

JOURNAL OF THE SENATE

Sixty-first Legislative Assembly

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Bismarck, April 20, 2009

The Senate convened at 8:00 a.m., with President Dalrymple presiding.

The prayer was offered by Pastor Jacob DeBoer, Trinity Lutheran Church, Steele, and Dawson Lutheran Church, Dawson.

The roll was called and all members were present except Senators Lindaas and Nelson.

A quorum was declared by the President.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. LYSON MOVED that the conference committee report on SB 2028 as printed on SJ page 1394 be adopted, which motion prevailed on a voice vote.

SB 2028, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2028: A BILL for an Act to amend and reenact section 29-26-22 of the North Dakota Century Code, relating to the community service supervision fee.

ROLL CALL

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

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Cook; Dever; Dotzenrod; Erbele; Fiebigler; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lyson; Marcellais; Miller; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

NAYS: Christmann; Mathern

ABSENT AND NOT VOTING: Lindaas; Nelson

Engrossed SB 2028 passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. OEHLKE MOVED that the conference committee report on SB 2251 as printed on SJ page 1395 be adopted, which motion prevailed on a voice vote.

SB 2251, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2251: A BILL for an Act to amend and reenact section 61-16-08 of the North Dakota Century Code, relating to compensation for water resource district managers.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebigler; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lyson; Marcellais; Mathern; Miller; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Lindaas; Nelson

Engrossed SB 2251 passed and the title was agreed to.

MOTION

SEN. CHRISTMANN MOVED that Sen. Fischer replace Sen. Holmberg on the Conference Committee on SB 2010, which motion prevailed.

MOTION

SEN. CHRISTMANN MOVED that for the Sixty-eighth legislative day Sen. O'Connell replace Sen. Lindaas on the Conference Committee on HB 1016, which motion prevailed.

MOTION

SEN. CHRISTMANN MOVED that for the Sixty-eighth legislative day Sen. O'Connell replace Sen. Lindaas on the Conference Committee on HB 1305, which motion prevailed.

MOTION

SEN. CHRISTMANN MOVED that for the Sixty-eighth legislative day Sen. O'Connell replace Sen. Nelson on the Conference Committee on SB 2267, which motion prevailed.

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: HCR 3048.

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

MR. PRESIDENT: The Speaker has appointed as a conference committee to act with a like committee from the Senate on:

SB 2248: Reps. D. Johnson; Belter; Vig

SB 2371: Reps. Uglen; Wall; Mueller

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The President has appointed Sen. Holmberg to replace Sen. Fischer on the Conference Committee on SB 2010.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The President has appointed Sen. O'Connell to replace Sen. Lindaas for the Sixty-eighth legislative day on the Conference Committee on HB 1016.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The President has appointed Sen. O'Connell to replace Sen. Lindaas for the Sixty-eighth legislative day on the Conference Committee on HB 1305.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The President has appointed Sen. O'Connell to replace Sen. Nelson for the Sixty-eighth legislative day on the Conference Committee on SB 2267.

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

MR. PRESIDENT: The Speaker has appointed Rep. Boe to replace Rep. Thorpe on the Conference Committee on HB 1151.

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

MR. PRESIDENT: The Speaker has appointed Rep. Svedjan to replace Rep. Wall on the Conference Committee on HB 1481.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: SB 2028, SB 2251.

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

MR. PRESIDENT: The House has adopted the conference committee report on: SB 2116.

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: SB 2098.

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 1239, HB 1330, HB 1338.

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

MR. PRESIDENT: The House has adopted the conference committee report, subsequently passed, and the emergency clause carried: SB 2114.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: Your signature is respectfully requested on: SB 2129, SB 2176, SB 2191, SB 2234, SB 2237, SB 2256, SB 2324, SB 2336, SB 2402, SB 2419.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: Your signature is respectfully requested on: SB 2227, SB 2228, SB 2244, SB 2353.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: Your signature is respectfully requested on: SCR 4036.

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

MR. PRESIDENT: Your signature is respectfully requested on: HB 1308, HB 1394.

