

## JOURNAL OF THE SENATE

### Fifty-eighth Legislative Assembly

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**Bismarck, March 14, 2003**

The Senate convened at 12:30 p.m., with President Dalrymple presiding.

The prayer was offered by Father Daniel Maloney, Annunciation Monastery, Bismarck.

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

A quorum was declared by the President.

#### CONSIDERATION OF AMENDMENTS

**HB 1252, as engrossed: SEN. TRENBEATH (Judiciary Committee) MOVED** that the amendments on SJ page 754 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

#### CONSIDERATION OF AMENDMENTS

**HB 1397, as reengrossed: SEN. EVERY (Industry, Business and Labor Committee) MOVED** that the amendments on SJ page 755 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1362:** A BILL for an Act to create and enact sections 10-19.1-01.1, 10-19.1-100.1, 10-19.1-149.1, 10-32-02.1, 10-32-153.1, 10-33-01.1, 10-33-142.1, 45-10.1-01.1, 45-10.1-01.2, 45-10.1-63, 45-10.1-64, 45-10.1-65, 45-10.1-66, 45-10.1-67, 45-10.1-68, 45-10.1-69, 45-10.1-70, 45-10.1-71, 45-10.1-72, 45-13-01.1, 45-16-07, 45-16-08, 45-22-01.1, 45-23-01.1, and 45-23-07 of the North Dakota Century Code, relating to business corporations, limited liability companies, nonprofit corporations, limited partnerships, partnerships, limited liability partnerships, and limited liability limited partnerships; to amend and reenact section 10-19.1-01, subsection 4 of section 10-19.1-13, sections 10-19.1-14 and 10-19.1-19, subsection 2 of section 10-19.1-31, subsections 1 and 2 of section 10-19.1-43, subsections 1 and 2 of section 10-19.1-47, subsection 1 of section 10-19.1-63, subsection 3 of section 10-19.1-71, subsection 3 of section 10-19.1-72, sections 10-19.1-75 and 10-19.1-75.2, subsection 1 of section 10-19.1-76.2, subsection 1 of section 10-19.1-87, section 10-19.1-100, subsection 1 of section 10-19.1-110, subsections 2 and 3 of section 10-19.1-113.1, subsection 3 of section 10-19.1-129, subsection 2 of section 10-19.1-146, section 10-32-02, subsections 2, 3, and 4 of section 10-32-07, subsection 5 of section 10-32-10, section 10-32-11, subsection 1 of section 10-32-13, section 10-32-15, subsection 6 of section 10-32-17, subsection 1 of section 10-32-22, subsection 17 of section 10-32-23, sections 10-32-36 and 10-32-37, subsections 2 and 3 of section 10-32-38, subsections 2 and 3 of section 10-32-39, subsection 3 of section 10-32-40, sections 10-32-40.1, 10-32-43, and 10-32-43.2, subsection 1 of section 10-32-48, subsection 1 of section 10-32-50, section 10-32-51, subsection 1 of section 10-32-54, subsection 4 of section 10-32-55, section 10-32-56, subsection 2 of section 10-32-57, subsection 3 of section 10-32-58, subsection 1 of section 10-32-59, sections 10-32-60 and 10-32-61, subsection 1 of section 10-32-64, section 10-32-67, subsections 2 and 3 of section 10-32-68, sections 10-32-69, 10-32-70, 10-32-73, and 10-32-74, subsection 2 of section 10-32-76, subsection 2 of section 10-32-77, subsections 2 and 3 of section 10-32-78, subsection 2 of section 10-32-78.1, subsection 1 of section 10-32-79, sections 10-32-80, 10-32-81, and 10-32-83, subsections 1 and 2 of section 10-32-84, subsections 1 and 3 of section 10-32-85, subsections 2 and 4 of section 10-32-86, subsections 1 and 2 of section 10-32-87, sections 10-32-88, 10-32-89, and 10-32-92, subsection 3 of section 10-32-94, section 10-32-95, subsection 1 of section 10-32-97, sections 10-32-99 and 10-32-104, subsections 1 and 2 of section 10-32-108, subsection 2 of section 10-32-112, subsection 3 of section 10-32-113, subsection 1 of section 10-32-114, subsections 2 and 3 of section 10-32-117, subsection 1 of section 10-32-119, subsection 2 of section 10-32-130.1, subsection 3 of section 10-32-132, subsection 2 of section 10-32-149, sections 10-33-01, 10-33-10, 10-33-11, and 10-33-21, subsection 3 of section 10-33-23, subsection 2 of section 10-33-25, subsection 1 of section 10-33-27, subsections 1 and 2 of section 10-33-39, subsections 1 and 2 of section 10-33-43, subsection 1 of section 10-33-44, subsection 1 of section 10-33-50, subsection 3 of section 10-33-65, subsection 3 of section 10-33-66, sections 10-33-73 and 10-33-75, subsection 1 of section 10-33-77, sections 10-33-81 and 10-33-93, subsection 1 of section 10-33-101,

