

## JOURNAL OF THE SENATE

## Fifty-ninth Legislative Assembly

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Bismarck, March 16, 2005

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

The prayer was offered by Senator Mathern.

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

A quorum was declared by the President.

## MOTION

**SEN. CHRISTMANN MOVED** that a committee of two be appointed to escort Ashley Ford, Miss North Dakota, to the rostrum, which motion prevailed. The President appointed Sens. Trenbeath and Tallackson to the escort committee.

## REMARKS OF MISS NORTH DAKOTA 2005, ASHLEY FORD

Good afternoon, I am very honored to be here today. I am Ashley Ford, Miss North Dakota from Cavalier. I am a Junior at the University of North Dakota, although I took this whole year off to fulfill the duties of being Miss North Dakota.

A lot has happened ever since I was crowned last June. I have met many incredible people and have had the opportunity to travel across our great state. By the time my year is over, I will have given my message in over seventy schools. I have been so inspired by their smiles and interests. It is so touching to hear elementary students say they want to be just like me when they grow up.

I have also been working with my platform, "Parkinson's Disease: the Painful Prison", due to the fact that my grandfather had this disease. It was something I grew up with and it has touched my heart. I have worked with the Parkinson's Action Network in Washington, D.C.; I had the incredible opportunity of meeting with Senator Byron Dorgan in his office there as well. I have joined a support group in Grand Forks and worked with the intelligent researchers from the University of North Dakota. It is amazing the touching stories I have heard and the thankful people for helping to fight for a cure for this incapacitating disease. Along with my platform and school tour, I sang at the Tsunami benefit with President Kpchella of UND. I am very proud to be an advocate for Parkinson's Disease, a role model for our students, and to represent our beautiful state of North Dakota.

I would like to thank the Senate for allowing me to address you today, I appreciate the work you do for our state and hope you have a productive session.

## MOTION

**SEN. CHRISTMANN MOVED** that the remarks of Miss North Dakota, Ashley Ford, be printed in the Journal, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**HB 1148, as engrossed: SEN. BROWN (Human Services Committee) MOVED** that the amendments on SJ page 831 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**HB 1507, as reengrossed: SEN. FAIRFIELD (Industry, Business and Labor Committee) MOVED** that the amendments on SJ page 832 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**HB 1344, as engrossed: SEN. WARDNER (Finance and Taxation Committee) MOVED** that the amendments on SJ page 790 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

## SECOND READING OF SENATE CONCURRENT RESOLUTION

**SCR 4039:** A concurrent resolution directing the Legislative Council to study state and local taxes and other funding sources that may be used to more equitably spread the responsibility for funding elementary and secondary education, reduce reliance on

property taxes, and enhance equity and adequacy of funding for elementary and secondary education.

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

SCR 4039 was declared adopted, and the title was agreed to on a voice vote.

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#### SECOND READING OF HOUSE BILL

**HB 1104:** A BILL for an Act to amend and reenact section 1-08-09 of the North Dakota Century Code, relating to service of civil process on election day.

#### 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, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Lee, G.; Tollefson

HB 1104, as amended, passed and the title was agreed to.

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#### SECOND READING OF HOUSE BILL

**HB 1136:** A BILL for an Act to amend and reenact sections 39-06-08, 39-06-24, 39-06-37, 39-06.1-14, subsection 19 of section 39-06.2-02, and subsection 2 of section 39-06.2-10 of the North Dakota Century Code, relating to an application of a minor for an instruction permit or operator's license, failure to surrender a suspended license, definition of hazardous material, and disqualification of commercial driving privileges.

#### 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, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Lee, G.; Tollefson

HB 1136, as amended, passed and the title was agreed to.

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#### SECOND READING OF HOUSE BILL

**HB 1210:** A BILL for an Act to create and enact a new section to chapter 39-16 of the North Dakota Century Code, relating to authority of a court to order confidentiality or removal of an entry in a driver record or abstract; and to amend and reenact section 39-16-03.1 of the North Dakota Century Code, relating to the confidentiality of a driving record.

#### ROLL CALL

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

**YEAS:** Heitkamp; Stenehjem

**NAYS:** Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Holmberg; Kilzer; Klein; Krauter;

Krebsbach; Kringstad; 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:** Lee, G.; Tollefson

HB 1210, as amended, lost.