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

MR. PRESIDENT: The Speaker has signed: SB 2129, SB 2176, SB 2191, SB 2234, SB 2237, SB 2256, SB 2324, SB 2336, SB 2402, SB 2419.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The President has signed: HB 1418, HB 1487, HB 1549, HCR 3014.

MOTION

SEN. CHRISTMANN MOVED that the Senate stand in recess until 12:30 p.m., which motion prevailed.

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

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 1018, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on:

Engrossed HB 1018: Sens. Holmberg, Christmann, Robinson

MOTION

SEN. NOTHING MOVED that the Senate reconsider its action whereby Reengrossed SB 2338 failed to pass, which motion prevailed on a verification vote.

SECOND READING OF SENATE BILL

SB 2338: A BILL for an Act to amend and reenact section 57-43.2-19 of the North Dakota Century Code, relating to deposit of special fuels excise taxes paid by railroads in a special fund; to provide an appropriation; 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, the roll was called and there were 39 YEAS, 6 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bakke; Behm; Bowman; Cook; Dever; Dotzenrod; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Horne; Kilzer; Krauter; Krebsbach; Lee, G.; Lee, J.; Lyson; Marcellais; Mathern; Nothing; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

NAYS: Anderson; Christmann; Erbele; Holmberg; Klein; Miller

ABSENT AND NOT VOTING: Lindaas; Nelson

Reengrossed SB 2338 passed and the title was agreed to.

MOTION

SEN. FLAKOLL MOVED that the Senate reconsider its action whereby Reengrossed SB 2438 failed to pass, which motion prevailed on a verification vote.

SECOND READING OF SENATE BILL

SB 2438: A BILL for an Act to create and enact two new sections to chapter 4-01 of the North Dakota Century Code, relating to the promotion of sustainably grown agricultural commodities; to provide a continuing appropriation; and to provide an effective date.

ROLL CALL

The question being on the final passage of the bill, which has been read, the roll was called and there were 36 YEAS, 9 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krebsbach; Lee, G.; Lee, J.; Lyson; Marcellais; Miller; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Schneider; Seymour; Stenehjem; Wanzek; Wardner

NAYS: Dotzenrod; Fiebiger; Krauter; Mathern; Potter; Robinson; Taylor; Triplett; Warner

ABSENT AND NOT VOTING: Lindaas; Nelson

Reengrossed SB 2438 passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. OEHLKE MOVED that the conference committee report on Engrossed SB 2163 as printed on SJ pages 1394-1395 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2163, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2163: A BILL for an Act to create and enact chapter 37-17.3 of the North Dakota Century Code, relating to the state radio broadcasting system; and to repeal chapter 54-23.2 of the North Dakota Century Code, relating to the state radio broadcasting system.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lyson; Marcellais; Mathern; Miller; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Lindaas; Nelson

Reengrossed SB 2163 passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. COOK MOVED that the conference committee report on Engrossed SB 2270 as printed on SJ page 1395 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2270, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2270: A BILL for an Act to amend and reenact section 40-49-14 of the North Dakota Century Code, relating to bid requirements for park districts; 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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg;

Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lyson; Marcellais; Mathern; Miller; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Lindaas; Nelson

Reengrossed SB 2270 passed, the title was agreed to, and the emergency clause was declared carried.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)
MR. SPEAKER: The Senate has concurred in the House amendments and passed: SB 2338 and SB 2438.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)
MR. PRESIDENT: The Speaker has appointed as a conference committee to act with a like committee from the Senate on:

SB 2004: Reps. Bellew; Kreidt; Kerzman
SB 2064: Reps. Berg; Grande; Schneider
SB 2277: Reps. Dosch; Grande; Conklin
SB 2311: Reps. Skarphol; Carlson; Williams
SCR4035: Reps. Clark; Nottestad; S. Kelsh

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)
MR. SPEAKER: The President has appointed as a conference committee to act with a like committee from the House on:

HB 1018: Sens. Holmberg; Christmann; Robinson

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)
MR. PRESIDENT: The Speaker has appointed Rep. Porter to replace Rep. Klein on the Conference Committee on HB 1017.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)
MR. PRESIDENT: The Speaker has appointed Rep. Weiler to replace Rep. Schatz on the Conference Committee on HCR3054.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)
MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: SB 2163.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)
MR. SPEAKER: The Senate has adopted the conference committee report, subsequently passed, and the emergency clause carried: SB 2270.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)
MR. PRESIDENT: The House has adopted the conference committee report on: SB 2028.