subsections 2 and 3 of section 10-33-103, subsection 4 of section 10-33-104, subsection 1 of section 10-33-107, subsections 1, 2, and 3 of section 10-33-108, subsection 3 of section 10-33-120, subsection 1 of section 10-33-128, subsection 2 of section 10-33-139, section 45-10.1-01, subsection 6 of section 45-10.1-02, sections 45-10.1-03 and 45-10.1-07.1, subsections 7 and 8 of section 45-10.1-09, sections 45-10.1-13, 45-10.1-55, 45-10.1-56, and 45-13-01, subsections 5 and 6 of section 45-13-04.1, section 45-13-04.2, subsections 6 and 7 of section 45-13-05, subsection 1 of section 45-13-06, subsection 1 of section 45-15-03, subsection 1 of section 45-15-03.1, subsection 2 of section 45-15-03.2, section 45-15-04, subsection 1 of section 45-19-04, subsections 1 and 2 of section 45-21-05, subsection 2 of section 45-21-06, subsections 1 and 2 of section 45-21-07, section 45-22-01, subsection 3 of section 45-22-03, subsection 5 of section 45-22-04, section 45-22-05, subsection 2 of section 45-22-17, subsection 2 of section 45-22-21.1, section 45-23-01, and subsection 5 of section 45-23-03 of the North Dakota Century Code, relating to business corporations, limited liability companies, nonprofit corporations, limited partnerships, partnerships, limited liability partnerships, and limited liability limited partnerships; and to repeal sections 45-10.1-14, 45-10.1-15, and 45-10.1-16 of the North Dakota Century Code, relating to limited partnerships.

#### ROLL CALL

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

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

**ABSENT AND NOT VOTING:** Bercier

Engrossed HB 1362, as amended, passed and the title was agreed to.

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#### SECOND READING OF HOUSE BILL

**HB 1049:** A BILL for an Act to amend and reenact subsection 17 of section 20.1-02-05 of the North Dakota Century Code, relating to the powers of the director of the game and fish department with respect to guides and outfitters.

#### ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 1 YEA, 45 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Erbele

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

**ABSENT AND NOT VOTING:** Bercier

HB 1049 lost.

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#### SECOND READING OF HOUSE BILL

**HB 1095:** A BILL for an Act to amend and reenact section 37-15-14 of the North Dakota Century Code, relating to veterans' home general fund appropriation expenditures.

#### ROLL CALL

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

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

**ABSENT AND NOT VOTING:** Bercier

Engrossed HB 1095 passed and the title was agreed to.

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#### SECOND READING OF HOUSE BILL

**HB 1113:** A BILL for an Act to amend and reenact section 24-02-17 of the North Dakota Century Code, relating to bidding of highway contracts; and to provide an effective date.

#### ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 43 YEAS, 2 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

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

**NAYS:** Espegard; Flakoll

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

Reengrossed HB 1113 passed and the title was agreed to.

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#### VOTING INTENTION

**SEN. ESPEGARD REQUESTED** that the record show he intended to vote YEA on Reengrossed HB 1113, which request was granted.

#### MOTION

**SEN. CHRISTMANN MOVED** that HB 1322, which is on the Fourteenth order, be laid over three legislative days, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1114:** A BILL for an Act to amend and reenact section 39-20-03.1 of the North Dakota Century Code, relating to the action following a test to determine the alcohol content of the blood of a resident motor vehicle operator.

#### 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 2 YEAS, 44 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Mathern; Tallackson

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

**ABSENT AND NOT VOTING:** Bercier

Engrossed HB 1114 lost.

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**SECOND READING OF HOUSE BILL**

**HB 1117:** A BILL for an Act to amend and reenact section 37-14-03.3 of the North Dakota Century Code, relating to use of moneys in the permanent revolving fund of the veterans' aid 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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**ABSENT AND NOT VOTING:** Bercier

Engrossed HB 1117 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1120:** A BILL for an Act to amend and reenact section 39-08-01.3 of the North Dakota Century Code, relating to driving under the influence of intoxicating liquor repeat offenders and ignition interlock devices.

**ROLL CALL**

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

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

**ABSENT AND NOT VOTING:** Bercier

HB 1120 lost.

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**SECOND READING OF HOUSE BILL**

**HB 1163:** A BILL for an Act to create and enact section 25-03.1-03.1 of the North Dakota Century Code, relating to disclosure of health information for treatment of mental illness; to amend and reenact section 25-03.1-10, subsection 1 of section 25-03.1-13, section 25-03.1-43, and subsection 20 of section 43-17-31 of the North Dakota Century Code, relating to civil commitment for treatment of mental illness and substance abuse and a physician's duty to transfer medical records; to repeal section 25-03.1-44 of the North Dakota Century Code, relating to accounting for the disclosure of health information of an individual committed for the treatment of mental illness; 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 PASS, the roll was called and there were 42 YEAS, 4 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**NAYS:** Fairfield; Krauter; Mathern; O'Connell

**ABSENT AND NOT VOTING:** Bercier

HB 1163 passed, the title was agreed to, and the emergency clause was declared carried.

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**SECOND READING OF HOUSE BILL**

**HB 1176:** A BILL for an Act to amend and reenact sections 39-08-09 and 39-08-10 of the North Dakota Century Code, relating to a notice of accident to law enforcement.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 14 YEAS, 32 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Christenson; Fairfield; Heitkamp; Krauter; Lindaas; Mathern; Nelson; Nichols; O'Connell; Schobinger; Seymour; Tallackson; Taylor

**NAYS:** Bowman; Brown; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lyson; Mutch; Nething; Polovitz; Robinson; Stenehjem; Syverson; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**ABSENT AND NOT VOTING:** Bercier

Engrossed HB 1176 lost.

