

**JOURNAL OF THE HOUSE**

**Fifty-seventh Legislative Assembly**

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**Bismarck, April 20, 2001**

The House convened at 8:30 a.m., with Speaker Bernstein presiding.

The prayer was offered by Pastor Jim Moos, Bismarck United Church of Christ.

The roll was called and all members were present except Representatives Fairfield, Porter, and Severson.

A quorum was declared by the Speaker.

**COMMUNICATION FROM GOVERNOR JOHN HOEVEN**

This is to inform you that on April 19, 2001, I have signed the following: HB 1066, HB 1142, HB 1189, HB 1196, HB 1273, HB 1416, HB 1442, and HB 1462.

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**REP. RENNER MOVED** that the conference committee report on SB 2347 be adopted, which motion prevailed on a voice vote.

SB 2347, as amended, was placed on the Fourteenth order.

**SECOND READING OF SENATE BILL**

**SB 2347:** A BILL for an Act to create and enact eight new sections to chapter 36-14 of the North Dakota Century Code, relating to indemnity for diseased animals; to amend and reenact section 36-15-08.1 of the North Dakota Century Code, relating to indemnity payments for animals diagnosed with brucellosis or bovine tuberculosis; and to repeal sections 36-15-03, 36-15-04, 36-15-06, 36-15-07, 36-15-09, and 36-15-11 of the North Dakota Century Code, relating to appraisals and condemnation of animals having brucellosis or bovine tuberculosis.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 96 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Aarsvold; Bellew; Belter; Berg; Boehm; Boucher; Brandenburg; Brekke; Brusegaard; Byerly; Carlisle; Carlson; Clark; Cleary; DeKrey; Delmore; Delzer; Devlin; Disrud; Dosch; Drovdal; Eckre; Ekstrom; Froelich; Froseth; Galvin; Glassheim; Grande; Grosz; Grumbo; Gullerson; Gunter; Haas; Hanson; Hawken; Herbel; Huether; Hunskor; Jensen; Johnson, D.; Johnson, N.; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kempenich; Kerzman; Kingsbury; Klein, F.; Klein, M.; Klemm; Kliniske; Koppang; Koppelman; Kretschmar; Kroeber; Lemieux; Lloyd; Mahoney; Maragos; Martinson; Meier; Metcalf; Monson; Mueller; Nelson; Nicholas; Niemeier; Nottestad; Onstad; Pietsch; Pollert; Porter; Price; Renner; Rennerfeldt; Ruby; Sandvig; Schmidt; Skarphol; Solberg; Svedjan; Thoreson, B.; Thoreson, L.; Thorpe; Tieman; Timm; Wald; Warner; Weiler; Weisz; Wentz; Wikenheiser; Winrich; Wrangham; Speaker Bernstein

**ABSENT AND NOT VOTING:** Fairfield; Severson

Engrossed SB 2347 passed and the title was agreed to.

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**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**REP. WEISZ MOVED** that the conference committee report on SB 2088 be adopted, which motion failed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE SPEAKER ANNOUNCED** the following appointments to a Conference Committee on SB 2088: Reps. Weisz, Price, Mahoney.

**MOTION**

**REP. MONSON MOVED** that the House stand in recess until 12:30 p.m., which motion prevailed.

THE HOUSE RECONVENED pursuant to recess taken, with Speaker Bernstein presiding.

