

JOURNAL OF THE SENATE

Fifty-ninth Legislative Assembly

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Bismarck, March 11, 2005

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

The prayer was offered by Pastor Nate Keith, Trinity Lutheran Church, Bismarck.

The roll was called and all members were present except Senators Stenehjem and Tollefson.

A quorum was declared by the President.

CORRECTION AND REVISION OF THE JOURNAL

MR. PRESIDENT: Your **Committee on Correction and Revision of the Journal (Sen. Espgaard, Chairman)** has carefully examined the Journal of the Forty-fourth Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 772, line 9, replace "22" with "21"

SEN. ESPEGARD MOVED that the report be adopted, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1061, as engrossed: SEN. HACKER (Judiciary Committee) MOVED that the amendments on SJ pages 772-773 be adopted and then be **REFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1311: SEN. TAYLOR (Education Committee) MOVED that the amendments on SJ page 773 be adopted and then be **REFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HCR 3031: SEN. TRAYNOR (Judiciary Committee) MOVED that the amendments on SJ pages 773-774 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

MOTION

SEN. CHRISTMANN MOVED that Engrossed HB 1359, as amended, which is on the Fourteenth order, be rereferred to the **Human Services Committee**, which motion prevailed. Pursuant to Sen. Christmann's motion, Engrossed HB 1359, as amended, was rereferred.

SECOND READING OF HOUSE BILL

HB 1074: A BILL for an Act to create and enact a new section to chapter 54-10 of the North Dakota Century Code, relating to audits of computer systems by the state auditor; 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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Stenehjem; Tollefson

Engrossed HB 1074, as amended, passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1325: A BILL for an Act to amend and reenact section 5-01-16 of the North Dakota Century Code, relating to interstate sales of wine.

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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Stenehjem; Tollefson

Engrossed HB 1325, as amended, passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1106: A BILL for an Act to amend and reenact section 49-21-31 of the North Dakota Century Code, relating to the maximum balance of the public service commission performance assurance 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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Stenehjem; Tollefson

HB 1106 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1312: A BILL for an Act to create and enact a new section to chapter 32-19 of the North Dakota Century Code, relating to deficiency judgments on agricultural land; and to amend and reenact section 32-19-06 of the North Dakota Century Code, relating to foreclosures of real estate mortgages.

ROLL CALL

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

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

NAYS: Fairfield

ABSENT AND NOT VOTING: Stenehjem; Tollefson

Engrossed HB 1312, as amended, passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1324: A BILL for an Act to create and enact a new section to chapter 49-05 of the North Dakota Century Code, relating to advance determination of prudence for a public utility's proposed new construction, lease, or improvement of an energy conversion facility, renewable energy facility, transmission facility, or proposed energy purchase contract.

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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Stenehjem; Tollefson

Engrossed HB 1324, as amended, passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1149: A BILL for an Act to amend and reenact section 47-30.1-19.1 of the North Dakota Century Code, relating to preparation of property lists by the unclaimed property administrator.

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, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Stenehjem; Tollefson

Engrossed HB 1149 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1327: A BILL for an Act to create and enact a new subsection to section 39-29-09 of the North Dakota Century Code, relating to the operation of all-terrain vehicles; 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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Stenehjem; Tollefson

Engrossed HB 1327 passed, the title was agreed to, and the emergency clause was declared carried.

SECOND READING OF HOUSE BILL

HB 1429: A BILL for an Act to amend and reenact sections 15.1-09-08, 16.1-09-02, and 40-21-07 of the North Dakota Century Code, relating to the filing of statement of interests by candidates.