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**SECOND READING OF HOUSE BILL**

**HB 1214:** A BILL for an Act to amend and reenact subsection 2 of section 28-22-03.1 of the North Dakota Century Code, relating to motor vehicles as property exempt from process.

**ROLL CALL**

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

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

**ABSENT AND NOT VOTING:** Bercier

Engrossed HB 1214 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1224:** A BILL for an Act to create and enact a new subsection to section 20.1-02-05 of the North Dakota Century Code, relating to waterfowl resting areas.

**ROLL CALL**

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

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

**ABSENT AND NOT VOTING:** Bercier

Engrossed HB 1224 passed and the title was agreed to.

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### SECOND READING OF HOUSE BILL

**HB 1334:** A BILL for an Act to create and enact a new section to chapter 54-60 of the North Dakota Century Code, relating to commerce data; and to amend and reenact section 65-04-15 and subsection 4 of section 65-04-33 of the North Dakota Century Code, relating to reporting of employee and employer zip codes for commerce purposes.

### 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 45 YEAS, 1 NAY, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**NAYS:** Kilzer

**ABSENT AND NOT VOTING:** Bercier

Engrossed HB 1334 passed and the title was agreed to.

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### SECOND READING OF HOUSE BILL

**HB 1383:** A BILL for an Act to amend and reenact section 15.1-27-12 of the North Dakota Century Code, relating to per student payments for English language learners.

### ROLL CALL

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

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

**NAYS:** O'Connell

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

Engrossed HB 1383 passed and the title was agreed to.

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### SECOND READING OF HOUSE BILL

**HB 1444:** A BILL for an Act to amend and reenact subsection 2 of section 54-59-17 of the North Dakota Century Code, relating to the membership of the educational technology council.

### ROLL CALL

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

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

**ABSENT AND NOT VOTING:** Bercier

Engrossed HB 1444 passed and the title was agreed to.

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### SECOND READING OF HOUSE BILL

**HB 1480:** A BILL for an Act to create and enact a new section to chapter 23-27 of the North Dakota Century Code, relating to quick-response units.

### ROLL CALL

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

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

**ABSENT AND NOT VOTING:** Bercier

Engrossed HB 1480 passed and the title was agreed to.

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### SECOND READING OF HOUSE CONCURRENT RESOLUTION

**HCR 3069:** A concurrent resolution for the amendment of section 2 of article III of the Constitution of North Dakota, relating to granting the legislative assembly the authority to provide a procedure for determining the fiscal impact of initiative measures.

### ROLL CALL

The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 29 YEAS, 17 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lyson; Mutch; Nething; O'Connell; Stenehjem; Syverson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Every; Fairfield; Heitkamp; Klein; Krauter; Lindaas; Mathern; Nelson; Nichols; Polovitz; Robinson; Schobinger; Seymour; Tallackson; Taylor; Thane; Tollefson

**ABSENT AND NOT VOTING:** Bercier

HCR 3069 was declared adopted, and the title was agreed to on a roll call vote.

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### CONSIDERATION OF MESSAGE FROM THE HOUSE

**SEN. MUTCH MOVED** that the Senate do concur in the House amendments to SB 2084 as printed on SJ page 722, which motion prevailed on a voice vote.

SB 2084, as amended, was placed on the Eleventh order of business.

### SECOND READING OF SENATE BILL

**SB 2084:** A BILL for an Act to amend and reenact sections 10-04-02 and 10-04-03, subsections 3, 5, and 12 of section 10-04-05, section 10-04-06, subsection 3 of section 10-04-07, subsections 2 and 3 of section 10-04-07.1, sections 10-04-08 and 10-04-10, subsection 4 of section 10-04-10.3, subsection 1 of section 10-04-11, sections 10-04-14 and 10-04-16, subsection 1 of section 10-04-16.1, subsection 3 of section 10-04-17, and subsection 1 of section 10-04-18 of the North Dakota Century Code, relating to definitions under the Securities Act, the authority of the securities commissioner and the securities department, securities exemptions, exempt transactions, registration of securities, registration of dealers, agents, investment advisors and investment advisor representatives, post-registration requirements, consent to service of process, orders and injunctions, investigations by the securities

department, rescission, and penalties; to repeal section 10-04-10.2 of the North Dakota Century Code, relating to eligibility to be registered under the Securities Act; to provide a penalty; and to declare an emergency.

#### ROLL CALL

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

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

**ABSENT AND NOT VOTING:** Bercier

Engrossed SB 2084 passed, the title was agreed to, and the emergency clause was declared carried.

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#### CONSIDERATION OF MESSAGE FROM THE HOUSE

**SEN. J. LEE MOVED** that the Senate do concur in the House amendments to SB 2156 as printed on SJ page 722, which motion prevailed on a voice vote.

SB 2156, as amended, was placed on the Eleventh order of business.

#### SECOND READING OF SENATE BILL

**SB 2156:** A BILL for an Act to amend and reenact section 43-41-01, subsections 2, 4, and 5 of section 43-41-02, subsection 1 of section 43-41-03, sections 43-41-04, 43-41-04.1, 43-41-05, and 43-41-07, subsections 1, 2, and 5 of section 43-41-08, and sections 43-41-09, 43-41-11, and 43-41-12 of the North Dakota Century Code, relating to the licensure of social workers.

#### ROLL CALL

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

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

**ABSENT AND NOT VOTING:** Bercier

Engrossed SB 2156 passed and the title was agreed to.

