

## JOURNAL OF THE SENATE

## Sixty-first Legislative Assembly

\*\*\*\*\*

Bismarck, April 23, 2009

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

The prayer was offered by Minister Walter Clark, Church of Christ, Bismarck.

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

A quorum was declared by the President.

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. ERBELE MOVED** that the conference committee report on SB 2044 as printed on SJ page 1426 be adopted, which motion prevailed on a voice vote.

SB 2044, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

**SB 2044:** A BILL for an Act to amend and reenact subsection 1 of section 23-09.3-01.1 and subsection 1 of section 23-16-01.1 of the North Dakota Century Code, relating to the moratorium on expansion of basic care bed capacity and the moratorium on expansion of long-term care bed capacity.

**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; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; 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:** Nelson

Engrossed SB 2044 passed and the title was agreed to.

\*\*\*\*\*

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. OEHLKE MOVED** that the conference committee report on Engrossed SB 2359 as printed on SJ page 1408 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2359, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

**SB 2359:** A BILL for an Act to amend and reenact sections 11-11-05, 11-28-01, 11-28-02, 11-28-03, and 11-28-04 of the North Dakota Century Code, relating to the time and place of county commission meetings and the board of county park commissioners; 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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 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.; Lindaas; 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:** Nelson

Reengrossed SB 2359 passed, the title was agreed to, and the emergency clause was declared carried.

\*\*\*\*\*

#### CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**SEN. WANZEK MOVED** that the conference committee report on SB 2125 as printed on SJ page 1426 be adopted, which motion prevailed on a voice vote.

SB 2125, as amended, was placed on the Eleventh order.

#### SECOND READING OF SENATE BILL

**SB 2125:** A BILL for an Act to amend and reenact subsection 21 of section 4-09-01, subsection 1 of section 4-09-02, subsection 2 of section 4-09-03, and sections 4-09-13, 4-09-17.1, 4-09-25, and 4-11-21 of the North Dakota Century Code, relating to the seed department's revolving fund and to the functions and responsibilities of the seed commission and the seed department.

#### 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, 1 NAYS, 0 EXCUSED, 1 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.; Lindaas; Lyson; Marcellais; Miller; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

**NAYS:** Mathern

**ABSENT AND NOT VOTING:** Nelson

Engrossed SB 2125 passed and the title was agreed to.

\*\*\*\*\*

#### CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**SEN. KLEIN MOVED** that the conference committee report on Engrossed SB 2208 as printed on SJ page 1426 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2208, as amended, was placed on the Eleventh order.

#### SECOND READING OF SENATE BILL

**SB 2208:** A BILL for an Act to amend and reenact section 4-10.2-08 of the North Dakota Century Code or in the alternative to amend and reenact section 4.1-09-16 of the North Dakota Century Code, relating to oilseed assessments; to provide an effective date; 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 43 YEAS, 3 NAYS, 0 EXCUSED, 1 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.; Lindaas; Lyson; Marcellais; Miller; Nething; Nodland; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Taylor; Triplett; Wanzek; Wardner; Warner

**NAYS:** Mathern; O'Connell; Stenehjem

**ABSENT AND NOT VOTING:** Nelson

Reengrossed SB 2208 passed, the title was agreed to, and the emergency clause was declared carried.

\*\*\*\*\*

#### CONSIDERATION OF CONFERENCE COMMITTEE REPORT

**SEN. WANZEK MOVED** that the conference committee report on SCR 4018 as printed on SJ page 1427 be adopted, which motion prevailed on a voice vote.

SCR 4018, as amended, was placed on the Eleventh order.

#### **SECOND READING OF SENATE CONCURRENT RESOLUTION**

**SCR 4018:** A concurrent resolution recognizing the need for viable and sustainable agricultural practices in this state.

The question being on the final adoption of the amended resolution, which has been read.

Engrossed SCR 4018 was declared adopted, and the title was agreed to on a voice vote.

\*\*\*\*\*

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

**SEN. J. LEE MOVED** that the conference committee report on Engrossed SB 2158 as printed on SJ page 1440 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2158, as amended, was placed on the Eleventh order.