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: SB 2251.

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 1021, HB 1041, HB 1186.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)
MR. PRESIDENT: The Speaker has signed: SB 2227, SB 2228, SB 2244, SB 2353, SCR 4036.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)
MR. SPEAKER: The President has signed: SB 2035, SB 2040, SB 2041, SB 2042, SB 2046, SB 2047, SB 2072, SB 2081, SB 2082, SB 2089, SB 2090, SB 2096, SB 2099, SB 2100, SB 2101, SB 2112, SB 2121, SB 2128, SB 2129, SB 2131, SB 2133, SB 2155, SB 2157, SB 2168, SB 2176, SB 2191, SB 2192, SB 2216, SB 2218, SB 2221, SB 2222, SB 2224, SB 2231, SB 2234, SB 2237, SB 2239.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The President has signed: SB 2243, SB 2247, SB 2256, SB 2279, SB 2291, SB 2295, SB 2305, SB 2317, SB 2318, SB 2319, SB 2324, SB 2336, SB 2342, SB 2350, SB 2352, SB 2355, SB 2358, SB 2363, SB 2366, SB 2372, SB 2393, SB 2394, SB 2399, SB 2402, SB 2404, SB 2405, SB 2412, SB 2413, SB 2417, SB 2419, SB 2420, SB 2425, SB 2429, SB 2431, SB 2432, SB 2433.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The President has signed: SB 2227, SB 2228, SB 2244, SB 2353.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The President has signed: SCR 4001, SCR 4002, SCR 4003, SCR 4006, SCR 4008, SCR 4010, SCR 4014, SCR 4015, SCR 4016, SCR 4020, SCR 4021, SCR 4027.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The President has signed: SCR 4036.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)

MR. SPEAKER: The President has signed: HB 1308, HB 1394.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following resolutions were delivered to the Secretary of State for filing on April 20, 2009: SCR 4001, SCR 4002, SCR 4003, SCR 4006, SCR 4008, SCR 4010, SCR 4014, SCR 4015, SCR 4016, SCR 4020, SCR 4021, SCR 4027.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following resolution was delivered to the Secretary of State for filing on April 20, 2009: SCR 4036.

MOTION

SEN. CHRISTMANN MOVED that the Senate stand in recess until 4:00 p.m., which motion prevailed.

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

CONSIDERATION OF AMENDMENTS

HCR 3063: SEN. MILLER (Finance and Taxation Committee) MOVED that the amendments on SJ page 1353 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a verification vote.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3063: A concurrent resolution affirming North Dakota's sovereignty under the 10th Amendment to the Constitution of the United States and to demand the federal government halt its practice of assuming powers and imposing mandates on the states for purposes not enumerated in the Constitution of the United States.

MOTION

SEN. MILLER MOVED that HCR 3063 be amended as follows, which motion prevailed on a voice vote.

In addition to the amendments adopted by the Senate as printed on page 1353 of the Senate Journal, House Concurrent Resolution No. 3063 is further amended as follows:

Page 1, line 11, replace "specifically to be an agent of the states" with "and the powers of the federal government are limited and enumerated"

Page 2, line 9, remove ", as our agent,"

Renumber accordingly

REQUEST

SEN. NETHING REQUESTED a recorded roll call vote on the motion to adopt HCR 3063, as amended, which request was granted.

