

## JOURNAL OF THE SENATE

## Sixtieth Legislative Assembly

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Bismarck, April 12, 2007

The Senate convened at 8:30 a.m., with President Dalrymple presiding.

The prayer was offered by Senator J. Lee.

The roll was called and all members were present except Senators Fiebiger, Heitkamp, Horne, Nelson, Oehlke, Olafson, Triplett, and Warner.

## REQUEST

**SEN. STENEHJEM REQUESTED** that the record show that these Senators were absent because they were participating in a tour of the state penitentiary, which request was granted.

A quorum was declared by the President.

## APPOINTMENT OF CONFERENCE COMMITTEE

**SEN. CHRISTMANN MOVED** that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on Engrossed HB 1005, Engrossed HB 1009, Engrossed HB 1049, Engrossed HB 1107, Reengrossed HB 1197, and HB 1466, which motion prevailed.

**THE PRESIDENT APPOINTED** as a Conference Committee on:

**Engrossed HB 1005:** Sens. Wardner, Bowman, Mathern

**Engrossed HB 1009:** Sens. Krebsbach, Bowman, Seymour

**Engrossed HB 1049:** Sens. Tollefson, Oehlke, Anderson

**Engrossed HB 1107:** Sens. Christmann, Holmberg, Seymour

**Reengrossed HB 1197:** Sens. Lyson, Olafson, Nelson

**HB 1466:** Sens. Nething, Erbele, Marcellais

## APPOINTMENT OF CONFERENCE COMMITTEE

**SEN. CHRISTMANN MOVED** that the President appoint a committee of three to act with a like committee from the House as a new Conference Committee on SB 2165, which motion prevailed.

**THE PRESIDENT APPOINTED** as a new Conference Committee on:

**SB 2165:** Sens. Nething, G. Lee, Fiebiger

## MOTION

**SEN. CHRISTMANN MOVED** that the Senate Conference Committee on Engrossed SB 2023 be dissolved, which motion prevailed.

## CONSIDERATION OF MESSAGE FROM THE HOUSE

**SEN. HOLMBERG MOVED** that the Senate do concur in the House amendments to Engrossed SB 2023 as printed on SJ page 1138, which motion prevailed on a voice vote.

Engrossed SB 2023, as amended, was placed on the Eleventh order of business.

## SECOND READING OF SENATE BILL

**SB 2023:** A BILL for an Act to provide an appropriation for defraying the expenses of various state departments and institutions; and to declare an emergency.

## ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 39 YEAS, 0 NAYS, 0 EXCUSED, 8 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nething; O'Connell; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Taylor; Tollefson; Urlacher; Wanzek; Wardner

**ABSENT AND NOT VOTING:** Fiebiger; Heitkamp; Horne; Nelson; Oehlke; Olafson; Triplett; Warner

Reengrossed SB 2023 passed, the title was agreed to, and the emergency clause was declared carried.

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#### **CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. J. LEE MOVED** that the Senate do concur in the House amendments to Reengrossed SB 2418 as printed on SJ pages 1375-1376, which motion prevailed on a voice vote.

Reengrossed SB 2418, as amended, was placed on the Eleventh order of business.

#### **SECOND READING OF SENATE BILL**

**SB 2418:** A BILL for an Act to provide a contingent appropriation to the veterans' home for the purpose of building a new facility; to provide for the issuance of evidences of indebtedness; to provide for an exception to the moratorium on expansion of long-term care bed capacity; and to provide for reports to the budget section.

#### **ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 39 YEAS, 0 NAYS, 0 EXCUSED, 8 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nething; O'Connell; Pomeroy; Potter; Robinson; Seymour; Stenehjelm; Tallackson; Taylor; Tollefson; Urlacher; Wanzek; Wardner

**ABSENT AND NOT VOTING:** Fiebiger; Heitkamp; Horne; Nelson; Oehlke; Olafson; Triplett; Warner

Reengrossed SB 2418 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 concurred in the House amendments and subsequently passed: SB 2418.

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

**MR. SPEAKER:** The Senate has reconsidered its action whereby it did not concur with the House amendments to SB 2023 and wishes to inform you that the Senate does now concur with the House amendments to SB 2023 and subsequently passed the same. Also, the Senate has dissolved the Senate Conference Committee on SB 2023.