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

**SB 2158:** A BILL for an Act to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to medical assistance services provided by advanced registered nurse practitioners.

#### **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, 1 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**NAYS:** Kilzer

**ABSENT AND NOT VOTING:** Nelson

Reengrossed SB 2158 passed and the title was agreed to.

\*\*\*\*\*

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

**SEN. ANDRIST MOVED** that the conference committee report on Engrossed SB 2060 as printed on SJ page 1439 be adopted, which motion prevailed on a voice vote.

Engrossed 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 subsection 7 of section 40-63-01, subdivision g of subsection 1 of section 40-63-03, and sections 40-63-04 and 40-63-05 of the North Dakota Century Code, relating to renaissance zone rehabilitation of public utility infrastructure and renaissance zone boundaries; 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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebig; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; 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:** Nelson

Reengrossed SB 2060 passed and the title was agreed to.

\*\*\*\*\*

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. KLEIN MOVED** that the conference committee report on Engrossed SB 2110 as printed on SJ page 1440 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2110, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

**SB 2110:** A BILL for an Act to create and enact two new sections to chapter 54-60 of the North Dakota Century Code, relating to the rural development office and the North Dakota rural development council; to amend and reenact sections 10-30.5-04, 54-34.3-01, 54-34.3-03, and 54-34.3-04, subsection 2 of section 54-34.3-13, sections 54-34.3-15, 54-34.4-01, and 54-34.4-02, subsection 1 of section 54-34.4-03, section 54-60-03, subsection 3 of section 54-60-04, and sections 54-60-06 and 54-60-17 of the North Dakota Century Code, relating to the powers of the North Dakota Development Fund, Incorporated, the department of commerce division of economic development and finance, the department of commerce division of tourism, the state tourism policy, the commissioner of commerce, the North Dakota economic development foundation, the North Dakota commerce cabinet, and the department of commerce division of workforce development; and to repeal sections 54-34.3-05, 54-34.4-04, and 54-60-11 of the North Dakota Century Code, relating to the finance office, the motion picture development office, and target industries.

**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; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; 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:** Nelson

Reengrossed SB 2110 passed and the title was agreed to.

\*\*\*\*\*

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. HOGUE MOVED** that the conference committee report on Engrossed SB 2141 as printed on SJ page 1440 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2141, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

**SB 2141:** A BILL for an Act to create and enact chapter 38-11.2 of the North Dakota Century Code, relating to damages to land surface caused by subsurface mineral extraction and related exploration.

**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; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; 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:** Nelson

Reengrossed SB 2141 passed and the title was agreed to.

\*\*\*\*\*

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. TRIPLETT MOVED** that the conference committee report on Engrossed SB 2316 as printed on SJ pages 1442-1443 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2316, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

**SB 2316:** A BILL for an Act to direct the state water commission to develop policies regarding water retention projects.

**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; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjelm; Taylor; Triplett; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Nelson

Reengrossed SB 2316 passed and the title was agreed to.

\*\*\*\*\*

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. ERBELE MOVED** that the conference committee report on Engrossed SB 2165 as printed on SJ pages 1440-1441 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2165, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

**SB 2165:** A BILL for an Act to create and enact a new section to chapter 20.1-03 of the North Dakota Century Code, relating to an apprentice hunter program; and to amend and reenact section 20.1-03-01.1 and subsection 1 of section 20.1-03-11 of the North Dakota Century Code, relating to hunting licenses and requirements.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 37 YEAS, 9 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**NAYS:** Anderson; Behm; Fiebiger; Lindaas; Lyson; Marcellais; Nething; Robinson; Warner

**ABSENT AND NOT VOTING:** Nelson

Reengrossed SB 2165 passed and the title was agreed to.

\*\*\*\*\*

**MOTION**

**SEN. CHRISTMANN MOVED** that for the Seventy-first legislative day Sen. Horne replace Sen. Nelson on the Conference Committees on SB 2027, SB 2064, and SB 2277, which motion prevailed.