**CORRECTION AND REVISION OF THE JOURNAL**

**MR. SPEAKER:** Your **Committee on Correction and Revision of the Journal (Rep. Kretschmar, Chairman)** has carefully examined the Journal of the Seventieth Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 1543, line 49, after "Senate" insert ", which motion prevailed on a voice vote"

**REP. KRETSCHMAR MOVED** that the report be adopted, which motion prevailed.

**REPORT OF CONFERENCE COMMITTEE**

**HB 1413, as engrossed:** Your conference committee (Sens. Wardner, Grindberg, Kroeplin and Reps. Carlson, Wikenheiser, Winrich) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1418, adopt amendments as follows, and place HB 1413 on the Seventh order:

That the Senate recede from its amendments as printed on page 1418 of the House Journal and page 1266 of the Senate Journal and that Engrossed House Bill No. 1413 be amended as follows:

Page 1, line 4, after the semicolon insert "to provide for a report on seed capital investment tax credits;"

Page 4, line 12, overstrike "in any taxable" and insert immediately thereafter "through calendar"

Page 4, line 13, after "year" insert "2002 is limited to one million dollars and after calendar year 2002" and after "is" insert "limited to"

Page 4, after line 17, insert:

**"SECTION 6. SEED CAPITAL INVESTMENT TAX CREDIT REPORT.** The department or division of economic development and finance shall report on usage of the credit under chapter 57-38.5, to the finance and taxation committees of the house of representatives and the senate of the fifty-eighth legislative assembly. The report must be filed at a public hearing of each committee between the first and tenth legislative day of the fifty-eighth legislative assembly and must include information identifying each business that has been certified as a qualifying business under chapter 57-38.5. The aggregate amount of investments in each qualified business as shown by investment reporting forms filed with the director, and any available indicia of success of each qualified business including growth in employment and sales or revenues."

ReNUMBER accordingly

Engrossed HB 1413 was placed on the Seventh order of business on the calendar.

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**REP. CARLSON MOVED** that the conference committee report on Engrossed HB 1413 as printed on HJ page 1418 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1413, as amended, was placed on the Eleventh order.

**SECOND READING OF HOUSE BILL**

**HB 1413:** A BILL for an Act to create and enact a new subsection to section 57-38-30.3 of the North Dakota Century Code, relating to credits allowed on the short-form income tax return; to amend and reenact subsection 4 of section 57-38.5-01 and sections 57-38.5-02, 57-38.5-03, and 57-38.5-05 of the North Dakota Century Code, relating to the seed capital investment tax credit; to provide for a report on seed capital investment tax credits; 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 97 YEAS, 1 NAY, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Aarsvold; Bellew; Belter; Berg; Boehm; Boucher; Brandenburg; Brekke; Brusegaard; Carlisle; Carlson; Clark; Cleary; DeKrey; Delmore; Delzer; Devlin; Disrud; Dosch; Drovdal; Eckre; Ekstrom; Fairfield; Froelich; Froseth; Galvin; Glassheim; Grande; Grosz; Grumbo; Gullerson; Gunter; Haas; Hanson; Hawken; Herbel; Huether; Hunskor;

Jensen; Johnson, D.; Johnson, N.; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kempenich; Kerzman; Kingsbury; Klein, F.; Klein, M.; Klemin; Kliniske; Koppang; Koppelman; Kretschmar; Kroeber; Lemieux; Lloyd; Mahoney; Maragos; Martinson; Meier; Metcalf; Monson; Mueller; Nelson; Nicholas; Niemeier; Nottestad; Onstad; Pietsch; Pollert; Porter; Price; Renner; Rennerfeldt; Ruby; Sandvig; Schmidt; Severson; Skarphol; Solberg; Svedjan; Thoreson, B.; Thoreson, L.; Thorpe; Tieman; Timm; Wald; Warner; Weiler; Weisz; Wentz; Wikenheiser; Winrich; Wrangham; Speaker Bernstein

**NAYS:** Byerly

Engrossed HB 1413 passed and the title was agreed to.

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#### MOTION

**REP. BELTER MOVED** that the rules be suspended, that HCR 3072 not be printed, not be referred to committee, but be read in its entirety, be printed in the Journal, and placed on the calendar for second reading and final passage, which motion prevailed.

