

## JOURNAL OF THE HOUSE

## Sixty-second Legislative Assembly

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Bismarck, February 18, 2011

The House convened at 8:00 a.m., with Speaker Drovdal presiding.

The prayer was offered by Pastor Douglas Berglin, Zion Lutheran Church, Bismarck.

The roll was called and all members were present.

A quorum was declared by the Speaker.

## CORRECTION AND REVISION OF THE JOURNAL

**MR. SPEAKER:** Your **Committee on Correction and Revision of the Journal (Rep. Kretschmar, Chairman)** has carefully examined the Journal of the Thirtieth Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 573, after line 18, insert:

## "MOTION

**REP. VIGESAA MOVED** that Engrossed HB 1458, which is on the Eleventh order, be rereferred to the **Appropriations Committee**, which motion prevailed. Pursuant to Rep. Vigesaa's motion, Engrossed HB 1458 was rereferred. "

**REP. KRETSCHMAR MOVED** that the report be adopted, which motion prevailed.

## SIXTH ORDER OF BUSINESS

**SPEAKER DROVDAL DEEMED** approval of the amendments to HB 1029, HB 1143, HB 1211, HB 1229, HB 1248, HB 1410, and HB 1465.

HB 1029, HB 1143, HB 1211, HB 1229, HB 1248, HB 1410, and HB 1465, as amended, were placed on the Eleventh order of business on the calendar for the succeeding legislative day.

## SECOND READING OF HOUSE RESOLUTIONS ON CONSENT CALENDAR

**HCR 3007:** A concurrent resolution directing the Legislative Management to study eminent domain laws as they relate to pipeline siting.

**HCR 3019:** A concurrent resolution urging the United States Army Corps of Engineers to immediately cease wrongful denial of access and wrongful requirement of payment for the natural flows of the Missouri River.

**HCR 3020:** A concurrent resolution congratulating the North Dakota Highway Patrol on its 75th anniversary.

**HCR 3027:** A concurrent resolution of no confidence in the Natural Resources Conservation Service's state conservationist and urging the United States Department of Agriculture's Natural Resources Conservation Service to continue the present cooperative agreement process at a \$10,000 funding level; allow continuation of local decisionmaking by resource conservation and development councils, including implementation of community development projects, for as long as Congress funds the Resource Conservation and Development program; and to allow a resource conservation and development coordinator colocated with a North Dakota regional council to maintain that colocation.

**HCR 3028:** A concurrent resolution urging Congress to adopt legislation prohibiting the Environmental Protection Agency by any means necessary from regulating greenhouse emissions, including, if necessary, defunding Environmental Protection Agency greenhouse gas regulatory activities; imposing a moratorium on adoption on

any new air quality regulations by the Environmental Protection Agency by any means necessary, except those directly addressing an imminent health or environmental emergency, for a period of at least two years, including defunding Environmental Protection Agency air quality regulatory activities; and requiring the administration to undertake a study identifying all regulatory activity the Environmental Protection Agency intends to undertake in furtherance of its goal of "taking action on climate change and improving air quality" and specifying the cumulative effect of all these regulations on the economy, jobs, and American economic competitiveness.

**HCR 3030:** A concurrent resolution directing the Legislative Management to study the feasibility and desirability of requiring use of cigarette tax stamps.

**HCR 3031:** A concurrent resolution expressing the concern of the Legislative Assembly with the scope, justification, and substances of the Office of Surface Mining Reclamation and Enforcement's stream protection rule.

**HCR 3033:** A concurrent resolution recognizing the indispensable role of nuclear energy to a comprehensive, integrated United States economic, energy security, and environmental strategy and supporting a host of federal and state policy initiatives to spur a new wave of nuclear plant development.

**HCR 3036:** A concurrent resolution directing the Legislative Management to study the trial by jury rights of a person charged with the commission of a misdemeanor, including the extent to which jury trials are conducted in the state for cases involving misdemeanor offenses; the costs of jury trials for misdemeanor offenses; the feasibility and desirability of eliminating the sentencing option of imprisonment for Class B misdemeanors; and a review of the jury trial process of other states.

**HCR 3037:** A concurrent resolution directing the Legislative Management to study the statutes throughout the North Dakota Century Code which grant immunity from civil or criminal liability for performing certain functions.

**HCR 3038:** A concurrent resolution directing the Legislative Management to study transportation funding options.

The question being on the final adoption of the resolutions, which have been read.

HCR 3007, HCR 3019, HCR 3020, HCR 3027, HCR 3028, HCR 3030, HCR 3031, HCR 3033, HCR 3036, HCR 3037, and HCR 3038 were declared adopted on a voice vote.