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

**MR. PRESIDENT:** The House has amended and subsequently passed: SCR 4033.

**HOUSE AMENDMENTS TO ENGROSSED SENATE CONCURRENT  
RESOLUTION NO. 4033**

Page 1, replace lines 4 through 17 with:

**"WHEREAS**, the right to a private secret ballot is fundamental to our representative republic and should not be infringed upon; and

**WHEREAS**, state and federal law requires elections for public office or public votes on initiatives and referenda be by private secret ballot; and

**WHEREAS**, passage of the federal Employee Free Choice Act could infringe upon the rights of individuals to have a private ballot election; and

**WHEREAS**, the federal Employee Free Choice Act's mandatory binding arbitration provisions would deny workers the right to participate in the collective bargaining process between employees and the union; and

**WHEREAS**, any effort to eliminate private elections jeopardizes the free speech rights of business and workers' individual rights; and"

Renumber accordingly

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

**MR. SPEAKER:** The President has appointed Sen. Horne to replace Sen. Nelson for the Seventy-first legislative day on the Conference Committee on SB 2027.

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

**MR. SPEAKER:** The President has appointed Sen. Horne to replace Sen. Nelson for the Seventy-first legislative day on the Conference Committee on SB 2064.

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

**MR. SPEAKER:** The President has appointed Sen. Horne to replace Sen. Nelson for the Seventy-first legislative day on the Conference Committee on SB 2277.

**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 2044, SB 2060, SB 2110, SB 2125, SB 2141, SB 2158, SB 2165, SB 2316, SCR 4018.

**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 2208, SB 2359.

**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 1489.

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

**MR. PRESIDENT:** The House has adopted the conference committee reports and subsequently passed: SB 2152, SB 2232, and SB 2401.

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

**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1053, HB 1073, HB 1194, HB 1235.

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

**MR. PRESIDENT:** The Speaker has signed: SB 2171, SB 2293, SB 2415, SB 2421, SB 2441, SB 2443.

**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.

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. WANZEK MOVED** that the conference committee report on Engrossed SB 2059 as printed on SJ page 1439 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2059, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

**SB 2059:** A BILL for an Act to create and enact two new sections to chapter 65-02 of the North Dakota Century Code, relating to workforce safety and insurance payment of an injured employee's attorney's fees for a case review or settlement proposal; to provide for a report to the legislative assembly; and to provide for application.

**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, 1 NAYS, 0 EXCUSED, 1 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.; Lindaas; Lyson; Marcellais; Miller; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

**NAYS:** Mathern

**ABSENT AND NOT VOTING:** Nelson

Reengrossed SB 2059 passed and the title was agreed to.

\*\*\*\*\*

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

**SEN. BAKKE MOVED** that the conference committee report on Engrossed SB 2212 as printed on SJ page 1442 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2212, as amended, was placed on the Eleventh order.

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

**SB 2212:** A BILL for an Act to amend and reenact section 15.1-38-02 of the North Dakota Century Code, relating to English language learners; and to provide an appropriation.

#### **ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 25 YEAS, 21 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Bakke; Behm; Dotzenrod; Fiebiger; Fischer; Freborg; Heckaman; Holmberg; Horne; Krauter; Krebsbach; Lee, G.; Lindaas; Marcellais; Mathern; O'Connell; Pomeroy; Potter; Robinson; Schneider; Seymour; Taylor; Wardner; Warner

**NAYS:** Andrist; Bowman; Christmann; Cook; Dever; Erbele; Flakoll; Grindberg; Hogue; Kilzer; Klein; Lee, J.; Lyson; Miller; Nething; Nodland; Oehlke; Olafson; Stenehjem; Triplett; Wanzek

**ABSENT AND NOT VOTING:** Nelson

Reengrossed SB 2212 passed and the title was agreed to.

\*\*\*\*\*

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

**SEN. SCHNEIDER MOVED** that the conference committee report on SB 2161 as printed on SJ page 1440 be adopted, which motion prevailed on a voice vote.

SB 2161, as amended, was placed on the Eleventh order.

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

**SB 2161:** A BILL for an Act to create and enact two new sections to chapter 12-60 of the North Dakota Century Code, relating to lost, missing, or runaway children.

