

JOURNAL OF THE SENATE

Sixtieth Legislative Assembly

Bismarck, March 16, 2007

The Senate convened at 12:30 p.m., with President Pro Tem J. Lee presiding.

The prayer was offered by Dr. Gordon Stork, Century Baptist, Bismarck.

The roll was called and all members were present except Senators Cook, Grindberg, and Urlacher.

A quorum was declared by the President Pro Tem.

THE SENATE RECOGNIZED THE PRESENCE OF:

National Honey Princess Katrina Klett, Jamestown.
North Dakota Honey Queen Zoe Wergeland, Bismarck.

REPORT OF DELAYED BILLS COMMITTEE

MR. PRESIDENT: Your **Delayed Bills Committee (Sen. Cook, Chairman)** has unanimously approved the introduction of a bill for an Act to provide a contingent appropriation to the veterans' home for the purpose of building a new facility.

The bill will be SB 2418.

CONSIDERATION OF AMENDMENTS

HB 1233, as engrossed: SEN. HORNE (Finance and Taxation Committee) MOVED that the amendments on SJ page 836 be adopted and then be placed on the Fourteenth order with **DO NOT PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1093, as engrossed: SEN. WARDNER (Appropriations Committee) MOVED that the amendments on SJ page 853 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1263, as engrossed: SEN. POTTER (Industry, Business and Labor Committee) MOVED that the amendments on SJ page 853 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1299: A BILL for an Act to amend and reenact section 43-15-35 of the North Dakota Century Code, relating to postgraduate medical residency training program pharmacies; and to provide for a legislative council study.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 42 YEAS, 2 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Dever; Erbele; Fiebigler; Fischer; Flakoll; Freborg; Hacker; Heckaman; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Taylor; Tollefson; Triplett; Wanzek; Wardner; Warner

NAYS: Horne; Lindaas

ABSENT AND NOT VOTING: Cook; Grindberg; Urlacher

Engrossed HB 1299 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1350: A BILL for an Act to amend and reenact section 43-15-35 of the North Dakota Century Code, relating to postgraduate medical residency training program pharmacies.

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: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Taylor; Tollefson; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Cook; Grindberg; Urlacher

HB 1350 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1366: A BILL for an Act to create and enact a new subsection to section 26.1-27.1-04 of the North Dakota Century Code, relating to prohibited practices by pharmacy benefits managers; 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 NOT PASS, the roll was called and there were 1 YEAS, 43 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Hacker

NAYS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Taylor; Tollefson; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Cook; Grindberg; Urlacher

HB 1366 lost.

SECOND READING OF HOUSE BILL

HB 1099: A BILL for an Act to amend and reenact section 44-04-18.4 of the North Dakota Century Code, relating to confidentiality of trade secret, proprietary, commercial, and financial information; 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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Taylor; Tollefson; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Cook; Grindberg; Urlacher

Engrossed HB 1099 passed, the title was agreed to, and the emergency clause was declared carried.

SECOND READING OF HOUSE BILL

HB 1135: A BILL for an Act to create and enact a new subsection to section 6-09-15.5 of the North Dakota Century Code, relating to the transfer of unobligated Bank of North Dakota funds.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 42 YEAS, 2 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Robinson; Seymour; Stenehjem; Tallackson; Taylor; Triplett; Wanzek; Wardner; Warner

NAYS: Potter; Tollefson

ABSENT AND NOT VOTING: Cook; Grindberg; Urlacher

HB 1135 passed and the title was agreed to.

MOTION

SEN. CHRISTMANN MOVED that HB 1326, which is on the Fourteenth order, be rereferred to the **Industry, Business and Labor Committee**, which motion prevailed. Pursuant to Sen. Christmann's motion, HB 1326 was rereferred.

SECOND READING OF HOUSE BILL

HB 1174: A BILL for an Act to create and enact a new section to chapter 54-06 of the North Dakota Century Code, relating to prohibiting executive branch agencies from funding salary increases through the use of funds due to vacancies.

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 YEAS, 43 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Stenehjem

NAYS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Tallackson; Taylor; Tollefson; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Cook; Grindberg; Urlacher

Engrossed HB 1174 lost.

SECOND READING OF HOUSE BILL

HB 1222: A BILL for an Act to amend and reenact section 26.1-36-37.2 of the North Dakota Century Code, relating to loss ratios for accident and health insurers.

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 YEAS, 43 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Tollefson

NAYS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Cook; Grindberg; Urlacher

Engrossed HB 1222 lost.