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### SECOND READING OF HOUSE BILL

**HB 1228:** A BILL for an Act to amend and reenact subsection 4 of section 54-52-01 and sections 54-52-02.5, 54-52-02.9, 54-52.6-01, and 54-52.6-02 of the North Dakota Century Code, relating to a defined contribution retirement plan for state employees; and to provide a statement of legislative intent.

### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 47 YEAS, 46 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Beadle; Bellew; Belter; Boehning; Brabandt; Brandenburg; Carlson; Clark; DeKrey; Delzer; Devlin; Dosch; Froseth; Grande; Hatlestad; Headland; Heilman; Heller; Hofstad; Johnson, D.; Kasper; Kempenich; Klein; Koppelman; Kreidt; Kreun; Louser; Nathe; Paur; Pietsch; Pollert; Rohr; Ruby; Schatz; Schmidt; Skarphol; Steiner; Streytle; Sukut; Thoreson; Trottier; Vigasaa; Weiler; Weisz; Wieland; Wrangham; Speaker Drovda

**NAYS:** Amerman; Anderson; Boe; Conklin; Dahl; Damschen; Delmore; Frantsvog; Glassheim; Gruchalla; Guggisberg; Hanson; Hawken; Hogan; Holman; Hunskor; Johnson, N.; Kaldor; Karls; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kilichowski; Kingsbury; Klemin; Kretschmar; Kroeber; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.;

Mock; Monson; Mueller; Nelson, J.; Nelson, M.; Onstad; Owens; Porter; Rust; Sanford; Wall; Williams; Winrich; Zaiser

**ABSENT AND NOT VOTING:** Keiser

Engrossed HB 1228 lost for want of a Constitutional majority.

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

**HB 1258:** A BILL for an Act to create and enact a new section to chapter 15-39.1 and chapter 15-39.3 of the North Dakota Century Code, relating to a defined contribution retirement plan for teachers; to amend and reenact sections 15-39.1-09 and 15-39.1-30 of the North Dakota Century Code, relating to a defined contribution retirement plan for teachers; to provide a penalty; to provide a statement of legislative intent; to provide an appropriation; and to provide a continuing appropriation.

#### **ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 38 YEAS, 56 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Beadle; Bellew; Belter; Boehning; Brabandt; Brandenburg; Carlson; Clark; Damschen; Delzer; Dosch; Froseth; Grande; Headland; Heller; Kasper; Kempenich; Klein; Koppelman; Kreidt; Kreun; Louser; Nathe; Paur; Pollert; Rohr; Ruby; Schmidt; Skarphol; Steiner; Streyle; Thoreson; Trottier; Vigasaa; Weiler; Wieland; Wrangham; Speaker Drovdal

**NAYS:** Amerman; Anderson; Boe; Conklin; Dahl; DeKrey; Delmore; Devlin; Frantsvog; Glassheim; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Heilman; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kilichowski; Kingsbury; Klemin; Kretschmar; Kroeber; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Mueller; Nelson, J.; Nelson, M.; Onstad; Owens; Pietsch; Porter; Rust; Sanford; Schatz; Sukut; Wall; Weisz; Williams; Winrich; Zaiser

Engrossed HB 1258 lost.

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

**HB 1134:** A BILL for an Act to create and enact two new subsections to section 15-39.1-04 of the North Dakota Century Code, relating to definitions of member tiers under the teachers' fund for retirement; to amend and reenact subsections 1 and 2 of section 15-39.1-09, subsection 1 of section 15-39.1-10, and sections 15-39.1-12, 15-39.1-18, 15-39.1-19.1, and 15-39.1-19.2 of the North Dakota Century Code, relating to employee and employer contribution requirements, eligibility for normal unreduced retirement benefits eligibility for early reduced retirement benefits, eligibility for disability benefits, and retiree reemployment under the teachers' fund for retirement; and to provide an effective date.

#### **ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 92 YEAS, 2 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Bellew; Belter; Boe; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Devlin; Dosch; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Mueller; Nathe; Nelson, J.; Nelson, M.; Onstad; Owens;

Paur; Pietsch; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Thoreson; Trottier; Vigesaa; Wall; Weisz; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovda

**NAYS:** Boehning; Weiler

Engrossed HB 1134 passed.

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### SECOND READING OF HOUSE BILL

**HB 1133:** A BILL for an Act to amend and reenact subsections 2 and 9 of section 15-39.1-04, subsection 4 of section 15-39.1-10, and sections 15-39.1-10.6, 15-39.1-17, and 15-39.1-20 of the North Dakota Century Code, relating to definitions of beneficiary and salary, incorporation of federal law changes, and modification of death and beneficiary provisions under the teachers' fund for retirement.

### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 94 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Bellew; Belter; Boe; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Mueller; Nathe; Nelson, J.; Nelson, M.; Onstad; Owens; Paur; Pietsch; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Thoreson; Trottier; Vigesaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovda

Engrossed HB 1133 passed.

