

## JOURNAL OF THE SENATE

## Fifty-eighth Legislative Assembly

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Bismarck, March 18, 2003

The Senate convened at 1:00 p.m., with President Dalrymple presiding.

The prayer was offered by Pastor Greg Zillinger, St. Peter Lutheran Church, Hannover.

The roll was called and all members were present except Senators Bercier, Fairfield, Holmberg, and Lyson.

A quorum was declared by the President.

## CONSIDERATION OF AMENDMENTS

**HB 1197, as engrossed: SEN. NICHOLS (Agriculture Committee) MOVED** that the amendments on SJ pages 795-796 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**HB 1358, as engrossed: SEN. HEITKAMP (Natural Resources Committee) MOVED** that the amendments on SJ pages 797-799 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

## MOTION

**SEN. CHRISTMANN MOVED** that HB 1243, which is on the Sixth order, be laid over one legislative day, which motion prevailed.

## MOTION

**SEN. CHRISTMANN MOVED** that Senate Rule 329 (4) be amended to read "fifty-first" in place of "forty-seventh", thereby changing the deadline for rereferral of House bills to the **Appropriations Committee**. The motion prevailed.

## CONSIDERATION OF AMENDMENTS

**HB 1246, as engrossed: SEN. G. LEE (Political Subdivisions Committee) MOVED** that the amendments on SJ page 796 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**HB 1321, as engrossed: SEN. SEYMOUR (Agriculture Committee) MOVED** that the amendments on SJ pages 796-797 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

## MOTION

**SEN. NICHOLS MOVED** that the Senate reconsider its action whereby HB 1382 passed, which motion lost on a verification vote.

## SECOND READING OF HOUSE BILL

**HB 1112:** A BILL for an Act to amend and reenact subsection 2 of section 39-06.1-06, sections 39-06.1-09 and 39-12-02, subsection 1 of section 39-12-05.3, and sections 39-12-08, 39-12-09, and 39-12-17 of the North Dakota Century Code, relating to noncriminal disposition fees, definition of moving violation, vehicles of excessive size and weight, and limitations on loads extending beyond the sides of a motor vehicle; and to provide a penalty.

## 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 37 YEAS, 5 NAYS, 0 EXCUSED, 5 ABSENT AND NOT VOTING.

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

**NAYS:** Heitkamp; Krauter; Mutch; Nichols; Urlacher

**ABSENT AND NOT VOTING:** Bercier; Fairfield; Holmberg; Lee, J.; Lyson

Engrossed HB 1112, as amended, passed and the title was agreed to.

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#### VOTING INTENTION

**SEN. J. LEE REQUESTED** that the record show she intended to vote YEA on Engrossed HB 1112, as amended, which request was granted.

#### MOTION

**SEN. CHRISTMANN MOVED** that HB 1037, which is on the Fourteenth order, be laid over one legislative day, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1052:** A BILL for an Act to create and enact a new section to chapter 49-21 of the North Dakota Century Code, relating to a performance assurance plan by the public service commission; to provide a continuing appropriation; to provide an expiration date; and to declare an emergency.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 43 YEAS, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Mathern; Mutch; Nelson; Nothing; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

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

HB 1052, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

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#### MOTION

**SEN. CHRISTMANN MOVED** that the rules be suspended and HB 1052, as amended, be messaged to the House immediately, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1388:** A BILL for an Act to create and enact chapter 51-27 of the North Dakota Century Code, relating to commercial electronic mail solicitation; to provide a penalty; and to provide an expiration 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 43 YEAS, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Mathern; Mutch; Nelson; Nothing; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

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

Engrossed HB 1388, as amended, passed and the title was agreed to.

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#### SECOND READING OF HOUSE BILL

**HB 1410:** A BILL for an Act to amend and reenact section 16.1-03-03, subsection 2 of section 16.1-03-07, and section 16.1-03-11 of the North Dakota Century Code, relating to political party organization.

**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 41 YEAS, 2 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

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

**NAYS:** Heitkamp; Mutch

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

HB 1410 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1056:** A BILL for an Act to amend and reenact subsection 55 of section 40-05-01 of the North Dakota Century Code, relating to ownership by a municipality of property located outside this state.