SECOND READING OF HOUSE BILL

HB 1328: A BILL for an Act to amend and reenact subsection 1 of section 13-01-14 of the North Dakota Century Code, relating to late payment charges on accounts receivable.

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: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Taylor; Tollefson; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Cook; Grindberg; Urlacher

Engrossed HB 1328 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1411: A BILL for an Act to amend and reenact subsection 5 of section 65-05-07 of the North Dakota Century Code, relating to workers' compensation benefits for modification of real estate and vehicles; to provide for application; 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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Taylor; Tollefson; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Cook; Grindberg; Urlacher

HB 1411 passed, the title was agreed to, and the emergency clause was declared carried.

SECOND READING OF HOUSE BILL

HB 1437: A BILL for an Act to provide for a legislative council study of the feasibility and desirability of restricting the unauthorized use of the name or image of a current or former member of the military.

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

YEAS: Anderson; Behm; Bowman; Flakoll; Nething

NAYS: Andrist; Bakke; Christmann; Dever; Erbele; Fiebiger; Fischer; Freborg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Taylor; Tollefson; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Cook; Grindberg; Urlacher

Engrossed HB 1437 lost.

SECOND READING OF HOUSE BILL

HB 1452: A BILL for an Act to provide for limitations on the civil liability of a charitable 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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjerm; Tallackson; Taylor; Tollefson; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Cook; Grindberg; Urlacher

Engrossed HB 1452 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1459: A BILL for an Act to provide an appropriation for state agency and institution extraordinary repairs; to provide for budget section tour group review; and to provide for a report.

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 3 YEAS, 41 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Andrist; Holmberg; O'Connell

NAYS: Anderson; Bakke; Behm; Bowman; Christmann; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Hacker; Heckaman; Heitkamp; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjerm; Tallackson; Taylor; Tollefson; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Cook; Grindberg; Urlacher

Engrossed HB 1459 lost.

SECOND READING OF HOUSE BILL

HB 1476: A BILL for an Act to create and enact a new section to chapter 40-05 of the North Dakota Century Code, relating to golf carts on city streets.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 42 YEAS, 2 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjerm; Tallackson; Taylor; Tollefson; Triplett; Wanzek; Wardner; Warner

NAYS: Lyson; O'Connell

ABSENT AND NOT VOTING: Cook; Grindberg; Urlacher

Engrossed HB 1476 passed and the title was agreed to.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3048: A concurrent resolution directing the Legislative Council to study crime victims compensation funding.

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

HCR 3048 was declared adopted, and the title was agreed to on a voice vote.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3050: A concurrent resolution directing the Legislative Council to study the filling of vacancies in the Legislative Assembly.

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

HCR 3050 was declared lost on a verification vote.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3056: A concurrent resolution directing the Legislative Council to study the search for and identification of missing persons.

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

HCR 3056 was declared adopted, and the title was agreed to on a voice vote.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3025: A concurrent resolution directing the Legislative Council to study possible methods of growing North Dakota's population and increasing the available workforce in the state.

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

HCR 3025 was declared adopted, and the title was agreed to on a voice vote.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3039: A concurrent resolution urging the United States Secretary of Commerce to complete a Taiwan-United States free trade agreement.

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

Engrossed HCR 3039 was declared adopted, and the title was agreed to on a voice vote.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3063: A concurrent resolution directing the Legislative Council to study the delivery and funding of veterans' services by the state and counties.

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

Engrossed HCR 3063 was declared adopted, and the title was agreed to on a voice vote.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3064: A concurrent resolution directing the Legislative Council to study the Human Resource Management Services' personnel classification system.

The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO NOT PASS.

Engrossed HCR 3064 was declared lost on a voice vote.

SECOND READING OF HOUSE BILL

HB 1229: A BILL for an Act to amend and reenact section 38-08-05 of the North Dakota Century Code, relating to oil and gas well location restrictions.

MOTION

SEN. FREBORG MOVED that Engrossed HB 1229 be further amended as follows, which motion prevailed on a voice vote.

That the proposed amendments to Engrossed House Bill No. 1229 as printed on pages 776 and 777 of the Senate Journal be amended as follows:

Page 776 of the Senate Journal, line 49, remove "the same"

Renumber accordingly

ROLL CALL

The question being on the final passage of the further amended bill, which has been read, the roll was called and there were 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjelm; Tallackson; Taylor; Tollefson; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Cook; Grindberg; Urlacher

Engrossed HB 1229, as further amended, passed and the title was agreed to.