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### SECOND READING OF HOUSE BILL

**HB 1412:** A BILL for an Act to amend and reenact section 15.1-21-01 of the North Dakota Century Code, relating to concepts of personal finance instruction at the middle school level.

### ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 47 YEAS, 47 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Beadle; Bellew; Belter; Boehning; Brabandt; Brandenburg; Carlson; Clark; Damschen; Delzer; Devlin; Dosch; Frantsvog; Froseth; Grande; Headland; Heller; Karls; Kasper; Keiser; Kelsh, J.; Kempenich; Kingsbury; Klein; Koppelman; Kreidt; Kretschmar; Louser; Maragos; Martinson; Nathe; Owens; Pollert; Rohr; Ruby; Sanford; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Thoreson; Weiler; Wieland; Wrangham; Speaker Drovda

**NAYS:** Amerman; Anderson; Boe; Conklin; Dahl; DeKrey; Delmore; Glassheim; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Heilman; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Kelsch, R.; Kelsh, S.; Kilichowski; Klemin; Kreun; Kroeber; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Mueller; Nelson, J.; Nelson, M.; Onstad; Paur; Pietsch; Porter; Rust; Trottier; Vigesaa; Wall; Weisz; Williams; Winrich; Zaiser

HB 1412 lost for want of a Constitutional majority.

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**SECOND READING OF HOUSE BILL**

**HB 1075:** A BILL for an Act to amend and reenact subdivision b of subsection 3 of section 54-46-02 and section 54-46-07 of the North Dakota Century Code, relating to the definition of records and the recovery of records.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 92 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Beadle; Bellew; Belter; Boe; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Frantsovog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Meier, L.; Metcalf; Mock; Monson; Mueller; Nathe; Nelson, J.; Nelson, M.; Onstad; Owens; Paur; Pietsch; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Thoreson; Trottier; Vigasaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovdal

**ABSENT AND NOT VOTING:** Amerman; Meyer, S.

Engrossed HB 1075 passed.

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**SECOND READING OF HOUSE BILL**

**HB 1109:** A BILL for an Act to amend and reenact subsection 1 of section 39-06-14 and subsection 1 of section 39-06-19 of the North Dakota Century Code, relating to driver's license renewal dates and fees.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 82 YEAS, 12 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Belter; Boe; Boehning; Brabandt; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Devlin; Dosch; Frantsovog; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Mueller; Nathe; Nelson, J.; Nelson, M.; Onstad; Owens; Paur; Pietsch; Pollert; Porter; Ruby; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Sukut; Thoreson; Trottier; Vigasaa; Wall; Weiler; Weisz; Wieland; Williams; Wrangham; Zaiser; Speaker Drovdal

**NAYS:** Bellew; Brandenburg; Delzer; Froseth; Glassheim; Grande; Headland; Kempenich; Kreidt; Rohr; Streyle; Winrich

Engrossed HB 1109 passed.

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**SECOND READING OF HOUSE BILL**

**HB 1152:** A BILL for an Act to provide for medicaid supplemental payments to critical access hospitals; and to provide an appropriation.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 93 YEAS,

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

**YEAS:** Amerman; Anderson; Beadle; Bellew; Belter; Boe; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Mueller; Nathe; Nelson, J.; Nelson, M.; Onstad; Owens; Paur; Pietsch; Pollert; Porter; Rohr; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Thoreson; Trottier; Vigesaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovdal

**NAYS:** Ruby

Reengrossed HB 1152 passed.

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### SECOND READING OF HOUSE BILL

**HB 1181:** A BILL for an Act to amend and reenact subsection 1 of section 20.1-03-11 of the North Dakota Century Code, relating to youth antelope and deer hunting.

### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 94 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Bellew; Belter; Boe; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Mueller; Nathe; Nelson, J.; Nelson, M.; Onstad; Owens; Paur; Pietsch; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Thoreson; Trottier; Vigesaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovdal

Reengrossed HB 1181 passed.

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### MOTION

**REP. VIGESAA MOVED** that HB 1279, which is on the Eleventh order, be laid over one legislative day, which motion prevailed.

### SECOND READING OF HOUSE BILL

**HB 1191:** A BILL for an Act to amend and reenact section 39-04-12, subsection 1 of section 39-04-18, and subsection 4 of section 39-04-19 of the North Dakota Century Code, relating to semitrailer plates; and to provide for application.

### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 89 YEAS, 3 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Bellew; Belter; Boe; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Devlin; Dosch; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kilichowski; Klein; Klemin; Koppelman; Kreidt; Kretschmar;

Kreun; Kroeber; Louser; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Mueller; Nathe; Nelson, J.; Nelson, M.; Onstad; Owens; Paur; Pietsch; Pollert; Porter; Rohr; Ruby; Sanford; Schatz; Schmidt; Streyle; Sukut; Thoreson; Trottier; Vigasaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovdal

**NAYS:** Delzer; Rust; Skarphol

**ABSENT AND NOT VOTING:** Kingsbury; Steiner

Reengrossed HB 1191 passed.

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

**HB 1206:** A BILL for an Act to create and enact chapter 61-40 of the North Dakota Century Code, relating to a western area water supply authority; to provide grant repayment by the authority; and to declare an emergency.

### **ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 91 YEAS, 3 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Bellew; Belter; Boe; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Frantsovog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kreun; Kroeber; Louser; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Mueller; Nathe; Nelson, J.; Nelson, M.; Onstad; Owens; Paur; Pietsch; Pollert; Porter; Rohr; Ruby; Sanford; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Thoreson; Trottier; Vigasaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Zaiser; Speaker Drovdal

**NAYS:** Maragos; Rust; Wrangham

Engrossed HB 1206 passed and the emergency clause was declared carried.

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### **MOTION**

**REP. KREIDT MOVED** that the House reconsider its action whereby Engrossed HB 1291 passed, which motion failed on a verification vote.

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

**HB 1251:** A BILL for an Act to create and enact a new section to chapter 44-08 and a new section to chapter 54-40.3 of the North Dakota Century Code, relating to cooperative agreements among criminal justice agencies; and to declare an emergency.

### **ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 94 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Bellew; Belter; Boe; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Frantsovog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Mueller; Nathe; Nelson, J.; Nelson, M.; Onstad; Owens; Paur; Pietsch; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt;

Skarphol; Steiner; Streyle; Sukut; Thoreson; Trottier; Vigesaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovdal

Engrossed HB 1251 passed and the emergency clause was declared carried.

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### SECOND READING OF HOUSE BILL

**HB 1259:** A BILL for an Act to amend and reenact sections 58-06-02, 58-07-01, and 58-08-01 of the North Dakota Century Code, relating to compensation of township officers.

### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 92 YEAS, 1 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Bellew; Belter; Boe; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Frantsovog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Mueller; Nathe; Nelson, J.; Nelson, M.; Onstad; Owens; Paur; Pietsch; Pollert; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Steiner; Streyle; Sukut; Thoreson; Trottier; Vigesaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovdal

**NAYS:** Porter

**ABSENT AND NOT VOTING:** Skarphol

Engrossed HB 1259 passed.

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### SECOND READING OF HOUSE BILL

**HB 1290:** A BILL for an Act to establish a state heritage foundation.

### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 24 YEAS, 70 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Boehning; Brabandt; Brandenburg; Clark; Delzer; Dosch; Grande; Headland; Karls; Kasper; Kelsch, R.; Kempenich; Louser; Meier, L.; Monson; Owens; Porter; Ruby; Schatz; Schmidt; Streyle; Thoreson; Weiler; Wrangham

**NAYS:** Amerman; Anderson; Beadle; Bellew; Belter; Boe; Carlson; Conklin; Dahl; Damschen; DeKrey; Delmore; Devlin; Frantsovog; Froseth; Glassheim; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Keiser; Kelsh, J.; Kelsh, S.; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kreun; Kroeber; Maragos; Martinson; Metcalf; Meyer, S.; Mock; Mueller; Nathe; Nelson, J.; Nelson, M.; Onstad; Paur; Pietsch; Pollert; Rohr; Rust; Sanford; Skarphol; Steiner; Sukut; Trottier; Vigesaa; Wall; Weisz; Wieland; Williams; Winrich; Zaiser; Speaker Drovdal

Engrossed HB 1290 lost.

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### SECOND READING OF HOUSE BILL

**HB 1316:** A BILL for an Act to amend and reenact section 37-14-12 of the North Dakota Century Code, relating to the appeal of an application for relief or assistance



provided under a department of veterans' affairs program.

### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 94 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Bellew; Belter; Boe; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunsakor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Mueller; Nathe; Nelson, J.; Nelson, M.; Onstad; Owens; Paur; Pietsch; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Thoreson; Trottier; Vigesaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovdal

Engrossed HB 1316 passed.

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

**MR. PRESIDENT:** The House has passed, and your favorable consideration is requested on: HB 1038, HB 1100, HB 1142, HB 1241, HB 1261, HB 1284, HB 1336, HB 1364, HB 1385, HB 1396, HB 1418, HB 1425, HB 1469.

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

**MR. PRESIDENT:** The House has passed, the emergency clause carried, and your favorable consideration is requested on: HB 1267.