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

**MR. SPEAKER:** The conference committee was unable to agree and the President has appointed as a new conference committee to act with a like committee from the House on:

**SB 2165:** Sens. Nething; G. Lee; Fiebiger

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

**MR. SPEAKER:** The President has appointed as a conference committee to act with a like committee from the House on:

**HB 1005:** Sens. Wardner; Bowman; Mathern

**HB 1009:** Sens. Krebsbach; Bowman; Seymour

**HB 1049:** Sens. Tollefson; Oehlke; Anderson

**HB 1107:** Sens. Christmann; Holmberg; Seymour

**HB 1197:** Sens. Lyson; Olafson; Nelson

**HB 1466:** Sens. Nething; Erbele; Marcellais

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

**MR. PRESIDENT:** The House has amended and subsequently passed: SB 2256.

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2256**

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact the new section to chapter 12.1-20 of the North Dakota Century Code as created by section 1 of House Bill No. 1472, as approved by the sixtieth legislative assembly, relating to sexual offenders on school property."

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** The new section to chapter 12.1-20 of the North Dakota Century Code as created by section 1 of House Bill No. 1472, as approved by the sixtieth legislative assembly, is amended and reenacted as follows:

**Sexual offender presence near schools prohibited.**

1. Except for purposes of voting in a school building used as a public polling place or attending an open meeting under chapter 44-04 in a school building, a sexual offender, as defined in section 12.1-32-15, who has pled guilty or been found guilty of or has been adjudicated delinquent of a class A misdemeanor or felony sexual offense against a minor or is required to register under section 12.1-32-15 or equivalent law of another state may not knowingly enter upon the real property comprising a public or nonpublic elementary, middle, or high school unless provided by this section or allowed on school property through compliance with a written policy adopted by the school board of a public school or governing body of a nonpublic school. The school board or governing body shall provide a copy of the policy to local law enforcement upon request.
2. If a school board or a governing body does not have a written policy on sexual offenders on school property, subsection 1 does not apply under the following circumstances:
  - a. The offender is a parent or guardian of a student attending the school and the offender, with the written permission of the principal or administrator of the school, is attending a conference at the school with school personnel to discuss the progress of the student academically or socially, participating in a child review conference in which evaluation and placement decisions may be made regarding special education services, or attending a conference to discuss other student issues, including retention and promotion.
  - b. The offender is a parent, guardian, or relative of a student attending or participating in a function at the school and the offender has filed with the school written permission from a probation officer allowing the offender's presence at school functions where other adults are present with the students.
  - c. The offender is a parent, guardian, or relative of a student attending or participating in a function at the school and the offender is not on supervised probation and has requested advance permission from the superintendent or school board allowing the offender's presence at school functions.
  - d. The offender is a student at the school.
  - e. The offender is attending a religious service at the school while the school is not in session.
3. An individual who violates this section is guilty of a class A misdemeanor."

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 2419.

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

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact chapter 57-51.2 of the North Dakota Century Code, relating to agreements with

an Indian tribe to share revenue from state taxes on oil and gas production within the boundaries of the Fort Berthold Reservation; to amend and reenact section 57-51.1-03 of the North Dakota Century Code, relating to an oil extraction tax exemption on production from wells on Indian reservations, Indian trust land, and land owned by an Indian tribe; to provide a continuing appropriation; to provide an effective date; and to declare an emergency.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 57-51.1-03 of the North Dakota Century Code is amended and reenacted as follows:

**57-51.1-03. Exemptions from oil extraction tax.** The following activities are specifically exempted from the oil extraction tax:

1. The activity of extracting from the earth any oil that is exempt from the gross production tax imposed by chapter 57-51.
2. The activity of extracting from the earth any oil from a stripper well property.
3. For a well drilled and completed as a vertical well, the initial production of oil from the well is exempt from any taxes imposed under this chapter for a period of fifteen months, except that oil produced from any well drilled and completed as a horizontal well is exempt from any taxes imposed under this chapter for a period of twenty-four months. Oil recovered during testing prior to well completion is exempt from the oil extraction tax. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.
4. The production of oil from a qualifying well that was worked over is exempt from any taxes imposed under this chapter for a period of twelve months, beginning with the first day of the third calendar month after the completion of the work-over project. The exemption provided by this subsection is only effective if the well operator establishes to the satisfaction of the industrial commission upon completion of the project that the cost of the project exceeded sixty-five thousand dollars or production is increased at least fifty percent during the first two months after completion of the project. A qualifying well under this subsection is a well with an average daily production of no more than fifty barrels of oil during the latest six calendar months of continuous production. A work-over project under this subsection means the continuous employment of a work-over rig, including recompletions and reentries. The exemption provided by this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.
5.
  - a. The incremental production from a secondary recovery project which has been certified as a qualified project by the industrial commission after July 1, 1991, is exempt from any taxes imposed under this chapter for a period of five years from the date the incremental production begins.
  - b. The incremental production from a tertiary recovery project which has been certified as a qualified project by the industrial commission subsequent to June 30, 1991, is exempt from any taxes imposed under this chapter for a period of ten years from the date the incremental production begins.
  - c. For purposes of this subsection, incremental production is defined in the following manner:

- (1) For purposes of determining the exemption provided for in subdivision a and with respect to a unit where there has not been a secondary recovery project, incremental production means the difference between the total amount of oil produced from the unit during the secondary recovery project and the amount of primary production from the unit. For purposes of this paragraph, primary production means the amount of oil which would have been produced from the unit if the secondary recovery project had not been commenced. The industrial commission shall determine the amount of primary production in a manner which conforms to the practice and procedure used by the commission at the time the project is certified.
- (2) For purposes of determining the exemption provided for in subdivision a and with respect to a unit where a secondary recovery project was in existence prior to July 1, 1991, and where the industrial commission cannot establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the unit during a new secondary recovery project and the amount of production which would be equivalent to the average monthly production from the unit during the most recent twelve months of normal production reduced by a production decline rate of ten percent for each year. The industrial commission shall determine the average monthly production from the unit during the most recent twelve months of normal production and must upon request or upon its own motion hold a hearing to make this determination. For purposes of this paragraph, when determining the most recent twelve months of normal production the industrial commission is not required to use twelve consecutive months. In addition, the production decline rate of ten percent must be applied from the last month in the twelve-month period of time.
- (3) For purposes of determining the exemption provided for in subdivision a and with respect to a unit where a secondary recovery project was in existence before July 1, 1991, and where the industrial commission can establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the unit during the new secondary recovery project and the total amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced. For purposes of this paragraph, the total amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced includes both primary production and production that occurred as a result of the secondary recovery project that was in existence before July 1, 1991. The industrial commission shall determine the amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced in a manner that conforms to the practice and procedure used by the commission at the time the new secondary recovery project is certified.
- (4) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there has not been a secondary recovery project, incremental production means the difference between the total amount of oil produced from the unit during the tertiary recovery project and the amount of primary production from the unit. For purposes of this paragraph, primary production means the amount of oil which would have been produced from the unit if the tertiary recovery project had not been commenced. The industrial commission shall determine the amount of primary production in a manner which conforms to the practice and procedure used by the commission at the time the project is certified.
- (5) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there is or has

been a secondary recovery project, incremental production means the difference between the total amount of oil produced during the tertiary recovery project and the amount of production which would be equivalent to the average monthly production from the unit during the most recent twelve months of normal production reduced by a production decline rate of ten percent for each year. The industrial commission shall determine the average monthly production from the unit during the most recent twelve months of normal production and must upon request or upon its own motion hold a hearing to make this determination. For purposes of this paragraph, when determining the most recent twelve months of normal production the industrial commission is not required to use twelve consecutive months. In addition, the production decline rate of ten percent must be applied from the last month in the twelve-month period of time.

- (6) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there is or has been a secondary recovery project and where the industrial commission can establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the unit during the tertiary recovery project and the total amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced. For purposes of this paragraph, the total amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced includes both primary production and production that occurred as a result of any secondary recovery project. The industrial commission shall determine the amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced in a manner that conforms to the practice and procedure used by the commission at the time the tertiary recovery project is certified.
- d. The industrial commission shall adopt rules relating to this exemption that must include procedures for determining incremental production as defined in subdivision c.
6. The production of oil from a two-year inactive well, as determined by the industrial commission and certified to the state tax commissioner, for a period of ten years after the date of receipt of the certification. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.
7. The production of oil from a horizontal reentry well, as determined by the industrial commission and certified to the state tax commissioner, for a period of nine months after the date the well is completed as a horizontal well. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.
- ~~8. The initial production of oil from a well is exempt from any taxes imposed under this chapter for a period of sixty months if:~~
  - ~~a. The well is located within the boundaries of an Indian reservation;~~
  - ~~b. The well is drilled and completed on lands held in trust by the United States for an Indian tribe or individual Indian; or~~
  - ~~c. The well is drilled and completed on lands held by an Indian tribe if the interest is in existence on August 1, 1997.~~

**SECTION 2.** Chapter 57-51.2 of the North Dakota Century Code is created and enacted as follows:

**57-51.2-01. Authority to enter agreements.** The governor, in consultation with the tax commissioner, may enter agreements with the Three Affiliated Tribes relating to taxation and regulation of oil and gas exploration and production within the boundaries of the Fort Berthold Reservation.