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#### CONSIDERATION OF MESSAGE FROM THE HOUSE

**SEN. MUTCH MOVED** that the Senate do concur in the House amendments to Engrossed SB 2238 as printed on SJ page 672, which motion prevailed on a voice vote.

Engrossed SB 2238, as amended, was placed on the Eleventh order of business.

#### SECOND READING OF SENATE BILL

**SB 2238:** A BILL for an Act to provide for automobile insurance notice requirements following total loss.

#### ROLL CALL

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

**YEAS:** Andrist; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour;



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

**ABSENT AND NOT VOTING:** Bercier

Reengrossed SB 2238 passed and the title was agreed to.

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**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. MUTCH MOVED** that the Senate do not concur in the House amendments to SB 2384 as printed on SJ pages 659-660 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT APPOINTED** as a Conference Committee on SB 2384: Sens. Espegard, Klein, Every.

**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. URLACHER MOVED** that the Senate do not concur in the House amendments to SB 2099 as printed on SJ page 645 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

**APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT APPOINTED** as a Conference Committee on SB 2099: Sens. Tollefson, Syverson, Seymour.

**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 2214.

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

**MR. SPEAKER:** The Senate does not concur in the House amendments to SB 2099 and SB 2384 and the President has appointed as a conference committee to act with a like committee from the House on:

**SB 2099:** Sens. Tollefson; Syverson; Seymour

**SB 2384:** Sens. Espegard; Klein; Every

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

**MR. SPEAKER:** The Senate has passed unchanged: HB 1031, HB 1071, HB 1083, HB 1090, HB 1146, HB 1185, HB 1191, HB 1193, HB 1259, HB 1267, HB 1338, HB 1374, HB 1457, HB 1481.

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

**MR. SPEAKER:** The Senate has passed, the emergency clause carried, unchanged: HB 1258.

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

**MR. SPEAKER:** The Senate has failed to pass: HB 1234.

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

**MR. SPEAKER:** The President has signed: HB 1029, HB 1036, HB 1072, HB 1074, HB 1075, HB 1076, HB 1128, HB 1157, HB 1178, HB 1183, HB 1184, HB 1205, HB 1220, HB 1273, HB 1288, HB 1297, HB 1306, HB 1319, HB 1345, HB 1359, HB 1380, HB 1386, HB 1436, HB 1437.

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

**MR. PRESIDENT:** The Speaker has signed and your signature is respectfully requested on: HB 1081, HB 1093, HB 1145, HB 1270, HB 1276, HB 1355, HCR 3077.

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

**MR. PRESIDENT:** The House has passed unchanged: SB 2063, SB 2107, SB 2109, SB 2138, SB 2169, SB 2177, SB 2185, SB 2204, SB 2231, SB 2267, SB 2269, SB 2272, SB 2287, SB 2318, SB 2332, SB 2383, SCR 4025, SCR 4035.

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

**MR. PRESIDENT:** The House has amended and subsequently passed: SB 2072, SB 2118, SB 2168, SB 2173, SB 2190, SB 2215, SB 2220, SB 2252, SB 2359.

**HOUSE AMENDMENTS TO SENATE BILL NO. 2072**

Page 3, line 18, overstrike "an original and two" and insert immediately thereafter "three"

Re-number accordingly

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2118**

Page 4, line 19, remove the overstrike over "A", after "~~amount~~" insert "record", and remove the overstrike over "~~of all moneys received or paid~~"

Page 4, remove the overstrike over line 20

Page 4, line 21, remove the overstrike over "2-", overstrike "ledger in which" and insert immediately thereafter "record that", and overstrike "be kept" and insert immediately thereafter "keep"

Page 4, line 22, remove the overstrike over "3-", remove "2.", overstrike "book in which" and insert immediately thereafter "record that", and overstrike "be shown" and insert immediately thereafter "show"

Page 4, line 24, remove the overstrike over "4-", remove "3.", and overstrike "Such other books as the state auditor shall prescribe" and insert immediately thereafter "Records must be created and published via electronic devices and must be in compliance with state audit guidelines"

Re-number accordingly

**HOUSE AMENDMENTS TO SENATE BILL NO. 2168**

Page 1, line 9, replace "chapter" with "chapters 36-22 and"

Re-number accordingly

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2173**

Page 1, line 1, after "11-11.1-04" insert "and subsection 29 of section 57-15-06.7"

Page 1, line 2, after "to" insert "property tax levy authority for"

Page 2, line 18, overstrike "limitation" and insert immediately thereafter "limitations"

Page 2, after line 29, insert:

**"SECTION 3. AMENDMENT.** Subsection 29 of section 57-15-06.7 of the North Dakota Century Code is amended and reenacted as follows:

29. A county levying a tax for a job development authority as provided in section 11-11.1-04 or for the support of an industrial development organization as provided in section 11-11.1-06 may levy a tax not exceeding four mills on the taxable valuation of property within the county. Upon approval by a majority of electors voting on the question at a regular or special county election, a county levying a tax for a job development authority as provided in section 11-11.1-04 or for the support of an industrial development organization as provided in section 11-11.1-06 may levy a separate and additional tax for promotion of tourism in an amount not exceeding one mill on the taxable valuation of property within the county. However, if any city within the county is levying a tax for support of a job development authority or for support of an industrial development organization and the total of the county and city levies exceeds ~~four~~ five mills, the county tax levy within the city levying under subsection 28 of section 57-15-10 must be reduced so the total levy in the city does not exceed ~~four~~ five mills."