ROLL CALL

The question being on the final adoption of the amended resolution, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 25 YEAS, 20 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; Cook; Dever; Erbele; Fischer; Freborg; Grindberg; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Lee, G.; Lee, J.; Lyson; Miller; Nething; Nodland; Oehlke; Olafson; Stenehjem; Wanzek; Wardner

NAYS: Anderson; Bakke; Behm; Dotzenrod; Fiebiger; Flakoll; Heckaman; Horne; Krauter; Marcellais; Mathern; O'Connell; Pomeroy; Potter; Robinson; Schneider; Seymour; Taylor; Triplett; Warner

ABSENT AND NOT VOTING: Lindaas; Nelson

HCR 3063, as amended, was declared adopted, and the title was agreed to on a roll call vote.

MOTION

SEN. CHRISTMANN MOVED that Sen. Schneider replace Sen. Nelson on the Conference Committee on SB 2267, which motion prevailed.

MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)
MR. SPEAKER: The Senate has amended and subsequently passed: HCR 3063.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)
MR. PRESIDENT: The Speaker has appointed as a conference committee to act with a like committee from the Senate on:

SB 2162: Reps. Weisz; Porter; Conrad
SB 2199: Reps. Belter; Drovdal; S. Kelsh

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 1437.

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: SB 2163.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)
MR. PRESIDENT: The House has adopted the conference committee report, subsequently passed, and the emergency clause carried: SB 2270.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)
MR. PRESIDENT: Your signature is respectfully requested on: HCR 3048.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)
MR. PRESIDENT: The Speaker has signed: HB 1029, HB 1032, HB 1042, HB 1043, HB 1044, HB 1045, HB 1071, HB 1074, HB 1082, HB 1083, HB 1088, HB 1093, HB 1113, HB 1166, HB 1171, HB 1195, HB 1204, HB 1207, HB 1209, HB 1217, HB 1229, HB 1231, HB 1237, HB 1238, HB 1240, HB 1249, HB 1256, HB 1263, HB 1266, HB 1278, HB 1284, HB 1288, HB 1289, HB 1303, HB 1306, HB 1307, HB 1317, HB 1339, HB 1342, HB 1346.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)
MR. PRESIDENT: The Speaker has signed: HB 1350, HB 1361, HB 1371, HB 1378, HB 1391, HB 1392, HB 1401, HB 1416, HB 1433, HB 1435, HB 1438, HB 1445, HB 1448, HB 1452, HB 1458, HB 1461, HB 1463, HB 1464, HB 1472, HB 1514, HB 1530, HB 1534, HB 1556, HB 1561, HB 1562, HB 1573, HB 1575, HB 1577.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)
MR. PRESIDENT: The Speaker has signed: HCR 3008, HCR 3013, HCR 3015, HCR 3021, HCR 3025, HCR 3027, HCR 3030, HCR 3032, HCR 3039, HCR 3045, HCR 3065.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following bills were delivered to the Governor for approval on April 20, 2009: SB 2035, SB 2040, SB 2041, SB 2042, SB 2046, SB 2047, SB 2072, SB 2081, SB 2082, SB 2089, SB 2090, SB 2096, SB 2099, SB 2100, SB 2101, SB 2112, SB 2121, SB 2128, SB 2129, SB 2131, SB 2133, SB 2155, SB 2157, SB 2168, SB 2176, SB 2191, SB 2192, SB 2216, SB 2218, SB 2221, SB 2222, SB 2224, SB 2231, SB 2234, SB 2237, SB 2239.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following bills were delivered to the Governor for approval on April 20, 2009: SB 2243, SB 2247, SB 2256, SB 2279, SB 2291, SB 2295, SB 2305, SB 2317, SB 2318, SB 2319,

SB 2324, SB 2336, SB 2342, SB 2350, SB 2352, SB 2355, SB 2358, SB 2363, SB 2366, SB 2372, SB 2393, SB 2394, SB 2399, SB 2402, SB 2404, SB 2405, SB 2412, SB 2413, SB 2417, SB 2419, SB 2420, SB 2425, SB 2429, SB 2431, SB 2432, SB 2433.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following bills were delivered to the Governor for approval on April 20, 2009: SB 2227, SB 2228, SB 2244, SB 2353.