#### **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; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; 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:** Nelson

Engrossed SB 2161 passed and the title was agreed to.

\*\*\*\*\*

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

**MR. PRESIDENT:** The House concurred in the Senate amendments and subsequently failed to pass: HB 1227.

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

**MR. PRESIDENT:** The House has adopted the conference committee reports and subsequently passed: HB 1040, HB 1188, HB 1252, and HCR 3019.

**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.

**MOTION**

**SEN. CHRISTMANN MOVED** that HB 1510 be placed at the top of the Seventh order, which motion prevailed.

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. WANZEK MOVED** that the conference committee report on Engrossed HB 1510 as printed on SJ page 1444 be adopted, which motion prevailed on a voice vote.

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. FIEBIGER MOVED** that the conference committee report on Engrossed SB 2250 as printed on SJ page 1442 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2250, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

**SB 2250:** A BILL for an Act to create and enact a new section to chapter 35-27 of the North Dakota Century Code, relating to attorney's fees under construction liens; to amend and reenact sections 28-01-17, 28-05-09, 35-15-06, 35-21-01, 35-27-02, 35-27-04, 35-27-13, 35-27-14, 35-27-16, 35-27-18, 35-27-22, 35-27-24, 35-27-25, and 47-18-04 of the North Dakota Century Code, relating to mechanic's and construction liens; and to repeal sections 35-27-05, 35-27-11, 35-27-12, and 35-27-26 of the North Dakota Century Code, relating to outdated mechanic's lien provisions.

**ROLL CALL**

The question being on the final passage of the 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; Bowman; Christmann; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; 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:** Behm; Cook; Nelson

Reengrossed SB 2250 passed and the title was agreed to.

\*\*\*\*\*

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. SCHNEIDER MOVED** that the conference committee report on SB 2172 as printed on SJ pages 1441-1442 be adopted, which motion prevailed on a voice vote.

SB 2172, as amended, was placed on the Eleventh order.

**SECOND READING OF SENATE BILL**

**SB 2172:** A BILL for an Act to amend and reenact subsection 6 of section 44-04-18 and section 44-04-18.3 of the North Dakota Century Code, relating to access to public records in arbitration proceedings and to exempting law enforcement work schedules from open records requirements.

**ROLL CALL**

The question being on the final passage of the 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; Bowman; Christmann; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; 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:** Behm; Cook; Nelson

Engrossed SB 2172 passed and the title was agreed to.

\*\*\*\*\*

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

**SCR 4035:** Your conference committee (Sens. Erbele, Freborg, Triplett and Reps. Clark, Nottestad, S. Kelsh) recommends that the **SENATE ACCEDE** to the House amendments on SJ page 1375 and place SCR 4035 on the Seventh order.

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

**SEN. SCHNEIDER MOVED** that the conference committee report on SCR 4035 be adopted, which motion prevailed on a voice vote.

SCR 4035, as amended, was placed on the Eleventh order.

#### **SECOND READING OF SENATE CONCURRENT RESOLUTION**

**SCR 4035:** A concurrent resolution urging Congress to establish the Red River Valley Authority as an agency or authorized board of the federal government for the purpose of the regulation and control of water quality of the Red River and regulation and control of the retention and flow of water, including retention by dams or retention ponds or other areas, and of drainage on the Red River.

The question being on the final adoption of the amended resolution, which has been read.

Engrossed SCR 4035 was declared adopted, and the title was agreed to on a voice vote.

\*\*\*\*\*

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

**SEN. DEVER MOVED** that the conference committee report on HB 1490 as printed on SJ page 1444 be adopted, which motion prevailed on a voice vote.

HB 1490, as amended, was placed on the Fourteenth order.

#### **SECOND READING OF HOUSE BILL**

**HB 1490:** A BILL for an Act to amend and reenact subsection 5 of section 16.1-08.1-01, section 16.1-08.1-03.2, and subsection 1 of section 16.1-08.1-03.9 of the North Dakota Century Code, relating to campaign finance.