Re-number accordingly

**HOUSE AMENDMENTS TO SENATE BILL NO. 2190**

Page 1, line 10, remove "1."

Page 1, line 15, overstrike "or"

Page 1, line 17, replace the underscored period with ", or"

Page 1, line 18, remove "2. A person under twenty-one years of age may not"

Page 1, line 19, remove the overstrike over the overstruck comma

Page 1, line 21, after "entering" insert "who"

Page 2, line 3, remove "3."

Page 2, line 4, remove "4."

Page 2, line 12, remove "1."

Page 2, line 17, remove "2."

Page 2, line 18, remove the overstrike over "if" and remove the underscored colon

Page 2, line 19, remove "a. If"

Page 2, line 21, remove the overstrike over the overstruck comma and insert immediately thereafter "or", remove the overstrike over "if", and remove the underscored semicolon

Page 2, line 22, remove "b. If"

Page 2, line 25, replace the underscored semicolon with ". A person may enter and remain on the licensed premises if"

Page 2, line 26, remove "c. If"

Page 2, line 27, remove the underscored semicolon and after "or" insert "if"

Page 2, line 28, remove "d. If"

Page 3, line 1, remove "3."

Page 3, line 4, remove "4."

Renumber accordingly

#### **HOUSE AMENDMENTS TO SENATE BILL NO. 2215**

Page 1, line 1, replace "subsection" with "subsections 7 and"

Page 1, line 5, replace "Subsection" with "Subsections 7 and"

Page 1, line 6, replace "is" with "are"

Page 1, after line 6, insert:

- "7. A resident who has executed a lease for at least one hundred sixty acres [64.75 hectares] of land and who actively farms or ranches that land or a resident who holds title to at least one hundred sixty acres [64.75 hectares] of land is eligible to apply for a license to hunt elk upon filing a signed application describing that land and payment of the fee requirement for a resident big game license. The land must be within a unit open for the hunting of elk. The license must include a legal description of the eligible land described in the completed application and may be used to hunt elk within the district or unit in which the land described in the completed application is located. Upon request, a lessee shall provide proof that the land described in the completed application is leased for agricultural purposes. A resident who is eligible for a license under this subsection may transfer that eligibility for the license to a spouse or legal dependent residing customarily with the resident, but no more than one license may be issued under this subsection for any qualifying land. A resident transferring eligibility under this subsection is not eligible to apply for a license to hunt elk in future years but is eligible to participate in the ~~rocky mountain elk foundation~~ raffle under section 20.1-08-04.6. If not otherwise specified in an agricultural lease, the landowner is entitled to receive the license. The governor's proclamation may restrict the districts or units for which preferential licenses may be issued under this subsection. However, the governor shall give primary consideration to allowing preferential licenses under this subsection to be issued to persons owning or leasing land in the following areas: that portion of township one hundred

forty-seven north, range ninety-five west which is north and west of state highway 22; township one hundred forty-six north, range ninety-six west; township one hundred forty-seven north, range ninety-six west; township one hundred forty-eight north, range ninety-six west; township one hundred forty-six north, range ninety-seven west; township one hundred forty-seven north, range ninety-seven west; township one hundred forty-eight north, range ninety-seven west of the fifth principal meridian, in Dunn County; the west one-half of township one hundred forty-nine north, range ninety-five west; township one hundred forty-nine north, range ninety-six west, and township one hundred forty-nine north, range ninety-seven west of the fifth principal meridian, in McKenzie County; and other areas within a district or unit open for hunting of elk as prescribed in the governor's proclamation. The number of licenses issued under this subsection for each designated district or unit for hunting elk may not exceed fifteen percent of the total licenses prescribed in the governor's proclamation for each district or unit. If the number of applications for licenses to be issued under this subsection in a district or unit exceeds the maximum number of such licenses allocated to that district or unit, the licenses to be issued must be issued by lottery as prescribed in the governor's proclamation. A person who receives a license under this subsection is not eligible to apply for a license to hunt elk in future years but is eligible to participate in the ~~rocky mountain elk foundation~~ raffle under section 20.1-08-04.6. Notwithstanding this subsection, if a person other than the transferee of license eligibility is unsuccessful in harvesting an elk under this subsection, that person may return the unused license to the department and is eligible to apply for, but not transfer, a one-time additional license to hunt elk in future years. A person who receives a second license under this subsection is not eligible to participate in the ~~rocky mountain elk foundation~~ raffle under section 20.1-08-04.6. Licenses to hunt elk may not be issued under this subsection when the total number of licenses prescribed in the governor's proclamation is less than twenty. If a person receives a license under this subsection, the person's spouse, children, and parents living with the person are not eligible to receive a license under this subsection for the district or unit in which the land described in the completed application is located, unless the person has sold or otherwise transferred the person's rights to the land described in the completed application. The director may issue special elk depredation management licenses to landowners in designated areas around Theodore Roosevelt national park upon payment of the fee requirement for a resident big game license. The provisions of this section governing the number of licenses issued for each designated district or unit for hunting elk do not apply to special elk depredation management licenses and a person who receives such a license under this subsection is eligible to apply for a license to hunt elk in future years and is eligible to participate in the ~~rocky mountain elk foundation~~ raffle under section 20.1-08-04.6."