MOTION

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

MOTION

SEN. CHRISTMANN MOVED that the Senate be on the Fourth, Fifth, Seventh, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 8:00 a.m., Tuesday, April 21, 2009, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

SB 2293: Your conference committee (Sens. Nething, Lyson, Fiebiger and Reps. Boehning, DeKrey, Zaiser) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 907 and place SB 2293 on the Seventh order.

SB 2293 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2359, as engrossed: Your conference committee (Sens. Oehlke, Cook, Nelson and Reps. Kretschmar, N. Johnson, Kilichowski) recommends that the **SENATE ACCEDE** to the House amendments on SJ pages 952-953 and place SB 2359 on the Seventh order.

Engrossed SB 2359 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2415, as reengrossed: Your conference committee (Sens. Lyson, Olafson, Schneider and Reps. Klemm, Koppelman, Delmore) recommends that the **SENATE ACCEDE** to the House amendments on SJ pages 975-977 and place SB 2415 on the Seventh order.

Reengrossed SB 2415 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2421, as engrossed: Your conference committee (Sens. Olafson, Lyson, Fiebiger and Reps. Dahl, Koppelman, Wolf) recommends that the **SENATE ACCEDE** to the House amendments on SJ pages 908-909 and place SB 2421 on the Seventh order.

Engrossed SB 2421 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1021, as engrossed: Your conference committee (Sens. Wardner, Krebsbach, Lindaas and Reps. Wald, Klein, Kroeber) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ page 1091 and place HB 1021 on the Seventh order.

Engrossed HB 1021 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1041: Your conference committee (Sens. Olafson, Lyson, Nelson and Reps. Kingsbury, Dahl, Delmore) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1044-1045, adopt amendments as follows, and place HB 1041 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1044 and 1045 of the House Journal and page 808 of the Senate Journal and that House Bill No. 1041 be amended as follows:

Page 3, line 13, after the underscored period insert "A victim or witness who clearly objects to registration may not be required to register with the system."

Page 3, line 27, after "~~Victims~~" insert "a."

Page 4, line 2, after the period insert:

"b. Victims who are not registered must be given prompt notice, by the law enforcement agency that has made an arrest in any case involving a crime of violence, of any hearing in which the arrested person's pretrial release status will be determined. If the alleged offender in a crime of violence is scheduled to be released before an appearance in court, the custodial authority shall give prompt notice to the victim and witness or, if unavailable, to the arresting law enforcement agency, which shall provide the notice to the victim or witness. The law enforcement agency or custodial authority may fulfill its obligation to notify by registering the victim with the system.

c."

Page 6, line 10, after the period insert "Victims who are not registered must be given the same information by the prosecuting attorney."

Page 7, line 1, after the period insert "Victims who are not registered must be given the same notice by the prosecuting attorney."

Page 7, line 9, after the period insert "Victims who are not registered must be given the same notice by the appropriate custodial authority."

Page 7, line 13, remove the overstrike over "~~The notice given by the custodial authority must~~"

Page 7, remove the overstrike over line 14

Renumber accordingly

HB 1041 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1186, as engrossed: Your conference committee (Sens. Olafson, Nething, Nelson and Reps. Koppelman, Klemin, Delmore) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1140-1141, adopt amendments as follows, and place HB 1186 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1140 and 1141 of the House Journal and pages 979 and 980 of the Senate Journal and that Engrossed House Bill No. 1186 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 subsection to section 12.1-27.1-01 and section 12.1-27.1-03.3 of the North Dakota Century Code, relating to sexually expressive images; to repeal section 12.1-31-08 of the North Dakota Century Code, relating to possession or distribution of certain photographs or other visual representations; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 12.1-27.1-01 of the North Dakota Century Code is created and enacted as follows:

As used in this chapter, "sexually expressive image" means a photograph or visual representation that exhibits a nude or partially denuded human figure, as defined in section 12.1-27.1-03.1, or sexual conduct.

SECTION 2. Section 12.1-27.1-03.3 of the North Dakota Century Code is created and enacted as follows:

Creation, possession, or dissemination of sexually expressive images prohibited - Exception.