**57-51.2-02. Agreement requirements.** An agreement under this chapter is subject to the following:

1. All revenue from taxes under chapters 57-51 and 57-51.1 from oil and gas production attributable to fee land within the exterior boundaries of the reservation is retained by the state and allocated as provided by law. All revenue from taxes under chapters 57-51 and 57-51.1 from oil and gas production attributable to Indian trust land and land owned by an Indian tribe within the exterior boundaries of the Fort Berthold Reservation is allocated as follows:
  - a. Revenue from taxes under chapter 57-51 attributable to oil and gas production on Indian trust land and land owned by an Indian tribe must be allocated among political subdivisions in the amount, proportion, and manner provided in chapter 57-51.
  - b. The cost of state oil and gas administration and regulation must be deducted and transferred for deposit in the state general fund.
  - c. All revenue remaining after deduction of the amounts under subdivisions a and b must be divided in equal amounts between the state and the tribe.
2. An oil or gas well that is drilled and completed during the time an agreement under this chapter is in effect is subject to state tax and regulatory provisions for the life of the well.
3. The exemptions for oil and gas production under chapters 57-51 and 57-51.1 do not apply to production within the boundaries of the reservation unless the exemption is specified in the agreement or in a later amendment to the agreement and the revenue loss attributable to the exemption is divided equally between the state and the tribe.
4. Fees and taxes imposed by the tribe under an agreement with an oil or gas exploration or production company within the boundaries of the reservation entered before July 1, 2007, are unaffected by an agreement under this chapter. Fees and taxes may not be imposed by the tribe by agreement or otherwise with an oil or gas exploration or production company for activities within the exterior boundaries of the reservation after the effective date of this Act.
5. Jurisdiction of any dispute under this chapter or under the agreement entered under this chapter is in the federal district court for the western division of North Dakota.

**57-51.2-03. Statutory inconsistencies superseded.** This chapter supersedes any inconsistent provisions of chapters 57-51 and 57-51.1 and any provision of state law relating to regulatory provisions of state law relating to oil and gas exploration and production and administration of those provisions.

**SECTION 3. EFFECTIVE DATE.** Section 1 of this Act becomes effective on July 1, 2010.

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

Renumber accordingly

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** Your signature is respectfully requested on: SB 2021, SB 2093, SB 2100, SB 2137, SB 2161, SB 2341.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** Your signature is respectfully requested on: SB 2146, SB 2262, SB 2352.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** Your signature is respectfully requested on: SB 2023.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** Your signature is respectfully requested on: SB 2418.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The Speaker has signed: SB 2418.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** The President has signed: SB 2418.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1256, HB 1379.

#### **DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bill was delivered to the Governor for approval on April 12, 2007: SB 2418.

#### **COMMUNICATION FROM GOVERNOR JOHN HOEVEN**

This is to inform you that on April 12, 2007, I have signed the following: SB 2418.

#### **MOTION**

**SEN. CHRISTMANN MOVED** that the Senate stand in recess until 1:00 p.m., which motion prevailed.

**THE SENATE RECONVENED** pursuant to recess taken, with President Dalrymple presiding.

#### **CORRECTION AND REVISION OF THE JOURNAL**

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

Page 1371, line 37, replace "HB 1411" with "HB 1417"

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

#### **MOTION**

**SEN. CHRISTMANN MOVED** that SB 2090 be moved to the top of the Seventh order, which motion prevailed.

#### **APPOINTMENT OF CONFERENCE COMMITTEE**

**SEN. CHRISTMANN MOVED** that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on Engrossed HB 1321 and HB 1330, which motion prevailed.