Page 3, line 3, remove the overstrike over "~~North~~" and after "~~association~~" insert "American wildlife enforcement memorial museum and educational center and the"

Page 3, line 5, remove the overstrike over "~~North~~" and after "~~association~~" insert "American wildlife enforcement memorial museum and educational center and the"

Page 3, line 9, overstrike "remitted to the department and"

Page 3, line 10, overstrike "and" and insert immediately thereafter "or other wildlife and in conservation" and after "state" insert "as described under rocky mountain elk foundation policies and objectives"

Page 3, line 11, overstrike "officers"

Page 3, line 12, overstrike "association game warden museum" and insert immediately thereafter "memorial museum and educational center"

Page 3, line 14, after "The" insert "North American wildlife enforcement memorial museum and educational center and the"

Page 3, line 15, remove "moose license"

Page 3, line 16, overstrike "and one license to hunt moose through the"

Page 3, line 17, remove "rocky mountain elk foundation moose license" and overstrike "raffle"

Page 3, line 26, after "foundation" insert "and the North American wildlife enforcement memorial museum and educational center"

Page 3, line 27, after "foundation" insert "and the North American wildlife enforcement memorial museum and educational center"

Page 3, line 29, after "and" insert "fifty percent of"

Page 3, line 30, overstrike "and" and insert immediately thereafter "or other wildlife and conservation"

Page 3, line 31, after "objectives" insert "and all remaining net proceeds must be used for construction and maintenance of the North American wildlife enforcement memorial museum and educational center located at the international peace garden"

Page 4, line 1, after "foundation" insert "and the North American wildlife enforcement memorial museum and educational center"

Page 4, line 5, overstrike "and one nontransferable license to hunt elk"

Page 4, line 6, overstrike "through the rocky mountain elk foundation raffle"

ReNUMBER accordingly

#### **HOUSE AMENDMENTS TO SENATE BILL NO. 2220**

Page 1, line 1, replace the first "section" with "sections" and remove "subsection 3 of section"

Page 2, line 22, after "includes" insert "domesticated"

Page 2, line 25, replace "Subsection 3 of section" with "Section"

Page 2, after line 26, insert:

#### **"36-24-10. Individual and custom processing.**

1. This chapter does not apply to an individual processing the individual's own animals and the individual's preparation and transportation in intrastate commerce of the whole carcasses, parts of carcasses, and meat food products provided the animals are for the exclusive use of the individual, members of the individual's household, the individual's nonpaying guests, and employees.
2. This chapter does not apply to the custom processing by a person of animals delivered by the owner for processing, and the preparation or transportation in intrastate commerce of the whole carcasses, parts of carcasses, and meat food products of the animals, provided that the products are to be used exclusively in the household of the animal's owner by the owner and members of the owner's household, nonpaying guests, and employees."

Page 3, after line 2, insert:

- "4. The provisions of this chapter requiring inspection of the preparation of poultry carcasses and parts thereof, and poultry food products at establishments conducting those operations do not apply to any retailer with respect to poultry products sold in commerce directly to consumers in an individual retail store, provided that the retailer does not engage in the business of custom slaughter, and provided that the poultry products sold in commerce are derived from poultry inspected and passed by the commissioner or the United States department of agriculture."

ReNUMBER accordingly

#### **HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2252**

Page 4, line 3, replace "imposes" with "impose"

ReNUMBER accordingly

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2359**

Page 1, line 11, after the period insert "If the department of human services and the requesting county have not agreed on an alternative within six months of the request, the requesting designation must be implemented."

Renumber accordingly

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

**MR. PRESIDENT:** The House has amended, subsequently passed, and the emergency clause carried: SB 2419.

**HOUSE AMENDMENTS TO SENATE BILL NO. 2419**

Page 2, line 2, remove "It is also unlawful for any person to"

Page 2, remove line 3

Page 2, line 4, remove "causes or threatens to cause long-term or irreparable harm."

Page 2, line 5, replace "degradation of" with "a threatened or continuing violation of a", after "quality" insert "standard", and after "including" insert "any"

Page 2, line 6, replace "degradation" with "violation"

Page 2, line 10, replace "degradation" with "a violation", after "of" insert "the", and after "quality" insert "standards, including violations of the narrative standards."

Page 2, line 11, after "department" insert ", after obtaining written approval of the governor,"

Renumber accordingly

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

**MR. PRESIDENT:** The House has amended and subsequently failed to pass: SB 2227, SB 2303.

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

**MR. PRESIDENT:** The House has failed to pass: SB 2197.

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

**MR. PRESIDENT:** The House has concurred in the Senate amendments and subsequently passed: HB 1046, HB 1100, and HB 1143.

**MOTION**

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

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate be on the Fourth, Fifth, Seventh, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Monday, March 17, 2003, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**SCR 4037: Natural Resources Committee (Sen. Fischer, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4037 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1037, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1037 was placed on the Sixth order on the calendar.

Page 1, remove lines 16 through 21

Page 1, line 22, replace "3." with "2."