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, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Stenehjem; Tollefson

HB 1429 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1176: A BILL for an Act to amend and reenact section 10-04-02, subsection 1 of section 10-04-03, sections 10-04-05 and 10-04-06, subsections 2 and 3 of section 10-04-07.1, sections 10-04-08 and 10-04-08.3, subsection 2 of section 10-04-08.4, sections 10-04-09 and 10-04-10, subsections 1 and 2 of section 10-04-10.3, sections 10-04-11, 10-04-12, 10-04-15, and 10-04-16, subsection 1 of section 10-04-16.1, section 10-04-17, and subsections 1 and 2 of section 10-04-18 of the North Dakota Century Code, relating to definitions under the securities laws, securities exemptions and exempt transactions, registration and sale of securities, and registration of broker-dealers, agents, investment advisers, and investment adviser representatives; and to repeal section 10-04-07 of the North Dakota Century Code, relating to securities registration by description.

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; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Robinson; Schobinger; Seymour; Syverson; Tallackson; Taylor; Thane; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

NAYS: O'Connell

ABSENT AND NOT VOTING: Stenehjem; Tollefson

Engrossed HB 1176 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1430: A BILL for an Act to amend and reenact subdivisions d and e of subsection 2 of section 16.1-07-15 of the North Dakota Century Code, relating to early voting.

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, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Fischer; Stenehjem; Tollefson

Engrossed HB 1430 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1432: A BILL for an Act to create and enact sections 16.1-08.1-03.10 and 16.1-08.1-03.11 of the North Dakota Century Code, relating to campaign finance; and to amend and reenact subsection 5 of section 16.1-08.1-01, subsections 2 and 3 of section 16.1-08.1-02, subsection 1 of section 16.1-08.1-03, subsection 3 of section 16.1-08.1-03.1, section 16.1-08.1-03.2, subsection 2 of section 16.1-08.1-03.8, and sections 16.1-08.1-03.9, 16.1-08.1-04, and 16.1-08.1-06.1 of the North Dakota Century Code, relating to campaign finance.

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, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Kringstad; Stenehjelm; Tollefson

HB 1432 passed and the title was agreed to.

VOTING INTENTION

SEN. FISCHER REQUESTED that the Journal reflect that he intended to vote YEA on Engrossed HB 1430, which request was granted.

VOTING INTENTION

SEN. KRINGSTAD REQUESTED that the Journal reflect that he intended to vote YEA on HB 1432, which request was granted.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3010: A concurrent resolution directing the Legislative Council to study the feasibility and desirability of establishing a state Brownfields law; superfund law; other efforts to encourage the remediation and redevelopment of sites on which there has been a release of pollution, contaminants, or petroleum; and measures to encourage property owners to invest in and redevelop these sites.

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

HCR 3010 was declared adopted, and the title was agreed to on a voice vote.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3019: A concurrent resolution urging the United States Army Corps of Engineers to retain sufficient water in the upper portion of Lake Oahe to ensure a stable water supply for the residents of the Standing Rock Indian Reservation and surrounding communities, complimenting the Governor and the Attorney General on their efforts, and urging them to continue their actions to ensure federal officials retain sufficient water in the upper portion of Lake Oahe to protect the health and well-being of the citizens of the area.

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

Engrossed HCR 3019 was declared adopted, and the title was agreed to on a voice vote.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has passed unchanged: HB 1057, HB 1159, HB 1179, HB 1194, HB 1240, HB 1268, HB 1278, HB 1336, HB 1506.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has passed, the emergency clause carried, unchanged: HB 1213.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has amended and subsequently passed: HB 1188, HB 1200.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has failed to pass: HB 1036, HB 1504.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The House has passed unchanged: SB 2212, SB 2249, SB 2257, SB 2275, SB 2354, SB 2363, SCR 4019, SCR 4024.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The House has passed, the emergency clause carried, unchanged: SB 2036.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The House has passed, the emergency clause carried, unchanged: SB 2250, SB 2273.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The House has amended and subsequently passed: SB 2117, SB 2187, SB 2219, SB 2220, SB 2338.

HOUSE AMENDMENTS TO SENATE BILL NO. 2117

Page 1, line 1, after the second comma insert "14-02.4-19,"

Page 5, line 1, replace ", or" with ". If a public accommodation can demonstrate that barrier removal is not readily achievable, the public accommodation"

Page 5, after line 3, insert:

"SECTION 3. AMENDMENT. Section 14-02.4-19 of the North Dakota Century Code is amended and reenacted as follows:

14-02.4-19. Actions - Limitations.