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

**MR. SPEAKER:** The Senate has passed, and your favorable consideration is requested on: SB 2008, SB 2021, SB 2160, SB 2265, SB 2349, SB 2354, SCR 4005, SCR 4012.

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

**MR. SPEAKER:** The Senate has passed, the emergency clause carried, and your favorable consideration is requested on: SB 2232, SB 2285.

### MOTION

**REP. VIGESAA MOVED** that the House be on the Fourth, Fifth, and Ninth orders of business and at the conclusion of those orders, the House stand adjourned until 1:00 p.m., Monday, February 21, 2011, which motion prevailed.

### REPORT OF STANDING COMMITTEE

**HB 1001: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (16 YEAS, 3 NAYS, 2 ABSENT AND NOT VOTING). HB 1001 was placed on the Sixth order on the calendar.

Page 1, replace line 15 with:

"Operating expenses	2,850,061	1,264,023	4,114,084"
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Page 1, replace line 18 with:

"Total general fund	\$11,011,227	\$3,332,547	\$14,343,774"
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Page 2, replace line 10 with:

"Grand total general fund	\$21,280,730	\$4,524,202	\$25,804,932"
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Page 2, replace line 12 with:

"Grand total all funds      \$21,350,730      \$4,524,202      \$25,874,932"

Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

#### House Bill No. 1001 - Summary of House Action

	Executive Budget	House Changes	House Version
Legislative Assembly			
Total all funds	\$14,128,734	\$215,040	\$14,343,774
Less estimated income	0	0	0
General fund	\$14,128,734	\$215,040	\$14,343,774
Legislative Council			
Total all funds	\$11,531,158	\$0	\$11,531,158
Less estimated income	70,000	0	70,000
General fund	\$11,461,158	\$0	\$11,461,158
Bill total			
Total all funds	\$25,659,892	\$215,040	\$25,874,932
Less estimated income	70,000	0	70,000
General fund	\$25,589,892	\$215,040	\$25,804,932

#### House Bill No. 1001 - Legislative Assembly - House Action

	Executive Budget	House Changes	House Version
Salaries and wages	\$8,697,580		\$8,697,580
Operating expenses	3,899,044	215,040	4,114,084
Capital assets	1,300,000		1,300,000
National Conf of State Legislatures	232,110		232,110
	\$14,128,734	\$215,040	\$14,343,774
Total all funds			
Less estimated income	0	0	0
	\$14,128,734	\$215,040	\$14,343,774
General fund			
	0.00	0.00	0.00
FTE			

#### Department No. 150 - Legislative Assembly - Detail of House Changes

	Adds Funding for Lodging Expense Reimbursement <sup>1</sup>	Total House Changes
Salaries and wages		
Operating expenses	215,040	215,040
Capital assets		
National Conf of State Legislatures		
	\$215,040	\$215,040
Total all funds		
Less estimated income	0	0
	\$215,040	\$215,040
General fund		
	0.00	0.00
FTE		

<sup>1</sup> This amendment adds funding of \$215,040 from the general fund for additional costs relating to House Bill No. 1141 which amends the maximum monthly lodging expense reimbursement allowed during legislative sessions from 30 times 55 percent of the state daily lodging expense reimbursement rate to 30 times 65 percent of the state daily lodging expense reimbursement rate. House Bill No. 1141 is effective January 1, 2011. The estimated cost is \$96,768 from the general fund for the 2009-11 biennium and \$118,272 from the general fund for the 2011-13 biennium.

**REPORT OF STANDING COMMITTEE**

**HB 1005: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (18 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1005 was placed on the Sixth order on the calendar.

Page 1, replace line 12 with:

"Operating expenses 126,505    70,000    196,505"

Page 1, replace line 13 with:

"Total general fund \$682,585    \$115,293    \$797,878"

Page 1, after line 19, insert:

**"SECTION 3. LEGISLATIVE INTENT - SUICIDE PREVENTION PROGRAM.**

It is the intent of the sixty-second legislative assembly that the Indian affairs commission work in conjunction with the state department of health to develop a suicide prevention program, including outreach, education, administration, and implementation of grants for suicide prevention activities for the biennium beginning July 1, 2011, and ending June 30, 2013."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1005 - Indian Affairs Commission - House Action**

	<b>Executive Budget</b>	<b>House Changes</b>	<b>House Version</b>
Salaries and wages	\$601,373		\$601,373
Operating expenses	246,505	(50,000)	196,505
	\$847,878	(\$50,000)	\$797,878
Total all funds			
Less estimated income	0	0	0
	\$847,878	(\$50,000)	\$797,878
General fund			
	4.00	0.00	4.00
FTE			

**Department No. 316 - Indian Affairs Commission - Detail of House Changes**

	<b>Reduces Funding for Suicide Prevention Program<sup>1</sup></b>	<b>Total House Changes</b>
Salaries and wages		
Operating expenses	(50,000)	(50,000)
	(\$50,000)	(\$50,000)
Total all funds		
Less estimated income	0	0
	(\$50,000)	(\$50,000)
General fund		
	0.00	0.00
FTE		

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<sup>1</sup> The amendment reduces funding provided in the executive budget for a suicide prevention program directed at Native American tribes from \$100,000 to \$50,000 from the general fund.