Page 1, line 23, replace "temporary" with "foster", replace "permanent" with "adoptive", and after "care" insert "until an adoption is finalized"

Page 2, line 3, remove "- Adoption placement facilitator"

Page 2, line 4, remove "registration"

Page 2, line 5, remove "The department of human services shall register, on forms prescribed and"

Page 2, remove lines 6 and 7

Page 5, line 23, after "child's" insert "parent, stepparent,", after the first comma insert "adult brother or sister, adult", overstrike the second comma, and after "aunt" insert ", or guardian"

Page 5, line 25, remove ". A"

Page 5, remove line 26

Page 5, line 27, remove "person is a facilitator registered with the department of human services"

Page 5, line 29, replace "or to" with an underscored semicolon

Page 5, line 30, after "placement" insert "; facilitate placement of a child by maintaining a list in any form of birth parents or prospective adoptive parents; or advertise in any public medium that the person knows of a child who is available for adoption or is willing to accept a child for adoption or that the person knows of prospective adoptive parents of a child"

ReNUMBER accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1066, as amended, Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1066, as amended, was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1067: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1067 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1096, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1096 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1119: Education Committee (Sen. Freborg, Chairman)** recommends **DO PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1119 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1129, as engrossed: Agriculture Committee (Sen. Flakoll, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1129 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1136: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1136 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1167: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1167 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1192, as engrossed: Agriculture Committee (Sen. Flakoll, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1192 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1382: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1382 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1388, as engrossed: Judiciary Committee (Sen. Traynor, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1388 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "chapters" with "chapter" and remove "and 51-28"

Page 1, line 2, remove "internet privacy and" and after the semicolon insert "to provide a penalty;"

Page 1, replace lines 8 through 24 with:

1. "Assist the transmission" means actions taken by a person to provide substantial assistance or support that enables any person to formulate, compose, send, originate, initiate, or transmit a commercial electronic mail message when the person providing the assistance knows or consciously avoids knowing that the initiator of the commercial electronic mail message is engaged, or intends to engage, in any practice that violates chapter 51-15.
2. "Commercial electronic mail message" means an electronic mail message sent to promote real property, goods, or services for sale or lease. The term does not mean an electronic mail message to which an interactive computer service provider has attached an advertisement in exchange for free use of an electronic mail account if the sender has agreed to such an arrangement.
3. "Electronic mail address" means a destination, commonly expressed as a string of characters, to which electronic mail may be sent or delivered.
4. "Initiate the transmission" refers to the action by the original sender of an electronic mail message, not to the action by any intervening interactive computer service that may handle or retransmit the message, unless the intervening interactive computer service assists in the transmission of an electronic mail message when the interactive computer service knows, or consciously avoids knowing, that the person initiating the transmission is engaged, or intends to engage, in any act or practice that violates chapter 51-15.
5. "Interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including a service or system that provides access to the internet and systems operated or services offered by libraries and educational institutions.
6. "Internet domain name" refers to a globally unique, hierarchical reference to an internet host or service, assigned through centralized internet naming authorities, comprising a series of character strings separated by periods, with the right-most string specifying the top of the hierarchy.

**51-27-02. False or misleading messages prohibited.**

1. A person may not initiate the transmission, conspire with another to initiate the transmission, or assist the transmission of a commercial electronic mail message from a computer located in this state or to an electronic mail address that the sender knows, or has reason to know, is held by a resident of this state that:
  - a. Uses a third-party's internet domain name without permission of the third party or otherwise misrepresents or obscures any information in identifying the point of origin or the transmission path of a commercial electronic mail message; or
  - b. Contains false or misleading information in the subject line.



2. For purposes of this section, a person knows that the intended recipient of a commercial electronic mail message is a resident of this state if that information is available, upon request, from the registrant of the internet domain name contained in the recipient's electronic mail address.

**51-27-03. Unpermitted or misleading electronic mail - Violation of consumer protection law.**

1. It is a violation of chapter 51-15 to conspire with another person to initiate the transmission or to initiate the transmission of a commercial electronic mail message that:
  - a. Uses a third-party's internet domain name without permission of the third party or otherwise misrepresents or obscures any information in identifying the point of origin or the transmission path of a commercial electronic mail message; or
  - b. Contains false or misleading information in the subject line.
2. It is a violation of chapter 51-15 to assist in the transmission of a commercial electronic mail message if the person providing the assistance knows, or consciously avoids knowing, that the initiator of the commercial electronic mail message is engaged, or intends to engage, in any act or practice that violates chapter 51-15.

**51-27-04. Subject disclosure - Violation of consumer protection law.**

1. The subject line of a commercial electronic mail message must include "ADV" as the first characters. If the message contains information that consists of material of a sexual nature that may only be viewed by an individual eighteen years of age or older, the subject line of the message must include "ADV-ADULT" as the first characters.
2. For purposes of this section, a commercial electronic mail message does not include a message if the recipient has consented to receive or has solicited electronic mail messages from the initiator, from an organization using electronic mail to communicate exclusively with its members, from an entity which uses electronic mail to communicate exclusively with its employees or contractors, or if there is a business or personal relationship between the initiator and the recipient.
3. For purposes of this section, a business relationship means a prior or existing relationship formed between the initiator and the recipient, with or without an exchange of consideration, on the basis of an inquiry, application, purchase, or services offered by the initiator or an affiliate or agent of the initiator. "Affiliate" means a person that directly or indirectly controls, is controlled by, or is under common control with a specified person.
4. It is a violation of chapter 51-15 to conspire with another person to initiate the transmission or to initiate the transmission of a commercial electronic mail message that violates this section.