1. Any person claiming to be aggrieved by a discriminatory practice with regard to public services or public accommodations in violation of this chapter may file a complaint of discriminatory practices with the department or may bring an action in the district court in the judicial district in which the unlawful practice is alleged to have been committed or in the district in which the person would have obtained public accommodations or services were it not for the alleged discriminatory act within one hundred eighty days of the alleged act of wrongdoing.
2. Any person claiming to be aggrieved by any discriminatory practice other than public services or public accommodations in violation of this chapter may file a complaint of discriminatory practice with the department or may bring an action in the district court in the judicial district in which the unlawful practice is alleged to have been committed, in the district in which the records relevant to the practice are maintained and administered, or in the district in which the person would have worked or obtained credit were it not for the alleged discriminatory act within three hundred days of the alleged act of wrongdoing.
3. If a complaint of a discriminatory practice is first filed with the department, the period of limitation for bringing an action in the district court is ninety days from the date the department dismisses the complaint or issues a written notice to the complainant that administrative action on the complaint has concluded probable cause determination.

4. If a person elects to bring an action in the district court under this chapter, any pending administrative action based upon the same discriminatory acts must be dismissed immediately."

Page 5, line 30, after "occurred" insert "with regard to one or more of the claims of the aggrieved person's complaint" and after "dismiss" insert "all or a portion of"

Page 6, line 3, after "shall" insert "issue a probable cause determination and"

Re-number accordingly

HOUSE AMENDMENTS TO SENATE BILL NO. 2187

Page 1, line 1, replace "sections 26.1-27-02.1 and" with "section"

Page 1, line 2, remove "the definition of home state and"

Page 1, remove lines 9 through 16

Page 2, line 21, replace "Home state bond" with "Bond"

Page 2, line 22, replace "its home state or any other" with "this"

Page 2, line 23, remove "home state" and remove "and the insurance regulatory"

Page 2, remove line 24

Page 2, line 25, replace "and cover" with "for covered"

Page 2, line 29, replace "self-funded" with "administered"

Page 2, line 30, replace "the administrator's home" with "this" and remove "and all additional states in which the"

Page 2, line 31, remove "administrator is authorized to conduct business"

Re-number accordingly

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2219

Page 1, line 12, after "to" insert "a court order or"

Re-number accordingly

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2220

Page 1, line 1, remove "subsection 1 of section 20.1-03-07 and"

Page 1, remove lines 4 through 12

Page 1, line 18, after the period insert "However, a nonresident may hunt cranes after first obtaining a nonresident waterfowl hunting license or a nonresident small game hunting license."

Page 1, line 19, remove "and cranes"

Page 2, line 8, after the period insert "However, a nonresident may hunt cranes after first obtaining a nonresident waterfowl hunting license or a nonresident small game hunting license."

Page 2, line 9, remove "and cranes"

Re-number accordingly

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2338

Page 2, line 10, after the second comma insert "state department of health,"

Re-number 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 2251, SB 2293, SB 2294.

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2251

Page 1, line 1, after "Act" insert "to create and enact chapter 51-30 of the North Dakota Century Code, relating to requiring disclosure to consumers of a breach in security by businesses maintaining personal information in electronic form;"

Page 1, line 4, remove "and" and after "penalty" insert "; and to declare an emergency"

Page 1, line 15, overstrike "39-04-14" and insert immediately thereafter "39-06-14"

Page 1, line 24, after "individual" insert ", living or deceased,"

Page 2, after line 27, insert:

"SECTION 3. Chapter 51-30 of the North Dakota Century Code is created and enacted as follows:

51-30-01. Definitions.In this chapter, unless the context or subject matter otherwise requires:

1. "Breach of the security system" means unauthorized acquisition of computerized data which compromises the security, confidentiality, or integrity of personal information maintained by a person. Good-faith acquisition of personal information for the purposes of the person maintaining the information by an employee or agent of the person is not a breach of the security of the system, provided that the personal information is not used or subject to further disclosure.
2. a. "Personal information" means an individual's first name or first initial and last name in combination with any of the following data elements, when either the name or the data elements are not encrypted:
 - (1) The individual's social security number;
 - (2) The operator's license number assigned to an individual by the department of transportation under section 39-06-14;
 - (3) A nondriver color photo identification card number assigned to the individual by the department of transportation under section 39-06-03.1;
 - (4) The individual's financial institution account number, credit card number, or debit card number;
 - (5) The individual's date of birth;
 - (6) The maiden name of the individual's mother; or
 - (7) An identification number assigned to the individual by the individual's employer.
- b. "Personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

51-30-02. Notice to consumers. Any person that conducts business in North Dakota, and that owns or licenses computerized data that includes personal information, shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of the state whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure must be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in section 51-30-04, or any measures necessary to determine the scope of the breach and to restore the integrity of the data system.

51-30-03. Notice to owner or licensee of personal information. Any person that maintains computerized data that includes personal information that the person does not own shall notify the owner or licensee of the information of the breach of the security of the data immediately following the discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

51-30-04. Delayed notice. The notification required by this chapter may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this chapter must be made after the law enforcement agency determines that the notification will not compromise the investigation.

51-30-05. Method of notice. Notice under this chapter may be provided by one of the following methods:

1. Written notice;
2. Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in section 7001 of the United States Code; or
3. Substitute notice, if the person demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars, or that the affected class of subject persons to be notified exceeds five hundred thousand, or the person does not have sufficient contact information. Substitute notice includes:
 - a. E-mail notice;
 - b. Conspicuous posting of the notice on the person's web site page; or
 - c. Notification to major statewide media.

51-30-06. Alternate compliance. Notwithstanding section 51-30-05, a person that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of section 51-30-05, is deemed to be in compliance with the notification requirements of this chapter if the person notifies subject individuals in accordance with its policies in the event of a breach of security of the system.

51-30-07. Enforcement - Powers - Remedies - Penalties. The attorney general may enforce this chapter. The attorney general, in enforcing this chapter, has all the powers provided in chapter 51-15 and may seek all the remedies in chapter 51-15. A violation of this chapter is deemed a violation of chapter 51-15. 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 under chapter 51-15, or otherwise provided by law.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

HOUSE AMENDMENTS TO SENATE BILL NO. 2293

Page 1, line 3, after "districts" insert "; and to declare an emergency"

Page 2, after line 18, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2294

Page 1, line 3, remove the first "and"

Page 1, line 5, after "vendors" insert "; to provide for transition; and to declare an emergency"

Page 2, line 19, after the underscored period insert "A nonresident may hold a class A license under this section if the nonresident's state of residence provides the same privilege for residents of North Dakota."

SECTION 4. TRANSITION. The department may issue a license under this Act for the remainder of 2005 at a prorated fee.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The House has failed to pass: SB 2221, SB 2243, SB 2314, SB 2321.

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, Thirteenth, and Sixteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Monday, March 14, 2005, which motion prevailed.

REPORT OF STANDING COMMITTEE

HB 1028, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (12 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). Engrossed HB 1028, as amended, was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1041: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1041 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1044: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (10 YEAS, 2 NAYS, 3 ABSENT AND NOT VOTING). HB 1044 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1065: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1065 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1103: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1103 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1196, as engrossed: Transportation Committee (Sen. Trenbeath, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1196 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1197: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1197 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1221: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1221 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1229, as engrossed: Transportation Committee (Sen. Trenbeath, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1229 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1232: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1232 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1245, as engrossed: Transportation Committee (Sen. Trenbeath, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1245 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1259, 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** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1259 was placed on the Sixth order on the calendar.