#### **ROLL CALL**

The question being on the final passage of the 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; Bowman; Christmann; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjelm; Taylor; Triplett; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Behm; Cook; Nelson

HB 1490, as amended, passed and the title was agreed to.

\*\*\*\*\*

#### **MOTION**

**SEN. CHRISTMANN MOVED** that the rules be suspended and the Majority Leader be authorized to replace members of any conference committee scheduled to meet on Friday, April 24, 2009 and Saturday, April 25, 2009, who do not attend the meeting.

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

**MR. SPEAKER:** The Senate has adopted the conference committee report on: HB 1510.

#### **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 2172, SB 2250, SCR 4035.

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

**MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: HB 1490.

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

**MR. PRESIDENT:** The House has adopted the conference committee report on: SB 2059, SB 2060, SB 2110, SB 2125, SB 2158.

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

**MR. PRESIDENT:** The House has adopted the conference committee reports and subsequently passed: SB 2044 and SB 2141.

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

**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently failed to pass: HB 1265.

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

**MR. PRESIDENT:** The Speaker has signed: HB 1394.

**COMMUNICATION FROM GOVERNOR JOHN HOEVEN**

This is to inform you that on April 22, 2009, I have signed the following: SB 2041, SB 2042, 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 2155, SB 2157, SB 2168, SB 2176, SB 2191, SB 2192, SB 2216, SB 2218, SB 2221, SB 2222, SB 2224, SB 2227, SB 2228, SB 2231, SB 2234, SB 2237, SB 2239, SB 2243, SB 2244, SB 2247, SB 2256, SB 2279, SB 2305, SB 2317, SB 2324, SB 2336, SB 2342, SB 2350, SB 2352, SB 2353, SB 2355, SB 2363, SB 2372, SB 2393, SB 2394, SB 2404, SB 2405, SB 2413, SB 2417, SB 2419, SB 2420, SB 2425, SB 2429, SB 2431, SB 2432, and SB 2433.

**COMMUNICATION FROM GOVERNOR JOHN HOEVEN**

This is to inform you that on April 23, 2009, I have signed the following: SB 2040.

**MOTION**

**SEN. CHRISTMANN MOVED** that the absent member 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., Friday, April 24, 2009, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**HCR 3067, as engrossed: Agriculture Committee (Sen. Flakoll, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HCR 3067 was placed on the Fourteenth order on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2069:** Your conference committee (Sens. Nething, Lyson, Fiebiger and Reps. Thoreson, Berg, Glassheim) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 1029, adopt amendments as follows, and place SB 2069 on the Seventh order:

That the House recede from its amendments as printed on page 1029 of the Senate Journal and page 1046 and 1047 of the House Journal and that Senate Bill No. 2069 be amended as follows:

Page 1, line 10, remove the overstrike over "~~Any fees collected~~"

Page 1, line 11, remove the overstrike over "~~under this paragraph which exceed~~", after "~~four~~" insert "six", remove the overstrike over "~~hundred~~" and insert immediately thereafter "fifty", and remove the overstrike over "~~thousand dollars in~~"

Page 1, remove the overstrike over lines 12 and 13

Renumber accordingly

SB 2069 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2075, as engrossed:** Your conference committee (Sens. Kilzer, Bowman, Mathern and Reps. Kreidt, Nelson, Metcalf) recommends that the **HOUSE RECEDE** from the House

amendments on SJ page 1249, adopt amendments as follows, and place SB 2075 on the Seventh order:

That the House recede from its amendments as printed on page 1249 of the Senate Journal and page 1155 of the House Journal and that Engrossed Senate Bill No. 2075 be amended as follows:

Page 1, line 2, after "home" insert "and a geothermal heating system", replace "and" with "to provide a contingent appropriation;", and after "section" insert "; and to declare an emergency"

Page 1, line 5, replace "\$1,118,134" with "\$350,000"

Page 1, line 7, replace "an irrigation system," with "including"

Page 1, line 8, remove "moving and adding a bathroom to the gazebo,"

Page 1, after line 10, insert:

**"SECTION 2. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS.**

There is appropriated from federal fiscal stimulus funds made available to the state under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, the sum of \$3,039,414, or so much of the sum as may be necessary, to the veterans' home for the purpose of installing a geothermal heating system in the new veterans' home facility, for the period beginning with the effective date of this Act and ending June 30, 2011.