REQUEST

SEN. HOLMBERG REQUESTED that the record reflect he intended to vote NAY on Engrossed HB 1459, which request was granted.

REQUEST

SEN. O'CONNELL REQUESTED that the record reflect he intended to vote NAY on Engrossed HB 1459, which request was granted.

REQUEST

SEN. NELSON REQUESTED that the record reflect she intended to vote NAY on Engrossed HB 1459, which request was granted.

COMMUNICATION FROM GOVERNOR JOHN HOEVEN

This is to inform you that on March 16, 2007, I have signed the following: SB 2048 and SB 2153.

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

MR. SPEAKER: The Senate has passed unchanged: HB 1169, HB 1331, HB 1479, HCR 3002, HCR 3008, HCR 3012, HCR 3013, HCR 3024, HCR 3026, HCR 3031.

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

MR. SPEAKER: The Senate has passed unchanged: HB 1135, HB 1299, HB 1328, HB 1350, HB 1452, HB 1476, HCR 3025, HCR 3039, HCR 3048, HCR 3056, HCR 3063.

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

MR. SPEAKER: The Senate has passed, the emergency clause carried, unchanged: HB 1099, HB 1411.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has amended and subsequently passed: HB 1136, HB 1147, HB 1216, HB 1241, HB 1317, HB 1432, HB 1462, HB 1492, HB 1501, HB 1507, HCR 3028.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has amended and subsequently passed: HB 1229.

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 1160, HB 1258.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has amended and subsequently failed: HB 1249.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has failed to pass: HB 1174, HB 1222, HB 1366, HB 1437, HB 1459, HCR 3050, HCR 3064.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)
MR. PRESIDENT: The House has passed unchanged: SB 2049, SB 2212, SB 2221, SB 2273, SB 2308, SB 2350, SB 2357.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)
MR. PRESIDENT: The House has passed unchanged: SB 2317, SB 2368, SB 2378, SB 2415.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)
MR. PRESIDENT: The House has passed, the emergency clause carried, unchanged: SB 2358.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)
MR. PRESIDENT: The House has passed, the emergency clause carried, unchanged: SB 2366.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)
MR. PRESIDENT: The House has amended and subsequently passed: SB 2029, SB 2137.

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2029

Page 1, line 14, after "district" insert "or municipal"

ReNUMBER accordingly

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2137

Page 1, line 5, remove the second "and"

Page 1, line 6, after "37-17.1-25" insert ", and section 57-15-28"

Page 4, line 29, after "Coordinate" insert "and may enter agreements"

Page 5, line 16, replace "synchronize" with "coordinate"

Page 5, line 17, after "of" insert "or the president of the board of city commissioners in"

Page 13, after line 25, insert:

"SECTION 16. AMENDMENT. Section 57-15-28 of the North Dakota Century Code is amended and reenacted as follows:

57-15-28. Emergency fund - County. The governing body of any county may levy a tax for emergency purposes not exceeding the limitation in subsection 22 of section 57-15-06.7. The emergency fund may not be considered in determining the budget or the amount to be levied for each fiscal year for normal tax purposes but must be shown in the budget as an "emergency fund" and may not be deducted from the budget as otherwise provided by law. Each county may create an emergency fund, and all taxes levied for emergency purposes by any county, when collected, must be deposited in the emergency fund, and must be used only for emergency purposes caused by the destruction or impairment of any county property necessary for the conduct of the affairs of the county, emergencies caused by nature or by the entry by a court of competent jurisdiction of a judgment for damages against the county. The emergency fund may not be used for any road construction or maintenance, except for

repair of roads damaged by nature within sixty days preceding ~~such~~ the determination to expend emergency funds, or for the purchase of road equipment; however, the emergency fund may be used to match federal funds appropriated to mitigate damage to roads related to a federally declared disaster that occurred more than sixty days preceding the determination. Any unexpended balance, remaining in the emergency fund at the end of any fiscal year, must be kept in ~~such~~ the fund. When the amount of money in the emergency fund, plus the amount of money due the fund from outstanding taxes, equals the amount produced by a levy of five mills on the taxable valuation of property in a county with a population of thirty thousand or more, or ten mills on the taxable valuation of property in a county with a population of less than thirty thousand, the levy authorized by this section must be discontinued, and no further levy may be made until required to replenish the emergency fund."

Renumber accordingly

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)

MR. PRESIDENT: The House has amended, subsequently passed, and the emergency clause carried: SB 2255, SB 2262, SB 2392.