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### SECOND READING OF HOUSE BILL

**HB 1317:** A BILL for an Act to amend and reenact subsection 3 of section 20.1-03-12 of the North Dakota Century Code, relating to big game hunting license fees.

### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 11 YEAS, 34 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bercier; Fairfield; Heitkamp; Krauter; Nelson; O'Connell; Tallackson; Taylor; Triplett; Warner

**NAYS:** Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Every; Fischer; Flakoll; Freborg; Grindberg; Hacker; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nething; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Thane; Traynor; Trenbeath; Urlacher; Wardner

**ABSENT AND NOT VOTING:** Lee, G.; Tollefson

Engrossed HB 1317, as amended, lost.

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### SECOND READING OF HOUSE BILL

**HB 1342:** A BILL for an Act to amend and reenact subsection 59 of section 39-01-01 and sections 39-29-01, 39-29-01.1, 39-29-02, 39-29-03, 39-29-04, 39-29-05, 39-29-06, 39-29-07, 39-29-08, 39-29-09, 39-29-12, 51-20-01, and 57-40.3-01 of the North Dakota Century Code, relating to all-terrain vehicles; 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; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Lee, G.; Tollefson

Engrossed HB 1342, as amended, passed and the title was agreed to.

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### SECOND READING OF HOUSE BILL

**HB 1374:** A BILL for an Act to create and enact a new chapter to title 15.1 of the North Dakota Century Code, relating to school district programs for English language learners.

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

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

**NAYS:** Bercier; Triplett

**ABSENT AND NOT VOTING:** Lee, G.; Tollefson

HB 1374, as amended, passed and the title was agreed to.

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### SECOND READING OF HOUSE BILL

**HB 1419:** A BILL for an Act to amend and reenact section 20.1-08-04.6 of the North Dakota Century Code, relating to special licenses to take elk.

### 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, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Lee, G.; Tollefson

HB 1419, as amended, passed and the title was agreed to.

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### SECOND READING OF HOUSE BILL

**HB 1452:** A BILL for an Act to amend and reenact section 16.1-02-02, subsection 1 of section 16.1-02-03, and sections 16.1-02-07, 16.1-02-10, 16.1-02-12, and 16.1-02-13 of the North Dakota Century Code, relating to the central voter file; and to repeal section 16.1-02-08 of the North Dakota Century Code, relating to the central voter file.

### 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, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Lee, G.; Tollefson

Engrossed HB 1452, as amended, passed and the title was agreed to.

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### SECOND READING OF HOUSE BILL

**HB 1041:** A BILL for an Act to create and enact a new subdivision to subsection 1 of section 57-38-40 of the North Dakota Century Code, relating to the filing period for a claim for credit or refund attributable to the Servicemembers Civil Relief Act by a nonresident member of the United States armed services; to provide an effective date; and to provide an expiration 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 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, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Lee, G.; Tollefson

HB 1041 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1052:** A BILL for an Act to amend and reenact subsection 2 of section 57-38-30.3 of the North Dakota Century Code, relating to the exclusion for capital gains under the simplified method of computing individual income tax; 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 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, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Lee, G.; Tollefson

Engrossed HB 1052 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1091:** A BILL for an Act to amend and reenact section 44-08-01.1 and subsection 4 of section 54-44.4-09 of the North Dakota Century Code, relating to bid opening and preference for tie bids.

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

**NAYS:** Bercier

**ABSENT AND NOT VOTING:** Lee, G.; Tollefson

HB 1091 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1241:** A BILL for an Act to provide for limited liability for a food producer, processor, manufacturer, packer, distributor, carrier, holder, seller, marketer, trade association, or advertiser for a claim of injury resulting from weight gain, obesity, or any health condition related to weight gain.

**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 31 YEAS, 14 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

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

**NAYS:** Bercier; Every; Fairfield; Hacker; Heitkamp; Lindaas; Mathern; Nelson; Robinson; Seymour; Tallackson; Trenbeath; Triplett; Warner

**ABSENT AND NOT VOTING:** Lee, G.; Tollefson

Engrossed HB 1241 passed and the title was agreed to.