The amendment also adds a section of legislative intent to provide that the Indian Affairs Commission work in conjunction with the State Department of Health to develop a suicide prevention program, including outreach, education, administration, and implementation of

grants for suicide prevention activities.

#### REPORT OF STANDING COMMITTEE

**HB 1006: Appropriations Committee (Rep. Delzer, Chairman)** recommends **DO PASS** (19 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). HB 1006 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1008: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (21 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1008 was placed on the Sixth order on the calendar.

Page 1, replace line 12 with:

"Operating expenses	1,304,263	155,200	1,459,463"
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Page 1, replace line 14 with:

"Total special funds	\$6,086,488	\$749,830	\$6,836,318"
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Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

#### House Bill No. 1008 - Department of Financial Institutions - House Action

	Executive Budget	House Changes	House Version
Salaries and wages	\$5,356,855		\$5,356,855
Operating expenses	1,285,556	173,907	1,459,463
Contingency	20,000		20,000
	\$6,662,411	\$173,907	\$6,836,318
Total all funds			
Less estimated income	6,662,411	173,907	6,836,318
	\$0	\$0	\$0
General fund			
	29.00	0.00	29.00
FTE			

#### Department No. 413 - Department of Financial Institutions - Detail of House Changes

	Adds Funding for Operating Expenses <sup>1</sup>	Total House Changes
Salaries and wages		
Operating expenses	173,907	173,907
Contingency		
	\$173,907	\$173,907
Total all funds		
Less estimated income	173,907	173,907
	\$0	\$0
General fund		
	0.00	0.00
FTE		

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<sup>1</sup> This amendment adds \$173,907 of special funds for additional operating expenses associated with the estimated cost of implementing provisions of House Bill No. 1038 relating to regulation of debt-settlement providers.

#### REPORT OF STANDING COMMITTEE

**HB 1010: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (17 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1010 was placed on the Sixth order on the calendar.

Page 1, replace line 12 with:

"Operating expenses	292,045	(16,470)	275,575"
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Page 1, replace lines 13 and 14 with:

"Grants	<u>1,772,278</u>	<u>419,029</u>	<u>2,191,307</u>
Total all funds	\$2,756,770	\$451,692	\$3,208,462"

Page 1, replace line 16 with:

"Total general fund	\$1,311,284	\$42,318	\$1,353,602"
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Page 2, remove line 1

Page 2, replace line 2 with:

"Total all funds	\$347,450	\$0"
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Page 2, replace line 4 with:

"Total general fund	\$57,450	\$0"
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Page 2, remove lines 5 through 8

Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

#### House Bill No. 1010 - Council on the Arts - House Action

	Executive Budget	House Changes	House Version
Salaries and wages	\$741,580		\$741,580
Operating expenses	295,575	(20,000)	275,575
Grants	2,216,307	(25,000)	2,191,307
	\$3,253,462	(\$45,000)	\$3,208,462
Total all funds			
Less estimated income	1,854,860	0	1,854,860
	\$1,398,602	(\$45,000)	\$1,353,602
General fund			
	5.00	0.00	5.00
FTE			

#### Department No. 709 - Council on the Arts - Detail of House Changes

	Removes Funding for Poet Laureate <sup>1</sup>	Removes Funding for CulturePulse Web Marketing <sup>2</sup>	Reduces Funding for Travel Expenses <sup>3</sup>	Total House Changes
Salaries and wages				
Operating expenses			(20,000)	(20,000)
Grants	(10,000)	(15,000)		(25,000)
	(\$10,000)	(\$15,000)	(\$20,000)	(\$45,000)
Total all funds				
Less estimated income	0	0	0	0
	(\$10,000)	(\$15,000)	(\$20,000)	(\$45,000)
General fund				
	0.00	0.00	0.00	0.00
FTE				

<sup>1</sup> Funding for a poet laureate grant is removed.

<sup>2</sup> Funding for a grant for CulturePulse web marketing is removed.

<sup>3</sup> This amendment reduces funding for travel-related operating expenses.

