall immediately provide upon request by directly involved parties or any insurer the precise times a delivery network driver began and ended the delivery available period and delivery service period on the delivery network company's digital network in the twelve-hour period immediately preceding the accident and in the twelve-hour period immediately following the accident. An insurer potentially providing the coverage required in this section shall disclose upon request by any other insurer involved in the particular claim, the applicable coverages, exclusions, and limits provided under any automobile insurance maintained to satisfy the requirements of this section.
  7. The insurer of a delivery network company providing coverage under subsections 1 and 2 shall assume primary liability for a claim when a dispute exists as to when the delivery available period and the delivery service period began or ended and the delivery network company does not have available, did not retain, or fails to provide the information required by subsection 6.

**26.1-40.2-04. Exclusions in motor vehicle liability insurance policies.**

1. An authorized insurer that writes motor vehicle liability insurance in the state may exclude any and all coverage and the duty to defend or indemnify for any injury or loss occurring during the delivery available period and the delivery service period, including:
  - a. Liability coverage for bodily injury and property damage;
  - b. Personal injury protection coverage under chapter 26.1-41;
  - c. Uninsured and underinsured motorist coverage;
  - d. Medical payments coverage;
  - e. Comprehensive physical damage coverage; and
  - f. Collision physical damage coverage.
2. This chapter does not:
  - a. Invalidate or limit an exclusion contained in a motor vehicle liability insurance policy, including any insurance policy in use or approved for use which excludes coverage for motor vehicles used for delivery or for any business use.
  - b. Invalidate, limit, or restrict an insurer's ability to underwrite any insurance policy.
  - c. Invalidate, limit, or restrict an insurer's ability to cancel and nonrenew policies.

3. A motor vehicle liability insurer that defends or indemnifies a claim against a delivery network driver who is excluded under the terms of the insurer's policy may seek recovery against the insurer providing coverage under subsections 1 and 2 of section 26.1-40.2-03 if the claim:
  - a. Occurs during the delivery available period or the delivery service period; and
  - b. Is excluded under the terms of its policy.

**26.1-40.2-05. Proof of insurance.**

1. A delivery network driver shall carry proof of insurance required at all times while using a personal vehicle in connection with a digital network. If an accident occurs, a delivery network driver shall, upon request, provide insurance coverage information to a directly interested party, automobile insurer, and investigating law enforcement officer.
2. The insurance coverage information may be displayed or provided in either paper or electronic form. A delivery network driver shall, upon request, disclose to a directly interested party, automobile insurer, and investigating law enforcement officer whether the driver was operating during the delivery available period or the delivery service period at the time of the accident.

**26.1-40.2-06. Authorized or eligible carrier.**

Insurance coverage required by this chapter may be obtained from an insurance company licensed to transact business under title 26.1.

**26.1-40.2-07. Interaction with other law.**

This chapter does not limit the scope of federal or state law regarding delivery or transport of goods. A delivery made under this chapter which is subject to such other law also must comply with the requirements of that law. If there is a conflict between this chapter and another law dealing with the delivery or transport of goods, the other law prevails."

Page 7, line 29, overstrike "twenty-one" and insert immediately thereafter "eighteen"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1467: Political Subdivisions Committee (Rep. Longmuir, Chairman)** recommends **DO NOT PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1467 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1508: Political Subdivisions Committee (Rep. Longmuir, Chairman)** recommends **DO NOT PASS** (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1508 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3008: Government and Veterans Affairs Committee (Rep. Schauer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3008 was placed on the Sixth order on the calendar.

Page 1, line 6, after "sailors" insert ", including Patrick Gene Glennon of Fessenden, North Dakota, and Robert James Seale of Grand Forks, North Dakota"

Renumber accordingly

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

**Buell J. Reich, Chief Clerk**