**THE PRESIDENT APPOINTED** as a Conference Committee on:

**Engrossed HB 1321:** Sens. Cook, Hacker, Warner

**HB 1330:** Sens. Lyson, Olafson, Fiebiger

#### **CONSIDERATION OF MESSAGE FROM THE HOUSE**

**SEN. NETHING MOVED** that the Senate do not concur in the House amendments to Engrossed SB 2256 as printed on SJ pages 1385-1389 and that a conference committee be appointed to meet with a like committee from the House, which motion prevailed on a voice vote.

#### **APPOINTMENT OF CONFERENCE COMMITTEE**

**THE PRESIDENT APPOINTED** as a Conference Committee on Engrossed SB 2256: Sens. Olafson, Lyson, Fiebiger.

#### **CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. DEVER MOVED** that the conference committee report on SB 2090 as printed on SJ page 1377 be adopted, which motion prevailed on a voice vote.

SB 2090, as amended, was placed on the Eleventh order.



**SECOND READING OF SENATE BILL**

**SB 2090:** A BILL for an Act to create and enact a new subsection to section 23-12-10 of the North Dakota Century Code, relating to an outdoor smoking policy for certain areas on the state capitol grounds; and to amend and reenact section 48-10-02 of the North Dakota Century Code, relating to use of and expenditures from the capitol building fund.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 27 YEAS, 20 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Dever; Fiebiger; Fischer; Heckaman; Heitkamp; Horne; Kilzer; Krauter; Krebsbach; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; O'Connell; Oehlke; Pomeroy; Robinson; Seymour; Tallackson; Taylor; Triplett; Warner

**NAYS:** Behm; Bowman; Christmann; Cook; Erbele; Flakoll; Freborg; Grindberg; Hacker; Holmberg; Klein; Lee, G.; Nething; Olafson; Potter; Stenehjerm; Tollefson; Urlacher; Wanzek; Wardner

Engrossed SB 2090 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 does not concur in the House amendments to SB 2256 and the President has appointed as a conference committee to act with a like committee from the House on:

**SB 2256:** Sens. Olafson; Lyson; Fiebiger

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

**MR. SPEAKER:** The President has appointed as a conference committee to act with a like committee from the House on:

**HB 1321:** Sens. Cook; Hacker; Warner

**HB 1330:** Sens. Lyson; Olafson; Fiebiger

**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 1215, HB 1351, HB 1420, and HCR 3010.

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

**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently passed: HB 1029, HB 1146, HB 1243, HB 1390.

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

**MR. SPEAKER:** The President has signed: SB 2036, SB 2111, SB 2125, SB 2154, SB 2204, SB 2236, SB 2247, SB 2274, SB 2277, SB 2411.

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

**MR. SPEAKER:** The President has signed: HB 1065, HB 1089, HB 1125, HB 1256, HB 1270, HB 1334, HB 1379, HB 1380, HB 1417, HB 1491, HB 1507, HB 1513, HCR 3034.

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

**MR. SPEAKER:** The President has signed: SCR 4001.

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

**MR. PRESIDENT:** The Speaker has signed: SB 2021, SB 2023, SB 2093, SB 2100, SB 2137, SB 2146, SB 2161, SB 2262, SB 2341, SB 2352.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bills were delivered to the Governor for approval on April 12, 2007: SB 2036, SB 2111, SB 2125, SB 2154, SB 2204, SB 2236, SB 2247, SB 2274, SB 2277, SB 2411.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following resolution was delivered to the Secretary of State for filing on April 12, 2007: SCR 4001.

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate stand in recess until 4:30 p.m., which motion prevailed.

**THE SENATE RECONVENED** pursuant to recess taken, with President Dalrymple presiding.

**MOTION**

**SEN. CHRISTMANN MOVED** that Engrossed SB 2057, Engrossed HB 1029, Engrossed HB 1243, Engrossed HB 1390, and Engrossed HB 1146 be placed at the bottom of the Seventh order, which motion prevailed.

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. NETHING MOVED** that the conference committee report on Engrossed HB 1166 as printed on SJ page 1378 be adopted, which motion prevailed on a voice vote.

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. TOLLEFSON MOVED** that the conference committee report on Engrossed HB 1403 as printed on SJ page 1379 be adopted, which motion prevailed on a voice vote.

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. HACKER MOVED** that the conference committee report on Engrossed HB 1278 as printed on SJ pages 1378-1379 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1278, as amended, was placed on the Fourteenth order.