Page 2, line 11, remove the overstrike over "~~Continuing~~"

Page 2, line 12, remove the overstrike over "~~appropriation~~"

Page 2, line 13, remove the overstrike over "~~are appropriated to the department on a continuing basis~~"

Page 2, line 14, remove "may be spent by the department pursuant to legislative appropriations"

Page 10, line 2, remove "- Report"

Page 10, line 5, replace "Except for" with "All"

Page 10, remove line 6

Page 10, line 7, remove "and operating costs of the lottery under section 53-12.1-10, all other"

Page 10, line 8, remove "During each regular"

Page 10, remove lines 9 through 11

Page 10, line 17, after "of" insert "an expense, including" and replace "expense" with ", supplies, a survey, advertising and marketing, printing, promotion, a premium incentive item, and reimbursement of the cost of a facility or service provided by another state agency"

Page 10, line 19, replace "Fifty" with "Starting July 1, 2005, fifty"

Page 10, remove lines 26 through 30

Page 10, line 31, replace "53-12.1-11" with "53-12.1-10"

Page 11, line 24, replace "53-12.1-12" with "53-12.1-11"

Page 13, line 8, replace "53-12.1-13" with "53-12.1-12"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1273, 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 1273 was placed on the Sixth order on the calendar.

Page 40, line 25, replace "who" with "that"

Page 41, line 26, replace "who" with "that"

Page 52, line 30, replace "who" with "that"

Page 104, line 8, replace "who" with "that"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1279, as reengrossed: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee**

(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1279 was rereferred to the **Appropriations Committee**.

REPORT OF STANDING COMMITTEE

HB 1299: Transportation Committee (Sen. Trenbeath, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1299 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1326: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1326 was placed on the Sixth order on the calendar.

Page 1, line 8, after "reptile" insert ", as defined by the state veterinarian"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1344, 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 1344 was placed on the Sixth order on the calendar.

Page 2, line 7, after the underscored period insert "A lease given by a trustee remains valid."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1364, as engrossed: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1364 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1391, 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 1391 was placed on the Sixth order on the calendar.

Page 11, line 24, overstrike "who" and insert immediately thereafter "that"

Page 16, line 11, replace "19-19.1-39" with "10-19.1-39"

Page 47, line 4, remove "limited"

Page 47, line 5, replace the first "partnership" with "corporation" and replace "limited partnership" with "corporation"

Page 48, line 20, overstrike "a person" and insert immediately thereafter "an individual"

Page 52, line 5, overstrike "who" and insert immediately thereafter "that"

Page 58, line 15, overstrike "who" and insert immediately thereafter "that"

Page 60, line 28, replace "who" with "that"

Page 76, line 14, after "a" insert "member who is not a"

Page 83, line 17, replace "restating" with "reinstating"

Page 88, line 25, overstrike "who" and insert immediately thereafter "that"

Page 120, line 23, overstrike "who" and insert immediately thereafter "that"

Page 122, line 15, replace "who" with "that"

Page 123, line 9, replace "who" with "that"

Page 140, line 13, overstrike "who" and insert immediately thereafter "that"

Page 142, line 19, replace "Shareholder" with "Member"

Page 144, line 27, overstrike "a person" and insert immediately thereafter "an individual"

Page 146, line 3, remove "record" and overstrike the third comma

Page 152, line 23, overstrike "who" and insert immediately thereafter "that"

Page 154, line 10, replace "who" with "that"

Page 155, line 4, replace "who" with "that"

Page 158, line 20, overstrike "who" and insert immediately thereafter "that"

Page 203, line 22, overstrike "who" and insert immediately thereafter "that"

Page 205, line 8, replace "who" with "that"

Page 206, line 7, replace "who" with "that"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1427: Agriculture Committee (Sen. Flakoll, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1427 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1434: Education Committee (Sen. Freborg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1434 was placed on the Sixth order on the calendar.

Page 1, line 3, after "Act" insert "; and to amend and reenact section 54-35-21 of the North Dakota Century Code, relating to the interim no child left behind committee"

Page 1, replace lines 7 through 16 with:

"State accountability plan - Legislative review. Before the superintendent of public instruction may submit to the United States secretary of education any proposed changes in the state accountability plan required under the No Child Left Behind Act of 2001 [Pub. L. 107-110; 115 Stat. 1425; 20 U.S.C. 6301, et seq.], the superintendent shall present the proposed changes to the interim no child left behind committee. The committee shall review the proposed changes; accept testimony and documentary evidence regarding the impact of the proposed changes on the students, schools, school districts, and taxpayers of this state; and provide advice and recommendations regarding the proposed changes to the superintendent.