1. A person is guilty of a class A misdemeanor if, knowing of its character and content, that person:
 - a. Without written consent from each individual in the image, surreptitiously creates or willfully possesses a sexually expressive image that was surreptitiously created; or

- b. Distributes or publishes, electronically or otherwise, a sexually expressive image with the intent to cause emotional harm or humiliation to any individual depicted in the sexually expressive image or after being given notice by an individual or parent or guardian of the individual who is depicted in a sexually expressive image that the individual, parent, or guardian does not consent to the distribution or publication of the sexually expressive image.
2. A person is guilty of a class B misdemeanor if, knowing of its character and content, that person acquires and knowingly distributes any sexually expressive image that was created without the consent of the subject of the image.
3. This section does not authorize any act prohibited by any other law. If the sexually expressive image is of a minor and possession does not violate section 12.1-27.2-04.1, a parent or guardian of the minor may give permission for a person to possess or distribute the sexually expressive image.
4. This section does not apply to any book, photograph, video recording, motion picture film, or other visual representation sold in the normal course of business through wholesale or retail outlets that possess a valid sales tax permit or used by an attorney, attorney's agent, or any other person obtaining evidence for a criminal investigation or pending civil action, or by a medical professional or a peace officer acting within that individual's scope of employment.

SECTION 3. REPEAL. Section 12.1-31-08 of the North Dakota Century Code is repealed."

Renumber accordingly

Engrossed HB 1186 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1239, as engrossed: Your conference committee (Sens. Hogue, Freborg, Schneider and Reps. Hofstad, DeKrey, Myxter) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1176, adopt amendments as follows, and place HB 1239 on the Seventh order:

That the Senate recede from its amendments as printed on page 1176 of the House Journal and page 1009 of the Senate Journal and that Engrossed House Bill No. 1239 be amended as follows:

Page 1, line 7, after the boldfaced period insert:

"1."

Page 1, line 13, remove "If the"

Page 1, remove lines 14 through 16

Page 1, line 17, remove "clear from the circumstances." and after "~~No~~" insert:

"2."

Page 1, after line 19, insert:

"3. Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of subsection 1, an individual may be found guilty of violating section 20.1-01-18 if the owner, tenant, or individual authorized by the owner substantially complied with subsection 1 and notice against hunting or trespassing is clear from the circumstances."

Renumber accordingly

Engrossed HB 1239 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1330: Your conference committee (Sens. Klein, Wanzek, Horne and Reps. Kasper, Clark, Thorpe) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ page 1119, adopt further amendments as follows, and place HB 1330 on the Seventh order:

That the House accede to the Senate amendments as printed on page 1119 of the House Journal and page 939 of the Senate Journal and that House Bill No. 1330 be further amended as follows:

Page 3, line 20, overstrike the second "or"

Page 3, line 22, after "property" insert "; or

- d. An irrigation designer, contractor, or service provider in the course of preparing irrigation plans or installing, repairing, or maintaining irrigation systems"

Renumber accordingly

HB 1330 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1338, as engrossed: Your conference committee (Sens. J. Lee, Andrist, Anderson and Reps. Hatlestad, Koppelman, Kilichowski) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 957, adopt amendments as follows, and place HB 1338 on the Seventh order:

That the Senate recede from its amendments as printed on page 957 of the House Journal and page 739 of the Senate Journal and that Engrossed House Bill No. 1338 be amended as follows:

Page 1, line 6, replace "consider studying" with "study"

Page 1, line 9, after the period insert "The study also may include the incorporation of information dealing with new solid waste sciences that affect the overall issue of siting, the reduction of landfill waste in North Dakota through the encouragement and coordination of public and private recycling programs, and the potential for development of methane processing from landfills for power generation."

Renumber accordingly

Engrossed HB 1338 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

HB 1437: Your conference committee (Sens. Erbele, J. Lee, Pomeroy and Reps. Uglen, Frantsvog, Potter) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ page 1064 and place HB 1437 on the Seventh order.

HB 1437 was placed on the Seventh order of business on the calendar.

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

Fran A. Gronberg, Secretary