**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, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; 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; Fairfield; Holmberg; Lyson

Engrossed HB 1056 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1062:** A BILL for an Act to amend and reenact subsection 1 of section 39-12-04 of the North Dakota Century Code, relating to width limits and the movement of implements of husbandry.

**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, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; 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; Fairfield; Holmberg; Lyson

HB 1062 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1195:** A BILL for an Act to amend and reenact section 35-20-08 of the North Dakota Century Code, relating to attorney's liens.

**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, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; 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; Fairfield; Holmberg; Lyson

HB 1195 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1305:** A BILL for an Act to amend and reenact section 44-04-19 of the North Dakota Century Code, relating to the location of public meetings.

**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, 42 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Tollefson

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

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

Engrossed HB 1305 lost.

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**SECOND READING OF HOUSE BILL**

**HB 1215:** A BILL for an Act to create and enact a new section to chapter 12.1-21 of the North Dakota Century Code, relating to tampering with, disabling, or falsely sounding a fire alarm and tampering with or disabling fire suppression equipment; to provide a penalty; 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 43 YEAS, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; 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; Fairfield; Holmberg; Lyson

Engrossed HB 1215 passed, the title was agreed to, and the emergency clause was declared carried.

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**SECOND READING OF HOUSE BILL**

**HB 1277:** A BILL for an Act to amend and reenact section 39-06-16 of the North Dakota Century Code, relating to the display of a motor vehicle operator's license.

**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, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; 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; Fairfield; Holmberg; Lyson

HB 1277 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1411:** A BILL for an Act to create and enact section 40-47.3-01.2 of the North Dakota Century Code, relating to the imposition of a city motor vehicle rental tax; and to amend and reenact section 40-47.3-02 of the North Dakota Century Code, relating to the establishment of the city visitors' promotion fund.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and is PLACED ON THE CALENDAR WITHOUT RECOMMENDATION, the roll was called and there were 8 YEAS, 35 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Flakoll; Grindberg; Lee, J.; Nelson; Nething; Polovitz; Syverson; Traynor

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

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

Engrossed HB 1411 lost.

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**SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3015:** A concurrent resolution expressing the legislative assembly's support for construction of the northwest area water supply project and delivery of water to eastern North Dakota.

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

HCR 3015 was declared adopted, and the title was agreed to on a voice vote.

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**SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3060:** A concurrent resolution directing the Legislative Council to study the state's unemployment compensation system, including reserve guidelines for the unemployment trust fund, the system for ratesetting, treatment of positive balance and negative balance employers, and the feasibility and desirability of creating an unemployment compensation board.

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

HCR 3060 was declared adopted, and the title was agreed to on a voice vote.

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**SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3073:** A concurrent resolution directing the Legislative Council to study the effectiveness and appropriateness of tax preferences provided by state law and discretionary action of political subdivisions.

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

HCR 3073 was declared adopted, and the title was agreed to on a voice vote.

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**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate proceed to the Twelfth order, which motion prevailed.

**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. COOK MOVED** that the Senate do concur in the House amendments to Engrossed SB 2180 as printed on SJ page 753, which motion prevailed on a voice vote.

Engrossed SB 2180, as amended, was placed on the Eleventh order of business.

**SECOND READING OF SENATE BILL**

**SB 2180:** A BILL for an Act to amend and reenact section 61-24.5-04 of the North Dakota Century Code, relating to compensation of the members of the board of directors of the southwest water authority.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 42 YEAS, 1 NAY, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Mathern; Mutch; Nelson; Nothing; Nichols; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** O'Connell

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

Reengrossed SB 2180 passed and the title was agreed to.

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**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. J. LEE MOVED** that the Senate do concur in the House amendments to SB 2068 as printed on SJ page 721, which motion prevailed on a voice vote.

SB 2068, as amended, was placed on the Eleventh order of business.

**SECOND READING OF SENATE BILL**

**SB 2068:** A BILL for an Act to amend and reenact section 50-24.1-06 of the North Dakota Century Code, relating to remedial eye care services coverage.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 43 YEAS, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Mathern; Mutch; Nelson; Nothing; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

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

Engrossed SB 2068 passed and the title was agreed to.

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**CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. COOK MOVED** that the Senate do concur in the House amendments to Engrossed SB 2252 as printed on SJ page 773, which motion prevailed on a voice vote.

Engrossed SB 2252, as amended, was placed on the Eleventh order of business.