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#### SECOND READING OF HOUSE BILL

**HB 1251:** A BILL for an Act to amend and reenact section 28-26-01 of the North Dakota Century Code, relating to attorney's fees in frivolous cases.

#### 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 5 YEAS, 40 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Brown; Cook; Kilzer; Syverson

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

**ABSENT AND NOT VOTING:** Lee, G.; Tollefson

Engrossed HB 1251 lost.

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#### SECOND READING OF HOUSE BILL

**HB 1156:** A BILL for an Act to create and enact a new section to chapter 49-03.1 of the North Dakota Century Code, relating to registration of telecommunications companies that are not incumbent telecommunications companies; to amend and reenact subsection 2 of section 49-03.1-02 of the North Dakota Century Code, relating to the definition of a public utility and certificates of public convenience and necessity; and to provide a penalty.

#### 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, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Lee, G.; Tollefson

Engrossed HB 1156 passed and the title was agreed to.

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#### SECOND READING OF HOUSE BILL

**HB 1263:** A BILL for an Act to amend and reenact section 57-15-17.1 of the North Dakota Century Code, relating to school district property tax levies for mercury and other hazardous substance abatement or removal; to provide for a transfer; 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 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, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Lee, G.; Tollefson

HB 1263 passed and the title was agreed to.

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#### SECOND READING OF HOUSE BILL

**HB 1383:** A BILL for an Act to create and enact a new subsection to section 5-01-01 of the North Dakota Century Code, relating to definitions for the purpose of sale and consumption of alcoholic beverages; to amend and reenact sections 5-02-05 and 5-02-09 of the North Dakota Century Code, relating to the sale and consumption of alcoholic beverages; 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 22 YEAS, 23 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Brown; Christmann; Cook; Espgaard; Fischer; Flakoll; Grindberg; Hacker; Heitkamp; Holmberg; Klein; Kringstad; Lee, J.; Nelson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Traynor; Trenbeath; Triplett

**NAYS:** Andrist; Bercier; Bowman; Dever; Erbele; Every; Fairfield; Freborg; Kilzer; Krauter; Krebsbach; Lindaas; Lyson; Mathern; Mutch; Nething; O'Connell; Robinson; Taylor; Thane; Urlacher; Wardner; Warner

**ABSENT AND NOT VOTING:** Lee, G.; Tollefson

Engrossed HB 1383 lost.

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#### MOTION

**SEN. CHRISTMANN MOVED** that Senate Rule 329-4 be further amended to read "fiftieth" in place of "fifty-third" as amended yesterday, thereby changing the deadline for referring measures to the **Appropriations Committee**, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1413:** A BILL for an Act to amend and reenact sections 5-01-08 and 5-02-06 of the North Dakota Century Code, relating to an underage person in a licensed alcohol establishment.

#### 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, J.; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

**NAYS:** Lindaas

**ABSENT AND NOT VOTING:** Lee, G.; Tollefson

Engrossed HB 1413 passed and the title was agreed to.

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

**MR. SPEAKER:** The Senate has passed unchanged: HB 1055, HB 1073, HB 1175, HB 1254, HB 1265, HB 1360, HB 1482, HCR 3013, HCR 3025, HCR 3026, HCR 3027.

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

**MR. SPEAKER:** The Senate has passed, the emergency clause carried, unchanged: HB 1283.

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

**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1069, HB 1273, HB 1326, HB 1391, HB 1434, HB 1464, HB 1486, HCR 3005.

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

**MR. SPEAKER:** The Senate has failed to pass: HB 1494.

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

**MR. PRESIDENT:** The House has passed unchanged: SB 2082, SB 2132, SB 2150, SB 2201, SB 2252, SB 2295, SB 2349, SB 2401, SCR 4013, SCR 4016, SCR 4033.

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

**MR. PRESIDENT:** The House has failed to pass: SB 2271, SB 2330.

**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 2024, SB 2033, SB 2159, SB 2170, SB 2191, SB 2202, SB 2211, SB 2219, SB 2345, SB 2410, and SCR 4027.

**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 1106, HB 1149, HB 1176, HB 1327, HB 1429, HB 1430, HB 1432, HCR 3010, HCR 3019.