**SECTION 3. CONTINGENT APPROPRIATION.** If federal funds appropriated under section 2 of this Act are not available to provide the sum of \$3,039,414, there is appropriated out of moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$3,039,414, or so much of the sum as may be necessary, to the veterans' home for the purpose of installing a geothermal heating system in the new veterans' home facility, for the period beginning with the effective date of this Act and ending June 30, 2011. The veterans' home may spend the general fund moneys appropriated under this section only to the extent that federal funds appropriated in section 2 of this Act are not available for these purposes."

Page 1, line 13, remove "status of the" and replace "project" with "projects"

Page 1, line 15, remove "total expenditures for"

Page 1, line 16, replace "project" with "projects" and replace "exceed \$500,000" with "are complete"

Page 1, after line 16, insert:

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

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

This amendment provides an appropriation of federal fiscal stimulus funds received through the Department of Commerce for the geothermal heating system in the new Veterans' Home facility, provides a contingent general fund appropriation if the federal funds are not available, and removes funding for the irrigation system and for moving and remodeling the gazebo and reduces funding for the remaining projects to provide a total of \$350,000. The amendment also requires the Veterans' Home to report to the Budget Section regarding the construction projects when they are complete, rather than when total expenditures exceed \$500,000.

Engrossed SB 2075 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2223, as engrossed:** Your conference committee (Sens. Nething, Nodland, Fiebiger and Reps. Vigasaa, Sukut, Gruchalla) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 873-874, adopt amendments as follows, and place SB 2223 on the Seventh order:

That the House recede from its amendments as printed on pages 873 and 874 of the Senate Journal and page 941 of the House Journal and that Engrossed Senate Bill No. 2223 be amended as follows:

Page 1, line 1, after the semicolon insert "and"

Page 1, line 2, remove "; and to provide an appropriation"

Page 1, line 5, after "**PROJECTS**" insert "- **SPENDING AUTHORITY**"

Page 1, line 7, replace "rural area" with "region that does not have a city with a population over thirty-five thousand" and replace "an urban area" with "a region that has a city with a population exceeding thirty-five thousand"

Page 1, line 16, after the period insert "The department may spend additional funds from gifts, grants, or donations and those additional funds are appropriated for the purposes of this section."

Page 1, remove lines 20 through 24

Renumber accordingly

Engrossed SB 2223 was placed on the Seventh order of business on the calendar.

#### REPORT OF CONFERENCE COMMITTEE

**HB 1040, as reengrossed:** Your conference committee (Sens. Nething, Lyson, Fiebiger and Reps. Kretschmar, Hatlestad, Delmore) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1325, adopt amendments as follows, and place HB 1040 on the Seventh order:

That the Senate recede from its amendments as printed on page 1325 of the House Journal and page 738 of the Senate Journal and that Reengrossed House Bill No. 1040 be amended as follows:

Page 3, line 27, replace "Upon request, the" with "The"

Renumber accordingly

Reengrossed HB 1040 was placed on the Seventh order of business on the calendar.

#### REPORT OF CONFERENCE COMMITTEE

**HB 1188:** Your conference committee (Sens. Hogue, Triplett, Schneider and Reps. Porter, Damschen, Hanson) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1176, adopt amendments as follows, and place HB 1188 on the Seventh order:

That the Senate recede from its amendments as printed on page 1176 of the House Journal and pages 1008 and 1009 of the Senate Journal and that House Bill No. 1188 be amended as follows:

Page 2, line 16, after "20.1" insert "class A" and replace "three-year" with "two-year"

Page 2, after line 17, insert:

"b. Commits seven or more title 20.1 misdemeanor offenses within a two-year period;"

Page 2, line 18, replace "b." with "c."

Page 2, line 19, replace "five" with "seven"

Page 2, line 20, replace "three-year" with "two-year"

Page 2, line 21, replace "c." with "d."