**SECOND READING OF HOUSE BILL**

**HB 1278:** A BILL for an Act to amend and reenact section 52-04-06.1 of the North Dakota Century Code, relating to construction project risk protection.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 38 YEAS, 8 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Bowman; Christmann; Cook; Dever; Erbele; Fischer; Freborg; Grindberg; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Nelson; Nething; O'Connell; Olafson; Pomeroy; Robinson; Seymour; Stenehjem; Tallackson; Taylor; Tollefson; Urlacher; Wanzek; Wardner

**NAYS:** Behm; Fiebiger; Hacker; Mathern; Oehlke; Potter; Triplett; Warner

**ABSENT AND NOT VOTING:** Flakoll

Engrossed HB 1278, as amended, passed and the title was agreed to.

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**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. J LEE MOVED** that the conference committee report on Reengrossed SB 2060 as printed on SJ page 1365 be adopted, which motion prevailed on a voice vote.

Reengrossed SB 2060, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

**SB 2060:** A BILL for an Act to amend and reenact sections 43-18-05 and 43-18-24 of the North Dakota Century Code, relating to plumbing board member compensation and plumbing code violations; to provide for a legislative council study; and to provide a penalty.

**ROLL CALL**

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

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Freborg; Grindberg; 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; Urlacher; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Flakoll

Reengrossed SB 2060 passed and the title was agreed to.

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**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. TOLLEFSON MOVED** that the conference committee report on Reengrossed SB 2225 as printed on SJ page 1378 be adopted, which motion prevailed on a voice vote.

Reengrossed SB 2225, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

**SB 2225:** A BILL for an Act to amend and reenact subsections 1 and 10 of section 53-06.1-01, subsection 2 of section 53-06.1-12, subsections 15, 16, and 17 of section 57-39.2-01, section 57-39.2-02.1, and subsections 5, 6, and 7 of section 57-40.2-01 of the North Dakota Century Code, relating to the excise tax upon gross proceeds of licensed gaming organizations for bingo cards and elimination of sales and use taxes for bingo cards; and to provide an effective date.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 22 YEAS, 24 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Cook; Dever; Fischer; Grindberg; Hacker; Holmberg; Horne; Kilzer; Klein; Krebsbach; Lee, J.; Mathern; Nelson; Nething; Potter; Robinson; Seymour; Tallackson; Tollefson; Wanzek; Wardner

**NAYS:** Andrist; Bakke; Behm; Bowman; Christmann; Erbele; Fiebiger; Freborg; Heckaman; Heitkamp; Krauter; Lee, G.; Lindaas; Lyson; Marcellais; O'Connell; Oehlke; Olafson; Pomeroy; Stenehjerm; Taylor; Triplett; Urlacher; Warner

**ABSENT AND NOT VOTING:** Flakoll

Reengrossed SB 2225 lost.

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**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. OEHLKE MOVED** that the conference committee report on Engrossed SB 2178 as printed on SJ pages 1377-1378 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2178, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

**SB 2178:** A BILL for an Act to amend and reenact subsections 2 and 3 of section 57-51-15 of the North Dakota Century Code, relating to apportionment of oil and gas gross production tax revenues; to repeal section 57-51.1-07.2 of the North Dakota Century Code, relating to the permanent oil tax trust fund; to provide for a legislative council study; to provide for application; and to provide an effective date.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 40 YEAS, 6 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**NAYS:** Fiebiger; Grindberg; Lee, J.; Marcellais; Mathern; Tallackson

**ABSENT AND NOT VOTING:** Flakoll

Reengrossed SB 2178 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 adopted the conference committee report and subsequently passed: SB 2060, SB 2178.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: HB 1278.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** The Senate has adopted the conference committee report on: HB 1166, HB 1403.

**MOTION**

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

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate be on the Fourth, Fifth, Seventh, Ninth, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 8:30 a.m., Friday, April 13, 2007, which motion prevailed.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2057, as engrossed:** Your conference committee (Sens. Flakoll, G. Lee, Bakke and Reps. Monson, Hawken, Gullekson) recommends that the **SENATE ACCEDE** to the House amendments on SJ page 1198 and place SB 2057 on the Seventh order.