Reps. Boucher, Brekke, Nicholas and Sen. Traynor introduced:  
(Approved by the Delayed Bills Committee)

#### HOUSE CONCURRENT RESOLUTION NO. 3072

A concurrent resolution urging the Burlington Northern Santa Fe Railway to raise the rail elevation near Devils Lake to keep freight and passenger routes open in response to flooding.

**WHEREAS**, the rising water level of Devils Lake threatens to interrupt freight and passenger traffic by inundating Burlington Northern Santa Fe Railway's roadbed at locations between Devils Lake and Leeds in the vicinity of Churchs Ferry; and

**WHEREAS**, a branch line from Churchs Ferry to Rolla will be isolated if the water level of Devils Lake substantially rises; and

**WHEREAS**, as of March 30, 2001, the National Weather Service projects a 20 percent chance of the lake level rising to 1,449 feet before September 25, 2001, and any higher level would inundate the track; and

**WHEREAS**, the track may be raised three feet for an estimated cost of \$2,000,000; and

**WHEREAS**, it is vital to the economy of the state that rail service be maintained;

**NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:**

That the Fifty-seventh Legislative Assembly urges the Burlington Northern Santa Fe Railway raise the rail elevation near Devils Lake to keep freight and passenger routes open in response to flooding; and

**BE IT FURTHER RESOLVED**, that the Secretary of State forward copies of this resolution to the Burlington Northern Santa Fe Railway and to each member of the North Dakota Congressional Delegation.

#### SECOND READING OF HOUSE CONCURRENT RESOLUTION

**HCR 3072:** A concurrent resolution urging the Burlington Northern Santa Fe Railway to raise the rail elevation near Devils Lake to keep freight and passenger routes open in response to flooding.

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

HCR 3072 was declared adopted on a voice vote.

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#### SIGNING OF BILLS AND RESOLUTIONS

The Speaker signed the following enrolled bills: SB 2041, SB 2042, SB 2086, SB 2124, SB 2217, SB 2239, SB 2285.

#### MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)

**MR. PRESIDENT:** The Speaker has signed: SB 2041, SB 2042, SB 2086, SB 2124, SB 2217, SB 2239, SB 2285.

#### SIGNING OF BILLS AND RESOLUTIONS

The Speaker signed the following enrolled bills: HB 1001, HB 1004, HB 1005, HB 1007, HB 1338, HB 1441, HB 1444.

#### MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)

**MR. PRESIDENT:** The Speaker has signed and your signature is respectfully requested on: HB 1001, HB 1004, HB 1005, HB 1007, HB 1338, HB 1441, HB 1444.

**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 2023, SB 2041, SB 2042, SB 2086, SB 2124, SB 2217, SB 2239, SB 2285.

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

**MR. SPEAKER:** The President has signed: HB 1024, HB 1025, HB 1099, HB 1141, HB 1220, HB 1283, HB 1385, HB 1451.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bills were delivered to the Governor for approval on April 20, 2001: HB 1024, HB 1025, HB 1099, HB 1141, HB 1220, HB 1283, HB 1385, HB 1451.

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

**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: SB 2380.

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

**MR. SPEAKER:** The Senate has adopted the conference committee report, subsequently passed, and the emergency clause carried: HB 1003.

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

**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: HB 1460, HB 1407.

**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 2009.

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

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

**SB 2354:** Sens. Lee; Fischer; Polovitz

**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 1344:** Sens. Freborg; Wanzek; O'Connell

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

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

**SB 2088:** Sens. Stenehjem; Trenbeath; O'Connell

**MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)**

**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently passed: HB 1413.

**MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)**

**MR. PRESIDENT:** The House has passed and your favorable consideration is requested on: HCR 3072.

**MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)**

**MR. PRESIDENT:** The House has not adopted the conference committee report on SB 2088 and the Speaker has appointed as a new conference committee to act with a like committee from the Senate on:

**SB 2088:** Reps. Weisz; Price; Mahoney

**MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)**

**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently passed: SB 2347.

**REPORT OF CONFERENCE COMMITTEE**

**HB 1415:** Your conference committee (Sens. Erbele, Kilzer, Polovitz and Reps. Porter, Weiler, Metcalf) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ page 980 and place HB 1415 on the Seventh order.