**REPORT OF STANDING COMMITTEE**

**HB 1022: Appropriations Committee (Rep. Delzer, Chairman)** recommends **DO PASS** (20 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1022 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1024: Appropriations Committee (Rep. Delzer, Chairman)** recommends **DO PASS** (13 YEAS, 7 NAYS, 1 ABSENT AND NOT VOTING). HB 1024 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1044, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (16 YEAS, 3 NAYS, 2 ABSENT AND NOT VOTING). Engrossed HB 1044 was placed on the Sixth order on the calendar.

Page 1, remove lines 19 through 24

Page 2, remove lines 1 through 13

Page 3, line 11, replace "\$3,000,000" with "\$2,000,000"

Page 3, line 12, replace "3" with "4"

Page 3, line 16, replace "\$3,000,000" with "\$2,000,000"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1047, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)** recommends **DO PASS** (17 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1047 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1060: Appropriations Committee (Rep. Delzer, Chairman)** recommends **DO NOT PASS** (20 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1060 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1127: Industry, Business and Labor Committee (Rep. Keiser, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1127 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact two new sections to chapter 26.1-36 of the North Dakota Century Code, relating to health carrier external appeals and internal claims and appeals procedures; to amend and reenact sections 26.1-03-01, 26.1-26.4-01, and 26.1-36-44 of the North Dakota Century Code, relating to limitation on health insurance company risks, utilization review, and independent external reviews; to provide for application; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 26.1-03-01 of the North Dakota Century Code is amended and reenacted as follows:

**26.1-03-01. Limitation on risks acceptable by company.**

An insurance company transacting an insurance business in this state may not expose itself to loss on any one risk or hazard to an amount exceeding ten percent of its paid-up capital and surplus if a stock company, or ten percent of its surplus if a mutual company, unless the excess is reinsured. An insurance company offering group or individual insurance that is subject to the lifetime or annual benefit limit restrictions of the Patient Protection and Affordable Care Act [Pub. L. 111-148].

as amended by the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152], is not subject to this section.

**SECTION 2. AMENDMENT.** Section 26.1-26.4-01 of the North Dakota Century Code is amended and reenacted as follows:

**26.1-26.4-01. Purpose and scope.**

This chapter applies to grandfathered health plans unless a health care insurer or utilization review agent determines to extend the protections of section 5 of this Act to a grandfathered plan. "Grandfathered health plan" has the meaning stated in the Patient Protection and Affordable Care Act [Pub. L. 111-148], as amended by the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152]. The purpose of this chapter is to:

1. Promote the delivery of quality health care in a cost-effective manner;
2. Assure that utilization review agents adhere to reasonable standards for conducting utilization review;
3. Foster greater coordination and cooperation between health care providers and utilization review agents;
4. Improve communications and knowledge of benefits among all parties concerned before expenses are incurred; and
5. Ensure that utilization review agents maintain the confidentiality of medical records in accordance with applicable laws.

**SECTION 3. AMENDMENT.** Section 26.1-36-44 of the North Dakota Century Code is amended and reenacted as follows:

**26.1-36-44. Independent external review.**

This section applies to grandfathered health plans. "Grandfathered health plan" has the meaning stated in the Patient Protection and Affordable Care Act [Pub. L. 111-148], as amended by the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152]. Every insurance company, nonprofit health service corporation, and health maintenance organization that offers an accident and health line of insurance shall establish and implement an independent external review mechanism to review and determine whether medical care rendered under the line of insurance was medically necessary and appropriate to the claim as submitted by the provider. For purposes of this section, "independent external review" means a review conducted by the North Dakota health care review, inc., another peer review organization meeting the requirements of section 1152 of the Social Security Act, or any person designated by the commissioner to conduct an independent external review. A determination made by the independent external reviewer is binding on the parties. Costs associated with the independent external review are the responsibility of the nonprevailing party. A provider may not use an independent external review under this section unless the provider first has exhausted all internal appeal processes offered by the insurance company, nonprofit health service corporation, or health maintenance organization. The insurance commissioner shall take steps necessary to ensure compliance with this section. If federal laws or rules relating to independent external review are amended, repealed, or otherwise changed, the insurance commissioner shall adopt rules to ensure the independent external review procedure is in compliance with and substantively equivalent to the federal requirements.

**SECTION 4.** A new section to chapter 26.1-36 of the North Dakota Century Code is created and enacted as follows:

**External appeals procedures.**

An insurance company, nonprofit health services corporation, or health maintenance organization may not deliver, issue, execute, or renew any health

insurance policy, health service contract, or evidence of coverage on an individual, group, blanket, franchise, or association basis unless the policy, contract, or evidence of coverage meets the minimum requirements of 42 U.S.C. 300gg-19 and complies with 29 U.S.C. 1133, 29 CFR 2560.503-1; 42 U.S.C. 300gg-19, 26 CFR 54.9815-2719T; 29 U.S.C. 1185d, 29 CFR 2590.715-2719; and 26 U.S.C. 9815, 45 CFR 147.136. The insurance commissioner may take steps necessary to ensure compliance with this section. If federal laws or rules relating to external appeals are amended, repealed, or otherwise changed, the insurance commissioner shall adopt rules to ensure the external appeals procedure is in compliance with and substantively equivalent to the federal requirements.