Engrossed SB 2057 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2103, as reengrossed:** Your conference committee (Sens. Nething, Lyson, Nelson and Reps. DeKrey, Klemin, Delmore) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 1078, adopt amendments as follows, and place SB 2103 on the Seventh order:

That the House recede from its amendments as printed on page 1078 of the Senate Journal and page 910 of the House Journal and that Reengrossed Senate Bill No. 2103 be amended as follows:

Page 1, line 2, after the first "of" insert "acute"

Page 1, line 7, replace "**Forensic**" with "**Acute forensic**"

Page 1, replace lines 9 and 10 with:

"1. An acute forensic medical examination is an examination performed on an alleged victim of criminal sexual conduct for the purpose of gathering evidence of an alleged crime and is performed within ninety-six hours after the alleged crime unless good cause is shown for the delay in performing the examination. When an acute forensic medical examination is performed, the

Page 1, line 18, replace "a" with "an acute"

Page 1, line 23, after "performing" insert "acute"

Renumber accordingly

Reengrossed SB 2103 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2309, as engrossed:** Your conference committee (Sens. G. Lee, Flakoll, Taylor and Reps. L. Meier, Wall, Hunsakor) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 897-898, adopt amendments as follows, and place SB 2309 on the Seventh order:

That the House recede from its amendments as printed on pages 897 and 898 of the Senate Journal and page 1030 of the House Journal and that Engrossed Senate Bill No. 2309 be amended as follows:

Page 1, line 17, remove "**- Higher education admission**"

Page 1, line 18, remove "**requirements**"

Page 1, line 19, replace "**2012-13**" with "**2008-09**"

Page 1, line 20, remove "or be admitted to an institution of higher education in this state"

Page 1, line 22, replace "years" with "units"

Page 1, line 23, replace "Three years" with "Two units"

Page 1, line 24, replace "Three years" with "Two units"

Page 2, line 1, replace "years" with "units" and after the second "studies" insert ", which may include North Dakota studies"

Page 2, line 2, replace "year" with "unit" and after "education" insert ", which may include up to one-half unit of health"

Page 2, line 3, replace "year" with "unit"

Page 2, replace lines 5 through 14 with:

- "2. The superintendent of public instruction shall work with each school district to identify course offerings that meet the requirements of subdivisions a through f of subsection 1.
3. Before September first of each year, each school district shall file a copy of its graduation requirements with the superintendent of public instruction.
4. A school district may not reduce its graduation requirements below those in existence on June 30, 2007."

Renumber accordingly

Engrossed SB 2309 was placed on the Seventh order of business on the calendar.

#### REPORT OF CONFERENCE COMMITTEE

**HB 1029, as engrossed:** Your conference committee (Sens. Cook, Oehlke, Horne and Reps. Froseth, Owens, Schmidt) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ pages 857-858 and place HB 1029 on the Seventh order.

Engrossed HB 1029 was placed on the Seventh order of business on the calendar.

#### REPORT OF CONFERENCE COMMITTEE

**HB 1243, as engrossed:** Your conference committee (Sens. Oehlke, Dever, Horne and Reps. Klemin, Dahl, Onstad) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ pages 1450-1451 and place HB 1243 on the Seventh order.

Engrossed HB 1243 was placed on the Seventh order of business on the calendar.

#### REPORT OF CONFERENCE COMMITTEE

**HB 1390, as engrossed:** Your conference committee (Sens. Dever, Erbele, Pomeroy and Reps. Porter, Weisz, Conrad) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ pages 982-983 and place HB 1390 on the Seventh order.

Engrossed HB 1390 was placed on the Seventh order of business on the calendar.

#### REPORT OF CONFERENCE COMMITTEE

**HB 1146, as engrossed:** Your conference committee (Sens. Urlacher, Tollefson, Triplett and Reps. Damschen, Hofstad, Hanson) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1079, adopt amendments as follows, and place HB 1146 on the Seventh order:

That the Senate recede from its amendments as printed on page 1079 of the House Journal and pages 868 and 869 of the Senate Journal and that Engrossed House Bill No. 1146 be 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 the right of access for hunting access from the surface estate; to provide for a legislative council study; and to provide an expiration date.

**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 the right of access for hunting access prohibited.**

The right of access to land 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.

**SECTION 2. LEGISLATIVE COUNCIL - SEVERANCE OF HUNTING ACCESS FROM SURFACE ESTATE STUDY.** The legislative council shall consider studying, during the 2007-08 interim, issues related to the severance of hunting access from the surface estate. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

**SECTION 3. EXPIRATION DATE.** This Act is effective through July 31, 2009, and after that date is ineffective."

Renumber accordingly

Engrossed HB 1146 was placed on the Seventh order of business on the calendar.

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

**William R. Horton, Secretary**