Page 2, line 27, replace "a" with "b" and replace "b" with "c"

Page 2, line 28, replace "two" with "three"

Page 2, line 31, replace "c" with "d"

Renumber accordingly

HB 1188 was placed on the Seventh order of business on the calendar.

#### REPORT OF CONFERENCE COMMITTEE

**HB 1252:** Your conference committee (Sens. Nething, Olafson, Fiebigger and Reps. Dahl, Boehning, Wolf) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1118, adopt amendments as follows, and place HB 1252 on the Seventh order:

That the Senate recede from its amendments as printed on page 1118 of the House Journal and page 958 of the Senate Journal and that House Bill No. 1252 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 section 14-03-20.2 of the North Dakota Century Code, relating to middle name options.

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

**SECTION 1.** Section 14-03-20.2 of the North Dakota Century Code is created and enacted as follows:

##### 14-03-20.2. Middle name options.

1. One party or both parties to a marriage may elect to change the middle name by which that individual wishes to be known after the solemnization of the marriage by entering the new middle name in the space provided on the marriage license application. If an individual elects to change that individual's middle name, the middle name entry on the marriage license application or marriage license must consist of the premarriage surname or former surname of that individual.
2. Compliance with the middle name provisions of this section is sufficient to meet the satisfactory evidence requirements of section 39-06-07.1."

Renumber accordingly

HB 1252 was placed on the Seventh order of business on the calendar.

#### REPORT OF CONFERENCE COMMITTEE

**HB 1489, as engrossed:** Your conference committee (Sens. Oehlke, Miller, Dotzenrod and Reps. Headland, Brandenburg, Schmidt) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1009, adopt amendments as follows, and place HB 1489 on the Seventh order:

That the Senate recede from its amendments as printed on page 1009 of the House Journal and pages 795 and 869 of the Senate Journal and that Engrossed House Bill No. 1489 be amended as follows:

Page 1, line 3, after "costs" insert "; to provide for a legislative council study"

Page 1, line 11, overstrike "adapting" and insert immediately thereafter "construction of"

Page 1, line 14, replace "adapting" with "construction of"

Page 2, after line 2, insert:

**"SECTION 2. LEGISLATIVE COUNCIL STUDY - INCENTIVES FOR VALUE-ADDED AGRICULTURE.** During the 2009-10 interim, the legislative council shall consider studying the availability of tax incentives, grant programs, and any other direct or indirect public subsidization designed to encourage and promote value-added agriculture and any public and private benefits that accrue as a result of such availability. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly."

Renumber accordingly

Engrossed HB 1489 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**HCR 3019, as engrossed:** Your conference committee (Sens. Hogue, Oehlke, Triplett and Reps. Hatlestad, Schatz, Griffin) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1144, adopt amendments as follows, and place HCR 3019 on the Seventh order:

That the Senate recede from its amendments as printed on page 1144 of the House Journal and pages 983 and 984 of the Senate Journal and that Engrossed House Concurrent Resolution No. 3019 be amended as follows:

Page 1, line 1, after "resolution" replace the remainder of the resolution with "directing the Legislative Council to study Section 18 of Article X of the Constitution of North Dakota.

**WHEREAS**, Section 18 of Article X of the Constitution of North Dakota has existed unchanged for more than eighty years; and

**WHEREAS**, this constitutional provision has profound effects on state and political subdivision interaction with businesses and citizens and it is incumbent upon the Legislative Assembly to determine whether the constitutional provision adequately governs the current status of state and local government needs and limitations with respect to businesses and the citizens of the state; and

**WHEREAS**, legislation has been proposed to authorize direct payment of tax dollars to taxpayers, which action may be in violation of Section 18 of Article X of the Constitution of North Dakota;

**NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:**

That the Legislative Council study Section 18 of Article X of the Constitution of North Dakota, including alternatives for direct payments of tax dollars to taxpayers; and

**BE IT FURTHER RESOLVED**, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-second Legislative Assembly."

Renumber accordingly

Engrossed HCR 3019 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**