**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 1044, HB 1065, HB 1103, HB 1197, HB 1221, HB 1229, HB 1232, HB 1364, HB 1427, HB 1448, HCR 3024, HCR 3033.

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

**MR. PRESIDENT:** The Speaker has signed: SB 2391, SB 2403, SB 2404, SB 2405.

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

**MR. PRESIDENT:** The Speaker has signed: SB 2036, SB 2039, SB 2061, SB 2069, SB 2071, SB 2075, SB 2077, SB 2079, SB 2098, SB 2113, SB 2116, SB 2130, SB 2151, SB 2160, SB 2163, SB 2172, SB 2175, SB 2182, SB 2212, SB 2225, SB 2226, SB 2234, SB 2249, SB 2250, SB 2257, SB 2262, SB 2263, SB 2275, SB 2277, SB 2322, SB 2334, SB 2339, SB 2347, SB 2354, SB 2355, SB 2363, SB 2367, SB 2369, SB 2379, SB 2390.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bills were delivered to the Governor for approval on March 16, 2005: SB 2036, SB 2039, SB 2061, SB 2069, SB 2071, SB 2075, SB 2077, SB 2079, SB 2098, SB 2113, SB 2116, SB 2130, SB 2151, SB 2160, SB 2163, SB 2172, SB 2175, SB 2182, SB 2212, SB 2225, SB 2226, SB 2234, SB 2249, SB 2250, SB 2257, SB 2262, SB 2263, SB 2275, SB 2277, SB 2322, SB 2334, SB 2339, SB 2347, SB 2354, SB 2355, SB 2363, SB 2367, SB 2369, SB 2379, SB 2390.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bills were delivered to the Governor for approval on March 16, 2005: SB 2367, SB 2369, SB 2379, SB 2390, SB 2391, SB 2403, SB 2404, SB 2405.

**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., Thursday, March 17, 2005, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**HB 1038, as reengrossed: Education Committee (Sen. Freborg, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1038 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1116: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (4 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). HB 1116 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1140, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1140 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1141: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1141 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1169, as engrossed: Natural Resources Committee (Sen. Lyson, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1169 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1172, as reengrossed: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1172 was placed on the Sixth order on the calendar.

Page 1, line 6, remove "subsection 5 of section 14-09-25,"

Page 3, remove lines 13 through 29

Page 4, line 2, after "program" insert an underscored comma

Page 4, line 3, after "plan" insert an underscored comma

Page 4, line 18, replace "are" with "is"

Reorder accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1173, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (3 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1173 was placed on the Sixth order on the calendar.

Page 1, line 12, replace "11" with "10"

Page 6, line 29, replace "14" with "13"

Page 7, line 25, remove "or alleged parent"

Reorder accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1185: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1185 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1236: Education Committee (Sen. Freborg, Chairman)** recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1236 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1252, as reengrossed: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1252 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to developmental disabilities service providers; to"

Page 1, after line 6, insert:

**"SECTION 1.** A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Operating costs for developmental disabilities service providers. The department of human services shall determine the budget for private, licensed developmental disability providers by inflating historical costs by the annual percentage developed for long-term care facilities. Any additional funds appropriated by the legislative assembly must be in addition to the annual inflator."

Page 1, line 22, remove the overstrike over "~~The department shall maintain access to national and state economic change~~"

Page 1, remove the overstrike over lines 23 and 24

Page 2, line 1, remove the overstrike over "~~3~~:"

Page 2, line 4, remove the overstrike over "~~4~~:" and remove "3:"

Page 2, line 17, remove "most recent" and after "report" insert "used for the base period"

Page 2, line 18, remove the overstrike over "~~using the appropriate~~"

Page 2, line 19, remove the overstrike over "~~economic change indices established in subsection 5~~" and remove "by the inflation rate for"

Page 2, remove line 20

Page 2, line 21, remove "department"

Page 3, remove the overstrike over line 8

Page 3, line 9, remove the overstrike over "~~of the increase in the~~", after the second overstruck comma insert "Global Insight", and remove the overstrike over "~~nursing home input price~~"

Page 3, remove the overstrike over lines 10 through 12

Page 3, line 13, remove the overstrike over "~~6~~:" and remove "4:"

Page 3, line 20, remove the overstrike over "~~4~~" and remove "3"