**SECOND READING OF SENATE BILL**

**SB 2252:** A BILL for an Act to amend and reenact sections 43-07-04, 43-07-14, 43-07-15, and 43-07-19 of the North Dakota Century Code, relating to contractor's license, license complaints, hearings, revocations, civil penalties, remedies, and service of process; to provide for a legislative council study; and to provide a penalty.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 43 YEAS, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Mathern; Mutch; Nelson; Nothing; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

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

Reengrossed SB 2252 passed and the title was agreed to.

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**MOTION**

**SEN. STENEHJEM MOVED** that Senator G. Lee replace Senator J. Lee on the **Select Committee** to approve the State Board of Higher Education nominees, which motion prevailed.

**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 1031, HB 1071, HB 1083, HB 1090, HB 1095, HB 1113, HB 1117, HB 1146, HB 1163, HB 1185, HB 1191, HB 1193, HB 1214, HB 1224, HB 1258, HB 1259, HB 1267, HB 1334, HB 1338, HB 1374, HB 1383, HB 1444, HB 1457, HB 1480, HB 1481.

**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: HCR 3069.

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

**MR. SPEAKER:** The President has signed: HCR 3002, HCR 3010, HCR 3012, HCR 3013, HCR 3018, HCR 3021, HCR 3026, HCR 3043, HCR 3051.

**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 2038, SB 2046, SB 2077, SB 2080, SB 2104, SB 2112, SB 2115, SB 2134, SB 2139, SB 2143, SB 2146, SB 2162, SB 2176, SB 2178, SB 2183, SB 2184, SB 2213, SB 2218, SB 2224, SB 2229, SB 2266, SB 2341, SB 2367, SB 2390, SB 2400.

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

**MR. PRESIDENT:** The Speaker has signed: SB 2038, SB 2046, SB 2077, SB 2080, SB 2104, SB 2112, SB 2115, SB 2134, SB 2139, SB 2143, SB 2146, SB 2162, SB 2176, SB 2178, SB 2183, SB 2184, SB 2213, SB 2218, SB 2224, SB 2229, SB 2266, SB 2341, SB 2367, SB 2390, SB 2400.

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

**MR. SPEAKER:** The President has signed and your signature is respectfully requested on: SCR 4002, SCR 4006, SCR 4011, SCR 4013, SCR 4026, SCR 4030.

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

**MR. PRESIDENT:** The Speaker has signed: SCR 4002, SCR 4006, SCR 4011, SCR 4013, SCR 4026, SCR 4030.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following resolutions were delivered to the Secretary of State for filing on March 18, 2003: SCR 4002, SCR 4006, SCR 4011, SCR 4013, SCR 4026, SCR 4030.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following resolution was delivered to the Secretary of State for filing on March 18, 2003: SMR 8001.

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

**MR. SPEAKER:** The Senate has passed and your favorable consideration is requested on: SCR 4037.

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

**MR. SPEAKER:** The Senate has passed unchanged: HB 1067, HB 1096, HB 1119, HB 1129, HB 1136, HB 1167.

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

**MR. SPEAKER:** The Senate has passed, the emergency clause carried, unchanged: HB 1192.

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

**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1066, HB 1252, HB 1397.

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

**MR. SPEAKER:** The Senate has amended, subsequently passed, and the emergency clause carried: HB 1052, HB 1438.

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

**MR. PRESIDENT:** The House has passed unchanged: SB 2057, SB 2059, SB 2175, SB 2200, SB 2208, SB 2237, SB 2270, SB 2274, SB 2312, SB 2401.

**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 2414.

**HOUSE AMENDMENTS TO SENATE BILL NO. 2414**

Page 1, line 6, after the first "by" insert "an interim committee of the legislative council or by" and remove the second "by"

Renumber accordingly

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

**MR. PRESIDENT:** The House has amended and subsequently passed: SB 2216.

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2216**

Page 1, line 6, replace "On or before July 1," with:

- "1. The board of each school district shall require that all students and employees of the district, while on school property, involved in a school-related activity or in attendance at a school-sponsored event, conduct themselves in a manner that promotes respect for all individuals.
2. The board of each school district shall annually review its grievance policies and procedures to ensure that all requirements of federal civil rights laws have been met."