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2255

In lieu of the amendments adopted by the House as printed on page 879 of the House Journal, Engrossed Senate Bill No. 2255 is amended as follows:

Page 4, line 4, replace "right of action" with "claim for relief"

Page 4, line 9, replace "right of action" with "claim for relief for a violation of this section"

Renumber accordingly

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2262

Page 1, line 2, after "intent" insert "; and to declare an emergency"

Page 2, line 8, replace "A minor" with "An individual"

Page 2, line 9, replace "minor" with "individual" and replace "minor's" with "individual's"

Page 2, line 10, replace "minor" with "individual"

Page 2, after line 19, insert:

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

Renumber accordingly

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2262

In addition to the amendments adopted by the House as printed on page 849 of the House Journal, Engrossed Senate Bill No. 2262 is further amended as follows:

Page 2, line 19, after "state" insert "before any harm to others or damage to property occurs"

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2392

Page 1, line 2, remove "home rule"

Page 1, line 7, remove "a.", remove the overstrike over "~~För~~", and remove "Except as otherwise provided under subdivision b, for"

Page 1, line 10, after the first comma insert "no city, including a home rule city, may establish" and overstrike "may be established, by ordinance, which"

Page 1, line 11, overstrike "may not exceed" and insert immediately thereafter "that exceeds"

Page 1, remove lines 13 through 20

Renumber accordingly

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)

MR. PRESIDENT: The House has failed to pass: SB 2390.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)

MR. PRESIDENT: The House has failed to pass: SB 2307, SB 2314.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)

MR. PRESIDENT: The House has failed to pass: SB 2371.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)

MR. PRESIDENT: The House has amended and subsequently failed: SB 2303, SB 2333.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)

MR. PRESIDENT: The House has amended and failed to pass: SB 2320.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)

MR. PRESIDENT: The House has concurred in the Senate amendments and subsequently passed: HB 1118 and HB 1179.

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

MR. SPEAKER: Your signature is respectfully requested on: SB 2285, SB 2300, SB 2312.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)

MR. PRESIDENT: Your signature is respectfully requested on: HB 1072, HB 1081, HB 1101, HB 1118, HB 1158, HB 1179, HB 1324, HB 1346, HB 1357, HB 1358, HB 1378, HB 1396.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)

MR. PRESIDENT: The Speaker has signed: SB 2056, SB 2113, SB 2118, SB 2123, SB 2139, SB 2228, SB 2259, SB 2285, SB 2287, SB 2296, SB 2300, SB 2312, SB 2364, SB 2388.

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, Ninth, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Monday, March 19, 2007, which motion prevailed.

REPORT OF STANDING COMMITTEE

HB 1038: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1038 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1129, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed HB 1129, as amended, was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1146, as engrossed and amended: Natural Resources Committee (Sen. Lyson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1146, as amended, was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the Senate as printed on page 688 of the Senate Journal, Engrossed House Bill No. 1146 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 47-05 of the North Dakota Century Code, relating to severance of hunting rights from the surface estate.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 47-05 of the North Dakota Century Code is created and enacted as follows:

Severance of hunting rights prohibited. The right to shoot, shoot at, pursue, take, attempt to take, or kill any game animals or game birds; search for or attempt to locate or flush any game animals and game birds; lure, call, or attempt to attract game animals or game birds; hide for the purpose of taking or attempting to take game

animals or game birds; and walk, crawl, or advance toward wildlife while possessing implements or equipment useful in the taking of game animals or game birds may not be severed from the surface estate. This section does not apply to deeds, instruments, or interests in property recorded before the effective date of this Act and does not apply to the private lands habitat and access improvement program under title 20.1."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1164: Agriculture Committee (Sen. Flakoll, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1164 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1243, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1243 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1400: Transportation Committee (Sen. G. Lee, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1400 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1422: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1422 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 50-24.6-04 of the North Dakota Century Code, relating to the prior authorization program; to provide for review by the drug utilization review board; to provide for a report to the legislative council; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.6-04 of the North Dakota Century Code is amended and reenacted as follows:

50-24.6-04. (Effective through July 31, ~~2007~~ 2009) Prior authorization program.