Page 3, line 26, remove the overstrike over "~~7~~:" and remove "5:"

Page 3, line 27, remove the overstrike over "~~4~~" and remove "3"

Page 4, line 3, remove the overstrike over "~~8~~:" and remove "6:"

Page 4, line 7, replace "7:" with "9:" and replace "three" with "four"

Page 4, line 31, remove the overstrike over "~~a percentage amount equal to~~"

Page 5, remove the overstrike over line 1

Page 5, line 2, remove the overstrike over "~~section 50-24.4-10~~" and remove "the inflation rate for nursing home services used to develop the legislative"

Page 5, line 3, remove "appropriation for the department"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1271, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed HB 1271 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1314, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1314 was placed on the Sixth order on the calendar.

Page 1, line 1, after "49-02" insert "and two new subsections to section 57-38-01.8"

Page 1, line 3, after "commission" insert "and a tax credit for a wind energy device; and to provide an effective date"

Page 2, after line 11, insert:

**"SECTION 4.** Two new subsections to section 57-38-01.8 of the North Dakota Century Code are created and enacted as follows:

If a taxpayer entitled to the credit provided by this section is a member of a group of corporations filing a North Dakota consolidated tax return using the combined reporting method, the credit may be claimed against the aggregate North Dakota tax liability of all of the corporations included in the North Dakota consolidated return.

The credit allowed under this section may not exceed the liability for tax under this chapter. If the amount of credit determined under this section exceeds the liability for tax under this chapter, the excess may be used as a credit carryover to each of the five succeeding taxable years.

**SECTION 5. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2004."

ReNUMBER accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1330, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1330 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1347, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1347 was placed on the Sixth order on the calendar.

Page 1, line 14, after "bank" insert "or credit union"

Page 1, line 16, after "corporation" insert "or national credit union administration"

Page 1, line 17, replace "issuing bank" with "issuer"

Page 1, line 19, replace "issuing bank" with "issuer"

ReNUMBER accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1359, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1359 was placed on the Sixth order on the calendar.

Page 1, line 16, after the period insert "Interest may not begin to accrue until the ninety-first day after the obligation of the debtor to pay has been incurred."

Page 1, line 17, overstrike "that does not exceed one percent per month" and insert immediately thereafter "equal to the prime rate published in the Wall Street Journal on the first Monday in December of each year plus two percentage points rounded to the nearest whole number percentage point and may not be compounded in any manner" and remove the overstrike over ", but"

Page 1, line 18, remove the overstrike over "the charge cannot exceed twenty five dollars per month" and after the period insert "The twenty-five dollar per month limit under this"

subsection does not apply to a creditor that is a licensed nursing facility or a basic care facility."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1410, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1410 was placed on the Sixth order on the calendar.

Page 1, line 2, after "23-07.5-07" insert ", paragraph 1 of subdivision b of subsection 10 of section 65-01-02, and sections 65-01-15 and 65-01-15.1"

Page 8, line 25, replace "but" with ". However,"

Page 8, line 27, after "testing" insert "unless otherwise provided by subdivision b of subsection 10 of section 65-01-02"

Page 9, line 24, after "as" insert "permitted under subsection 3, or as otherwise"

Page 9, after line 24, insert:

"3. If the test results are disclosed under this chapter to a law enforcement officer who was exposed to a bloodborne pathogen, the officer may disclose the test results to any other law enforcement officer who has direct physical contact with the test subject, if in the professional judgment of the officer the disclosure is necessary for the health and safety of the other officer and the disclosure is limited to the minimum amount of information needed to protect the health and safety of that officer."

Page 9, after line 30, insert:

**"SECTION 6. AMENDMENT.** Paragraph 1 of subdivision b of subsection 10 of section 65-01-02 of the North Dakota Century Code is amended and reenacted as follows:

- (1) Ordinary diseases of life to which the general public outside of employment is exposed or preventive treatment for communicable diseases, except that the bureau organization may pay for preventive treatment for significant exposures documented by emergency medical services providers under chapter 23-07.3, for significant exposures for the employees of licensed facilities as defined by chapter 23-07.3, a health care provider as defined in section 23-07.5-01, firefighter, peace officer, correctional officer, court officer, law enforcement officer, emergency medical technician, or an individual trained and authorized by law or rule to render emergency medical assistance or treatment who is exposed to a bloodborne pathogen as defined in section 23-07.5-01 occurring in the course of employment and for exposure to rabies occurring in the course of employment.