Page 1, remove lines 7 through 10

Renumber accordingly

**MOTION**

**SEN. CHRISTMANN MOVED** that the absent members 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., Wednesday, March 19, 2003, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**HB 1082, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1082 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1088, as reengrossed: Judiciary Committee (Sen. Traynor, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (4 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). Reengrossed HB 1088 was placed on the Sixth order on the calendar.

Page 1, line 4, replace "section 27-05.2-03" with "sections 12-48-15, 12-48.1-03, 29-26-22, 39-08-20, and 51-04-03.1" and replace "fees charged by the clerk of" with "court administration fees"

Page 1, line 5, remove "the district court"

Page 1, replace lines 7 through 24 with:

**"SECTION 1. AMENDMENT.** Section 12-48-15 of the North Dakota Century Code is amended and reenacted as follows:

**12-48-15. Disposition of moneys earned - Warden to keep account of money earned by inmates - Investment in interest-bearing accounts.**

1. The warden of the penitentiary shall keep an account for each inmate. Not more than fifty percent of an inmate's penitentiary earnings, as provided by penitentiary rules, must be withheld from an inmate and deposited in a separate account for the inmate and may not be made available to the inmate until the inmate's release from the penitentiary, except as authorized by the warden. The remainder of an inmate's earnings must be made available to the inmate on a regular basis.
2. Inmates may, in writing, authorize the warden or designee to deposit any of their accumulated earnings from the prison industries, hobby, work release, or any other prison program in an interest-earning account in the Bank of North Dakota for the benefit of the inmate. The account must be a two-signature account requiring the inmate's signature and that of an authorized designated officer or employee of the state penitentiary for withdrawal.
3. The warden may directly deposit an inmate's funds from sources outside of the penitentiary in any bank or account the inmate may designate. If a court order does not allow an inmate to designate a bank or account other than a Bank of North Dakota account or if it is necessary for the benefit and protection of the inmate, the warden, upon written explanation to the inmate, shall deposit an inmate's funds from sources outside the penitentiary into a Bank of North Dakota account. The department of corrections and rehabilitation and its divisions, departments, officers, and employees may not be held responsible or liable for any inmate income or funds deposited into a bank or account designated by an inmate.
4. The warden is responsible for guiding inmates in making proper use of their funds to pay their obligations, including the payment of ~~court costs~~ any administration fee, court-appointed counsel fees, court-ordered restitution, support for dependent relatives, or to provide for their own medical, surgical, eye care, or dental treatment or services not generally provided by the state. The warden may withdraw funds from an inmate's penitentiary account or Bank of North Dakota two-signature account, without the inmate's signature, to meet the inmate's legitimate financial obligations. Before the funds may be withdrawn, the inmate must first receive written notice and be provided a penitentiary administrative hearing with the right to penitentiary staff assistance and the right to appeal to the director of the department of corrections and rehabilitation. An inmate is not entitled to prior written notice, administrative hearing, or right to an appeal to the department of corrections and rehabilitation when funds are to be withdrawn for payment of a court-ordered obligation, including child support, provided the inmate has had notice and an opportunity to be heard in the court proceedings.
5. The warden may pay an inmate all funds in the inmate's account, less the inmate's outstanding obligations to the penitentiary, when the inmate is transferred to a county jail or regional correctional center or placed in community corrections confinement. The warden shall pay an inmate all

funds in the inmate's account less the inmate's outstanding obligations to the penitentiary when the inmate is transferred to a correctional facility outside of this state, released on parole, or discharged from the penitentiary.

**SECTION 2. AMENDMENT.** Section 12-48.1-03 of the North Dakota Century Code is amended and reenacted as follows:

**12-48.1-03. Use of funds earned on work release.** The plan for the inmate shall provide that any funds earned in outside employment will be used in the following order: for necessary expenses of the inmate, including room and board costs of the institution; ~~court costs or any administration fee and fine~~; restitution if a part of the sentence; necessary support of dependents; and credited to inmate's personal account to be paid the inmate on release."