SECTION 2. AMENDMENT. Section 54-35-21 of the North Dakota Century Code is amended and reenacted as follows:

54-35-21. No Child Left Behind Act of 2001 - ~~Select~~Interim committee - Appointment - Duties.

1. The legislative council shall appoint ~~a select~~ an interim committee consisting of ~~five~~ four members of the senate and ~~six~~ five members of the house of representatives ~~for the purpose of investigating the adoption of. The committee shall study the No Child Left Behind Act of 2001 [Pub. L. 107-110; 115 Stat. 1425; 20 U.S.C. 6301 et seq.], its rationale, the promulgation of any including amendments to the Act, changes to federal regulations implementing the No Child Left Behind Act of 2001, the direct and indirect impact of the Act and its regulations on the school districts of this state, and the financial impact of the Act and its regulations on the budget of this state and on the taxpayers of this state Act, and any policy changes and letters of guidance issued by the United States secretary of education.~~
2. The legislative council shall designate the chairman and vice chairman of the committee.

3. The committee shall operate under the rules applicable to other legislative council committees, except ~~that the committee has the power to~~ may communicate directly with the United States secretary of education, employees of the United States department of education, and any other federal officials, both elected and appointed, regarding implementation of the ~~No Child Left Behind Act of 2001.~~
4. ~~When an agency files a notice of proposed rulemaking with the office of the legislative council under subsection 1 of section 28-32-10 on any matter governed by the No Child Left Behind Act of 2001, the agency shall provide a copy of the notice to the chairman of the committee. The chairman shall convene the committee within sixty days of receiving the notice, or as soon thereafter as practicable, for the purpose of receiving a presentation by the agency regarding the nature and scope of the proposed rules and for the purpose of receiving presentations by members of the public regarding the nature and scope of the proposed rules. The committee shall work with and encourage the testimony of public and private officials, including the superintendent of public instruction, the education standards and practices board, the state board of higher education, the North Dakota council of educational leaders, the North Dakota education association, the North Dakota school boards association, and the North Dakota Indian affairs commission. In addition, the committee shall actively seek the participation of students, parents, classroom teachers, school administrators, and other citizens of this state. The committee shall direct its efforts to ensuring that no child in this state is left behind and to further ensuring that no law or rule, be it federal or state, hinders or otherwise impedes the ability of this state's teachers, schools, and school districts to achieve this goal.~~
5. The committee shall report ~~to the fifty-ninth~~ its findings and recommendations, together with any legislation required to implement the recommendations, to the legislative assembly if the committee determines the state is not in compliance with any requirement of the No Child Left Behind Act of 2001.

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1448, as engrossed: Agriculture Committee (Sen. Flakoll, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1448 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1464, as engrossed: Agriculture Committee (Sen. Flakoll, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1464 was placed on the Sixth order on the calendar.

Page 1, line 14, remove "reasonable", after "records" insert "as allowed under section 44-04-18", and remove "If only the name and address is requested from any"

Page 1, remove lines 15 and 16

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1486, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1486 was placed on the Sixth order on the calendar.

Page 1, line 3, remove "; and to provide for a report"

Page 1, line 8, remove "1."

Page 1, remove lines 12 through 23

Page 2, remove lines 1 through 13

Renumber accordingly

REPORT OF STANDING COMMITTEE

HCR 3005, as engrossed: Agriculture Committee (Sen. Flakoll, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HCR 3005 was placed on the Sixth order on the calendar.

Page 1, line 14, after "agency" insert "or a combination of agencies"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HCR 3024, as engrossed: Agriculture Committee (Sen. Flakoll, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HCR 3024 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HCR 3033: Agriculture Committee (Sen. Flakoll, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3033 was placed on the Fourteenth order on the calendar.

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

William R. Horton, Secretary