HB 1415 was placed on the Seventh order of business on the calendar.

#### REPORT OF CONFERENCE COMMITTEE

**SB 2380, as reengrossed:** Your conference committee (Sens. Lee, Fischer, T. Mathern and Reps. Price, Devlin, Sandvig) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1162-1165, adopt amendments as follows, and place SB 2380 on the Seventh order:

That the House recede from its amendments as printed on pages 1162-1165 of the Senate Journal and pages 1267-1270 of the House Journal and that Reengrossed Senate Bill No. 2380 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a community health grant program; to provide an appropriation; to provide a continuing appropriation; and to provide for a legislative council study.

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

##### SECTION 1. Community health grant program.

1. The state department of health shall establish a community health grant program. The primary purpose of the program is to prevent or reduce tobacco usage in the state by strengthening community-based public health programs and by providing assistance to public health units and communities throughout the state. The program must build on and may not duplicate existing programs. Grants awarded under the program must be awarded on a noncompetitive basis using the per capita formula provided for in this subsection. The program must, to the extent funding is available, follow guidelines concerning tobacco prevention programs recommended by the centers for disease control and prevention. Entities awarded grants under the program may contract with or award grants to private providers that conduct tobacco cessation programs. Not more than five percent of the community health grant program funds may be expended for surveillance and evaluation activities. Funds appropriated for the program must be allocated as follows:
  - a. Forty percent of all funds appropriated for the program must be granted to a public health unit or to cooperating public health units that have an agreement with school boards concerning preventive health programs to be funded. The program must be developed with student participation and must include a plan to reduce student tobacco use.
  - b. Forty percent of all funds appropriated for the program must be granted to a public health unit or to cooperating public health units that have established a unitwide plan, developed in cooperation with local elected officials in the unit's jurisdiction, concerning the preventive health programs to be funded. The plan must address programs to reduce tobacco use by the residents living in the counties serviced by the units; however, the plan may include other chronic disease programs. In addition to any grants received under this subdivision, each county with a population of less than ten thousand must receive five thousand dollars per biennium to be used to implement the county's programs.
  - c. Twenty percent of all funds appropriated for the program must be granted to public health units to supplement existing state aid from other sources. Each unit must receive one percent of the amount allocated under this subdivision for each county within the unit and the remaining amount must be distributed to each unit on a per capita basis.
2. The state department of health, in establishing the community health grant program, shall build upon the state's existing tobacco control grant program activities and shall follow the centers for disease control and prevention's best practices for comprehensive tobacco control programs. The department shall encourage applicants to monitor program accountability with respect to tobacco-related behaviors, attitudes, and health outcomes and to include in their plans:

- a. Community programs that:
  - (1) Engage youth in the development and implementation of interventions;
  - (2) Develop partnerships with local organizations;
  - (3) Conduct educational programs at local levels;
  - (4) Promote government and voluntary health policies, such as clean indoor air, youth access, and treatment coverage;
  - (5) Restrict minors' access to tobacco; and
  - (6) Deter smoking in public places.
- b. Promotion of school programs by partnering with public health organizations, school boards, education associations, and other organizations in each county to provide school programs that promote:
  - (1) Tobacco-free policies;
  - (2) Evidence-based curricula;
  - (3) Teacher training;
  - (4) Parental involvement; and
  - (5) Cessation services for students and staff.