**SECTION 7. AMENDMENT.** Section 65-01-15 of the North Dakota Century Code is amended and reenacted as follows:

**65-01-15. Yearly documentation required for firefighter and law enforcement officer.** Except for benefits for an exposure to infectious disease a bloodborne pathogen as defined by sections 23-07.3-01 and 23-07.3-02 section 23-07.5-01 occurring in the course of employment, a full-time paid firefighter or law enforcement officer who uses tobacco is not eligible for the benefits provided under section 65-01-15.1, unless the full-time paid firefighter or law enforcement officer provides yearly documentation from a physician which indicates that the full-time paid firefighter or law enforcement officer has not used tobacco for the preceding two years. Any full-time paid firefighter or law enforcement officer employed on June 30, 1995, is not subject to this section until July 1, 1997.

**SECTION 8. AMENDMENT.** Section 65-01-15.1 of the North Dakota Century Code is amended and reenacted as follows:

**65-01-15.1. Presumption of compensability for certain conditions of full-time paid firefighters and law enforcement officers.** Any condition or impairment of health of a full-time paid firefighter or law enforcement officer caused by lung or respiratory disease, hypertension, heart disease, or ~~an exposure to infectious disease a bloodborne pathogen~~ as defined by ~~sections 23-07.3-01 and 23-07.3-02~~ section 23-07.5-01 occurring in the course of employment, or occupational cancer in a full-time paid firefighter, resulting in total or partial disability or death is presumed to have been suffered in the line of duty. The condition or impairment of health may not be attributed to any disease existing before that total or partial disability or death unless the contrary is shown by competent evidence. As used in this section, an occupational cancer is one which arises out of employment as a full-time paid firefighter and is due to injury due to exposure to smoke, fumes, or carcinogenic, poisonous, toxic, or chemical substances while in the performance of active duty as a full-time paid firefighter. A full-time paid firefighter or law enforcement officer is not eligible for the benefit provided under this section unless that full-time paid firefighter or law enforcement officer has completed five years of continuous service and has successfully passed a medical examination which fails to reveal any evidence of such a condition. An employer shall require a medical examination upon employment, for any employee subject to this section. After the initial medical examination, an employer shall require at least a periodic medical examination as follows: for one to ten years of service, every five years; for eleven to twenty years of service, every three years; and for twenty-one or more years of service, every year. The periodic medical examination, at a minimum, must consist of a general medical history of the individual and the individual's family; an occupational history including contact with and an exposure to hazardous materials, toxic products, contagious and infectious diseases, and to physical hazards; a physical examination including measurement of height, weight, and blood pressure; and laboratory and diagnostic procedures including a nonfasting total blood cholesterol test and papanicolaou smear for women. If the medical examination reveals that an employee falls into a recognized risk group, the employee must be referred to a qualified health professional for future medical examination. This section does not affect an employee's responsibility to document that the employee has not used tobacco as required under section 65-01-15. Results of the examination must be used in rebuttal to a presumption afforded under this section. For purposes of this section, "law enforcement officer" means a person who is licensed to perform peace officer law enforcement duties under chapter 12-63 and is employed full time by the bureau of criminal investigation, the game and fish department, the state highway patrol, the parole and probation division, the North Dakota state university police department, the North Dakota state college of science police department, the university of North Dakota police department, a county sheriff's department, or a city police department. The presumption does not include a condition or impairment of health of a full-time paid firefighter or law enforcement officer, who has been employed for ten years or less, if the condition or impairment is diagnosed more than two years after the employment as a full-time paid firefighter or law enforcement officer ends. The presumption also does not include a condition or impairment of health of a full-time paid firefighter or law enforcement officer, who has been employed more than ten years, if the condition or impairment is diagnosed more than five years after the employment as a full-time paid firefighter or law enforcement officer ends."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1501, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1501 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HCR 3034: Education Committee (Sen. Freborg, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3034 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HCR 3038: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3038 was placed on the Fourteenth order on the calendar.

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

**William R. Horton, Secretary**