1. The department shall develop and implement a prior authorization program that meets the requirements of 42 U.S.C. 1396r-8(d) to determine coverage of drug products when a medical assistance recipient's health care provider prescribes a drug that is identified as requiring prior authorization. Authorization must be granted for provision of the drug if:
 - a. The drug not requiring prior authorization has not been effective, or with reasonable certainty is not expected to be effective, in treating the recipient's condition;
 - b. The drug not requiring prior authorization causes or is reasonably expected to cause adverse or harmful reactions to the health of the recipient; or
 - c. The drug is prescribed for a medically accepted use supported by a compendium or by approved product labeling unless there is a therapeutically equivalent drug that is available without prior authorization.
2. For any drug placed on the prior authorization program, the department shall provide medical and clinical criteria, cost information, and utilization data to the drug use review board for review and consideration. The board may consider department data and information from other sources to make a decision about placement of the drug on prior authorization.

3. Except for quantity limits that may be no less than the pharmaceutical manufacturer's package insert or AB-rated generic equivalent drug for which the cost to the state postrebate is less than the brand name drugs, in the aggregate, the department may not prior authorize or otherwise restrict single-source or brand name antipsychotic, antidepressant, or other medications used to treat mental illnesses, such as schizophrenia, depression, or bipolar disorder, and drugs prescribed for the treatment of:
 - a. Acquired immune deficiency syndrome or human immunodeficiency virus; and
 - b. Cancer.
4. The department may use contractors to collect and analyze the documentation required under this section and to facilitate the prior authorization program.
5. The department shall consult with the board in the course of adopting rules to implement the prior authorization program. The rules must:
 - a. Establish policies and procedures necessary to implement the prior authorization program.
 - b. Develop a process that allows prescribers to furnish documentation required to obtain approval for a drug without interfering with patient care activities.
 - c. Allow the board to establish panels of physicians and pharmacists which provide expert guidance and recommendations to the board in considering specific drugs or therapeutic classes of drugs to be included in the prior authorization program.

(Effective after July 31, 2007 ~~2009~~) Prior authorization program.

1. The department shall develop and implement a prior authorization program that meets the requirements of 42 U.S.C. 1396r-8(d) to determine coverage of drug products when a medical assistance recipient's health care provider prescribes a drug that is identified as requiring prior authorization. Authorization must be granted for provision of the drug if:
 - a. The drug not requiring prior authorization has not been effective, or with reasonable certainty is not expected to be effective, in treating the recipient's condition;
 - b. The drug not requiring prior authorization causes or is reasonably expected to cause adverse or harmful reactions to the health of the recipient; or
 - c. The drug is prescribed for a medically accepted use supported by a compendium or by approved product labeling unless there is a therapeutically equivalent drug that is available without prior authorization.
2. For any drug placed on the prior authorization program, the department shall provide medical and clinical criteria, cost information, and utilization data to the drug use review board for review and consideration. The board may consider department data and information from other sources to make a decision about placement of the drug on prior authorization.
3. The department may use contractors to collect and analyze the documentation required under this section and to facilitate the prior authorization program.
4. The department shall consult with the board in the course of adopting rules to implement the prior authorization program. The rules must:
 - a. Establish policies and procedures necessary to implement the prior authorization program.

- b. Develop a process that allows prescribers to furnish documentation required to obtain approval for a drug without interfering with patient care activities.
- c. Allow the board to establish panels of physicians and pharmacists which provide expert guidance and recommendations to the board in considering specific drugs or therapeutic classes of drugs to be included in the prior authorization program.

SECTION 2. DRUG UTILIZATION REVIEW BOARD REVIEW - REPORT TO LEGISLATIVE COUNCIL. During the 2007-08 interim, the drug utilization review board shall review the utilization, cost, and effectiveness of the drugs identified in subsection 3 of section 50-24.6-04 and make recommendations for managing the utilization of the identified drugs or of any other drugs for the conditions identified in that subsection. The drug utilization review board shall make semiannual reports of its progress and a final report, due by October 1, 2008, of its findings and recommendations for legislative changes to a committee of the legislative council, including any legislation necessary to make the suggested changes. The legislative council shall receive the board's report and report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1455, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1455 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1471, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed HB 1471 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1511, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (11 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). Engrossed HB 1511 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HCR 3061, as engrossed: Agriculture Committee (Sen. Flakoll, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HCR 3061 was placed on the Fourteenth order on the calendar.

FIRST READING OF SENATE BILL

Sens. Stenehjem, Nething, Robinson and Reps. Berg, DeKrey, Metcalf introduced:
(Approved by the Delayed Bills Committee)

SB 2418: A BILL for an Act to provide a contingent appropriation to the veterans' home for the purpose of building a new facility.

Was read the first time and referred to the **Human Services Committee**.

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

William R. Horton, Secretary