**SECTION 2. Community health grant program advisory committee - Duties of state health officer.**

1. The state health officer shall establish a community health grant program advisory committee and shall appoint, after consulting with the governor, appropriate members to advise the state department of health in the development of a community health grant program. The state health officer, who shall be the chairman of the committee, shall appoint to the committee the state tobacco control administrator; one high school student; one student of a postsecondary institution in the state; one representative of a nongovernmental tobacco control organization; and one law enforcement officer. In addition to the members appointed by the state health officer, the committee must include:
  - a. One individual appointed by the North Dakota Indian affairs commission;
  - b. One individual appointed by the North Dakota public health association;
  - c. The superintendent of public instruction or the superintendent's designee;
  - d. An academic researcher with expertise in tobacco control and health promotion intervention, appointed by the dean of the university of North Dakota school of medicine and health sciences; and
  - e. One physician appointed by the North Dakota medical association.
2. Members of the committee who are not state employees or officers are entitled to be compensated at a rate of sixty-two dollars and fifty cents per day and are entitled to mileage and expenses as provided by law for state officers and employees. A state employee who is a member of the committee must receive that employee's regular salary and is entitled to mileage and expenses, to be paid by the employing agency.
3. The state department of health, with the committee's involvement, shall provide assistance to:

- a. Evaluate programs;
  - b. Promote media advocacy by working with statewide media associations;
  - c. Implement smoke-free policies by involving antitobacco groups in promoting the need for smoke-free public buildings;
  - d. Work to reduce minors' access to tobacco in all communities;
  - e. Facilitate the coordination of program components with the local level;
  - f. Involve state agencies, law enforcement, and local government in the administration and management of the program; and
  - g. Assist the state in screening and implementing the grants.
4. The state health officer shall monitor the implementation of the community health grant program. The state health officer shall provide reports to the legislative council regarding the implementation of the program not later than December 31, 2001, and November 1, 2002. Upon request, the state health officer shall provide assistance to any interim legislative committee that may study the implementation of the community health grant program and shall recommend any legislation that the community health grant program advisory committee considers appropriate to improve the community health grant program.

**SECTION 3. Gifts, grants, and donations - Continuing appropriation.** The state department of health and public health units may accept any gifts, grants, or donations, whether conditional or unconditional. The department of health or public health units may contract public or private entities and may expend any available moneys to obtain matching funds for the purposes of this Act. All moneys received by the state department of health as gifts, grants, or donations under this section are appropriated on a continuing basis to the state department of health.

**SECTION 4. APPROPRIATION.** There is appropriated out of any moneys in the community health trust fund, not otherwise appropriated, the sum of \$100,000, or so much of the sum as may be necessary, to the state department of health for the purpose of funding the community health grant program advisory committee, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 5. APPROPRIATION.** There is appropriated out of any moneys in the community health trust fund, not otherwise appropriated, the sum of \$250,000, or so much of the sum as may be necessary, to the state department of health for the purpose of funding grants to cities and counties on a dollar-for-dollar matching fund basis for city and county employee tobacco education and cessation programs, for the biennium beginning July 1, 2001, and ending June 30, 2003.

**SECTION 6. ALCOHOL, TOBACCO, AND DRUG ABUSE PROGRAMS - LEGISLATIVE COUNCIL STUDY.** During the 2001-02 interim, the legislative council shall consider studying the programs that deal with the prevention and treatment of alcohol, tobacco, and drug abuse and other kinds of risk-associated behavior which are operated by various state agencies, including the department of corrections and rehabilitation, the attorney general, the state department of health, the department of human services, the department of public instruction, the department of transportation, the national guard, and the supreme court, and whether better coordination among the programs within those agencies may lead to a more effective and cost-efficient way of operating the programs and providing services. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-eighth legislative assembly."

Renumber accordingly

Reengrossed SB 2380 was placed on the Seventh order of business on the calendar.

**MOTION**

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

**MOTION**

**REP. MONSON MOVED** that the House be on the Fifth, Twelfth, and Sixteenth orders of business and at the conclusion of those orders, the House stand adjourned until 8:30 a.m., Monday, April 23, 2001, which motion prevailed.

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

**MARK L. JOHNSON, Chief Clerk**