Page 2, remove lines 1 through 19

Page 2, line 24, after "fund" insert "certain" and remove "paragraph 2 of"

Page 2, line 25, remove "subdivision a of subsection 1 of" and replace "27-05.2-03" with "29-26-22"

Page 4, after line 7, insert:

**"SECTION 6. AMENDMENT.** Section 29-26-22 of the North Dakota Century Code is amended and reenacted as follows:

**29-26-22. Judgment for fines, ~~costs~~, and court administration fee - ~~Statement to be filed by court~~ Special fund - Docketing and enforcement.** In all criminal cases ~~except infractions~~, upon a plea or finding of guilt, ~~at the court shall impose a court administration fee in lieu of the assessment of court costs. The court administration fee must include a fee of up to thirty percent of the maximum allowable fine for the offense may be taxed against the defendant in lieu of the assessment of court costs~~ one hundred twenty-five dollars for a class B misdemeanor, two hundred dollars for a class A misdemeanor, four hundred dollars for a class C felony, six hundred fifty dollars for a class B felony, and nine hundred dollars for a class A or AA felony. ~~If the court does assess costs as part of its sentence, the court shall include in the judgment the facts justifying the amount assessed.~~ In addition, in all criminal cases ~~except infractions~~, the court administration fee must include fifty dollars for deposit in the indigent defense administration fund which must be used to contract for indigent defense services in this state and fifty dollars for deposit in the court facilities improvement and maintenance fund. A court may waive the administration fee upon a showing of indigency as provided in section 25-03.1-13. District court ~~costs~~, administration fees, exclusive of amounts deposited in the indigent defense administration fund and the court facilities and improvement fund, and forfeitures must be deposited in the state general fund. A judgment that the defendant pay a fine, ~~costs~~, or court administration fee, or ~~any combination thereof both~~, may be docketed; and ~~thereafter if docketed~~ constitutes a lien upon the real estate of the defendant in like manner as a judgment for money rendered in a civil action. The court may allow the defendant to pay any assessed ~~costs or administrative~~ administration fee in installments. When a defendant is assessed ~~costs or administrative~~ administration fees, the court may not impose at the same time an alternative sentence to be served if the ~~costs~~ fees are not paid.

**SECTION 7. AMENDMENT.** Section 39-08-20 of the North Dakota Century Code is amended and reenacted as follows:

**39-08-20. Driving without liability insurance prohibited - Penalty.**

1. A person may not drive, or the owner may not cause or knowingly permit to be driven, a motor vehicle in this state without a valid policy of liability insurance in effect in order to respond in damages for liability arising out of the ownership, maintenance, or use of that motor vehicle in the amount required by chapter 39-16.1. Upon being stopped by a law enforcement officer for the purpose of enforcing or investigating the possible violation of an ordinance or state law or during the investigation of an accident, the person driving the motor vehicle shall provide to the officer upon request satisfactory evidence of the policy required under this section. If unable to comply with the request, that person may be charged with a violation of this section if that person fails to submit satisfactory evidence of the policy to

the officer or the officer's agency within twenty days of the date of the request. If that person produces a valid policy of liability insurance in effect at the time of violation of this section to the officer, officer's agency, or a court, that person may not be convicted or assessed any ~~court costs~~ ~~administration fee~~ for violation of this section. If the driver is not an owner of the motor vehicle, the driver does not violate this section if the driver provides the court with evidence identifying the owner of the motor vehicle and describing circumstances under which the owner caused or permitted the driver to drive the motor vehicle. Violation of this section is a class B misdemeanor and the sentence imposed must include a fine of at least one hundred fifty dollars which may not be suspended. A person convicted for a second or subsequent violation of driving without liability insurance within an eighteen-month period must be fined at least three hundred dollars which may not be suspended.

2. Upon conviction for a violation of this section or equivalent ordinance, the person who has been convicted shall provide proof of motor vehicle liability insurance to the department in the form of a written or electronically transmitted certificate from an insurance carrier authorized to do business in this state. This proof must be provided for a period of three years and kept on file with the department. If the person fails to provide this information, the department shall suspend that person's driving privileges and may not issue or renew that person's operator's license unless that person provides proof of insurance.
3. A person who has been convicted for violation of this section or equivalent ordinance shall surrender that person's operator's license and purchase a duplicate operator's license with a notation requiring that person to keep proof of liability insurance on file with the department. The fee for this license is fifty dollars and the fee to remove this notation is fifty dollars.
4. When an insurance carrier has certified a motor vehicle liability policy, the insurance carrier shall notify the director no later than ten days after cancellation or termination of the certified insurance policy by filing a notice of cancellation or termination of the certified insurance policy; except that a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.