**51-27-05. Toll-free number.**

1. A sender initiating the transmission of a commercial electronic mail message shall establish a toll-free telephone number, a valid sender-operated return electronic mail address, or another easy-to-use electronic method that the recipient of the commercial electronic mail message may call or access by electronic mail or other electronic means to notify the sender not to transmit any further unsolicited commercial electronic mail messages. The notification process may include the ability for the commercial electronic mail messages recipient to direct the initiator to transmit or not transmit particular commercial electronic mail messages based upon products, services, divisions, organizations, companies, or other selections of the recipient's choice.
2. A commercial electronic mail message must include a statement informing the recipient of a toll-free telephone number that the recipient may call, or a

valid return address to which the recipient may write or access by electronic mail or another electronic method established by the initiator, notifying the sender not to transmit to the recipient any further unsolicited commercial electronic mail messages to the electronic mail address specified by the recipient, and explaining the manner in which the recipient may specify what commercial electronic mail messages the recipient does and does not want to receive.

**51-27-06. Violations - Damages.**

1. Damages to the recipient of a commercial electronic mail message sent in violation of this chapter are five hundred dollars, or actual damages, whichever is greater.
2. Damages to an interactive computer service resulting from a violation of this chapter are one thousand dollars, or actual damages, whichever is greater.

**51-27-07. Blocking of commercial electronic mail by interactive computer service - Immunity from liability.**

1. An interactive computer service may block the receipt or transmission through its service of any commercial electronic mail that it reasonably believes is, or will be, sent in violation of this chapter.
2. An interactive computer service may not be held liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any commercial electronic mail which it reasonably believes is, or will be, sent in violation of this chapter.

**51-27-08. Nonexclusive causes of action, remedies, and penalties.** The remedies, duties, prohibitions, and penalties of this chapter are not exclusive and are in addition to all other causes of action, remedies, and penalties in chapter 51-15 or otherwise provided by law.

**51-27-09. Relationship to federal law.** If any federal law is enacted that regulates false, misleading, or unsolicited commercial electronic mail messages, but does not preempt state law on the subject, the federal law supersedes any conflicting provision of this chapter.

**SECTION 2. EXPIRATION DATE.** The governor shall certify to the legislative council the effective date of any federal legislation that preempts state regulation of false, misleading, or unsolicited commercial electronic mail messages. This Act becomes ineffective upon the effective date contained in the certification of federal legislation that preempts state regulation of false, misleading, or unsolicited commercial electronic mail messages."

Page 2, remove lines 1 through 30

Page 3, remove lines 1 through 30

Page 4, remove lines 1 through 31

Page 5, remove lines 1 through 31

Page 6, remove lines 1 through 31

Page 7, remove lines 1 through 24

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1410: Political Subdivisions Committee (Sen. Cook, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1410 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1438, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO**

**PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1438 was placed on the Sixth order on the calendar.

Page 1, line 1, after "25-01.3-01" insert "and a new section to chapter 44-04"

Page 1, line 2, after "definitions" insert "and duties to protect information", replace "sections" with "section", and after the second comma insert "subsection 1 of section 23-07-01.1, sections"

Page 1, line 3, remove the first comma and replace "sections" with "section"

Page 1, line 5, replace "and" with a comma and remove "subsection 1"

Page 1, line 6, remove the first "of section" and replace the second "section" with "and"

Page 2, after line 3, insert:

**"SECTION 2. AMENDMENT.** Subsection 1 of section 23-07-01.1 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~All physicians and other medical professionals~~ A physician or other health care provider may report immediately to the department of transportation in writing, the name, date of birth, and address of every ~~person~~ individual fourteen years of age or over coming before them for examination, attendance, care, or treatment ~~when~~ if there is reasonable cause to believe that ~~such person~~ the individual due to physical or mental reason is incapable of safely operating a motor vehicle or diagnosed as a case of a disorder defined as characterized by lapses of consciousness, gross physical or mental impairments, and the report is necessary to prevent or lessen a serious and imminent threat to the health or safety of the individual or the public."

Page 6, line 22, after "and" insert "any other person"

Page 8, line 26, remove "An exposed", overstrike "person" and insert immediately thereafter "An exposed individual", and replace "source individual" with "test subject"

Page 8, line 30, overstrike the comma

Page 8, line 31, remove "source" and overstrike "person" and insert immediately thereafter "test subject"

Page 9, line 12, after the first "the" insert "test"

Page 9, line 13, after the first "the" insert "test"

Page 12, line 7, after "103" insert "and part 164, section 5-02, subsection g, respectively"

Page 12, line 8, replace "Subsection 1 of section" with "Section"

Page 12, after line 9, insert:

**"25-01.3-10. Confidentiality and privileged information."**

Page 13, after line 3, insert:

- "2. Unless ordered by a court of competent jurisdiction, the name of ~~a person~~ an individual who in good faith makes a report or complaint may not be ~~released or~~ disclosed by the committee or the project."

Page 18, after line 6, insert:

**"SECTION 25.** A new section to chapter 44-04 of the North Dakota Century Code is created and enacted as follows:

Business associate - Duty to protect information.

1. As used in this section, "business associate" has the meaning set forth in title 45, Code of Federal Regulations, part 160, section 103.

2. If a public entity is acting as a business associate of another public entity, the entity acting as a business associate shall comply with all the requirements applicable to a business associate under title 45, Code of Federal Regulations, part 164, section 504, subsection e, paragraph 2."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HCR 3015: Natural Resources Committee (Sen. Fischer, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3015 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3060: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3060 was placed on the Fourteenth order on the calendar.

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

**WILLIAM R. HORTON, Secretary**