**SECTION 8. AMENDMENT.** Section 51-04-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**51-04-03.1. License to be carried by licensee and exhibited on demand.**

Every transient merchant licensed under this chapter shall have the license in immediate possession at all times when engaging in or transacting any business regulated by this chapter. The licensee shall display the license when requested to do so by any court, law enforcement official, peace officer, or consumer. However, a person charged with violating this requirement may not be convicted, fined, or assessed ~~court costs~~ ~~the administration fee~~ if the license is produced in court or to the arresting officer and if the license was valid at the time of the arrest."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1089, as engrossed: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1089 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1168, as engrossed: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1168 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1189, as engrossed: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO NOT PASS** (4 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). Engrossed HB 1189 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1227, as engrossed: Education Committee (Sen. Freborg, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1227 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1235: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (4 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1235 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1239, as engrossed: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (4 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed HB 1239 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1249, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1249 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1268, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1268 was rereferred to the **Appropriations Committee**.

**REPORT OF STANDING COMMITTEE**

**HB 1283, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1283 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1292, as amended, Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (8 YEAS, 3 NAYS, 3 ABSENT AND NOT VOTING). HB 1292, as amended, was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1336, as engrossed: Education Committee (Sen. Freborg, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1336 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1370, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1370 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1399, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1399 was rereferred to the **Appropriations Committee**.

**REPORT OF STANDING COMMITTEE**

**HB 1426, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1426 was placed on the Sixth order on the calendar.

Page 1, line 1, remove the first "and"

Page 1, line 3, remove "and" and after "57-15" insert ", a new subdivision to subsection 2 of section 57-38-30.3, and a new subsection to section 57-39.2-04"

Page 1, line 4, after "authorities" insert "and exemption from income, sales, and use taxes", remove "and", and after "date" insert "; and to declare an emergency"

Page 6, line 22, after "all" insert "individual and corporate income" and after "taxes" insert "imposed under sections 57-35.3-03, 57-38-29, 57-38-30, and 57-38-30.3"

Page 8, line 5, after "exemptions" insert "from sales and use taxes the participating political subdivision has imposed" and after "for" insert "tangible"

Page 8, line 6, after the second "the" insert "tangible"

Page 9, line 14, replace "my" with "may"

Page 9, after line 26, insert:

**"SECTION 20.** A new subdivision to subsection 2 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

Reduced by interest and income from bonds issued under this Act.

**SECTION 21.** A new subsection to section 57-39.2-04 of the North Dakota Century Code is created and enacted as follows:

Gross receipts from all sales of tangible personal property purchased by a commerce authority and made a part of the infrastructure of a commerce authority, otherwise taxable under this chapter, if the personal property is placed within the geographic boundaries of the political subdivisions that created the commerce authority and is necessary and directly services infrastructure needs of the commerce authority. The commissioner shall issue a certificate of exemption to a political subdivision exempted by this subsection, and the political subdivision shall present the certificate of exemption to each retailer whenever the exemption is claimed."

Page 9, after line 28, insert:

**"SECTION 23. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1435, as engrossed: Natural Resources Committee (Sen. Fischer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1435 was placed on the Sixth order on the calendar.

Page 2, remove lines 29 through 31

Page 3, remove lines 1 through 6

Page 3, line 7, replace "5." with "4."

Page 3, line 19, replace "6." with "5." and replace "5" with "4"

Page 3, line 25, replace "7." with "6."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1498: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1498 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HCR 3025: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3025 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HCR 3028, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HCR 3028 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3032: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3032 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3061: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3061 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "replace the existing" with "tax" and replace "property tax system" with "providers"

Page 1, line 3, remove "replacement" and remove "for electric utility property"

Page 1, after line 7, insert:

**"WHEREAS**, investor-owned electric utilities are subject to state and federal corporate income taxes; and"

Page 1, line 8, remove "property"

Page 1, line 9, after "among" insert "the state and its"

Page 1, line 15, remove "property" and remove "replacement"

Page 1, line 18, remove "property"

Page 1, remove lines 20 and 21

Page 1, line 23, remove "and"

Page 2, remove lines 1 through 3

Page 2, line 7, replace "replace the existing" with "tax", replace "property tax system" with "providers", and remove "replacement"

Page 2, line 8, remove "for electric utility property"

Re-number accordingly

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

**WILLIAM R. HORTON, Secretary**