**SECTION 5.** A new section to chapter 26.1-36 of the North Dakota Century Code is created and enacted as follows:

**Internal claims and appeals procedures.**

An insurance company, nonprofit health services corporation, or health maintenance organization may not deliver, issue, execute, or renew any health insurance policy, health service contract, or evidence of coverage on an individual, group, blanket, franchise, or association basis unless the policy, contract, or evidence of coverage meets the minimum requirements of 42 U.S.C. 300gg-19 and complies with 29 U.S.C. 1133, 29 CFR 2560.503-1; 42 U.S.C. 300gg-19, 26 CFR 54.9815-2719T; 29 U.S.C. 1185d, 29 CFR 2590.715-2719; and 26 U.S.C. 9815, 45 CFR 147.136. The insurance commissioner may take steps necessary to ensure compliance with this section. If federal laws or rules relating to internal claims and appeals are amended, repealed, or otherwise changed, the insurance commissioner shall adopt rules to ensure the internal claims and appeals procedure is in compliance with and substantively equivalent to the federal requirements.

**SECTION 6. APPLICATION.** In carrying out the requirements of this Act, the insurance commissioner shall provide regular updates to the legislative management during the 2011-12 interim. The commissioner shall submit proposed legislation to the legislative management for consideration at a special legislative session if the commissioner is required by federal law to implement any program or requirement before January 1, 2013. For any program or requirement that must be implemented between January 1, 2013, and January 1, 2014, the commissioner shall submit proposed legislation to the legislative management before October 15, 2012.

**SECTION 7. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1175: Industry, Business and Labor Committee (Rep. Keiser, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1175 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "and a new subsection to section 26.1-26-04"

Page 1, replace lines 8 through 13 with:

"Notwithstanding any other provision in this subsection, if the cost does not exceed an aggregate retail value of fifty dollars per person per year an insurance producer may give a gift, prize, promotional article, logo merchandise, meal, or entertainment activity directly or indirectly in connection with marketing, promoting, or advertising business for the sale or retention of contracts of insurance. However, a reduction or discount in premium or a giving of cash or cash equivalent is prohibited under this section."

Page 2, replace lines 4 through 9 with:



- "2. Notwithstanding any other provision in this section, if the cost does not exceed an aggregate retail value of fifty dollars per person per year an insurance producer may give a gift, prize, promotional article, logo merchandise, meal, or entertainment activity directly or indirectly in connection with marketing, promoting, or advertising business for the sale or retention of contracts of insurance. However, a reduction or discount in premium or a giving of cash or cash equivalent is prohibited under this section."

Page 2, remove lines 29 through 31

Page 3, replace lines 1 through 11 with:

- "2. Notwithstanding any other provision in this section, if the cost does not exceed an aggregate retail value of fifty dollars per person per year an insurance producer may give a gift, prize, promotional article, logo merchandise, meal, or entertainment activity directly or indirectly in connection with marketing, promoting, or advertising business for the sale or retention of contracts of insurance. However, a reduction or discount in premium or a giving of cash or cash equivalent is prohibited under this section."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1199, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (20 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1199 was placed on the Sixth order on the calendar.

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

Page 1, remove lines 15 through 19

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1234: Government and Veterans Affairs Committee (Rep. Grande, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1234 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact sections 34-11.1-04.3, 34-11.1-04.4, 34-11.1-04.5, and 34-11.1-04.6 of the North Dakota Century Code, relating to whistleblower protection for public employees; and to amend and reenact section 34-11.1-04 of the North Dakota Century Code, relating to whistleblower protection for public employees.

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

**SECTION 1. AMENDMENT.** Section 34-11.1-04 of the North Dakota Century Code is amended and reenacted as follows:

**34-11.1-04. Violations for misuse reported by employee--**  
**~~Reprisals~~Employer retaliation prohibited - Furnishing false information--Labor**  
**~~department.~~**

1. An employee may, without fear of reprisal, report in writing to the employee's respective agency head, a state's attorney, the attorney general, or an employee organization the existence of:
  - a. ~~A job-related violation of local, state, or federal law, rule, regulation, or ordinance.~~
  - b. ~~The job-related misuse of public resources.~~

2. ~~For having made a report under subsection 1, no employee will:~~
  - a. ~~Be dismissed from employment.~~
  - b. ~~Have salary increases or employment-related benefits withheld.~~
  - c. ~~Be transferred or reassigned.~~
  - d. ~~Be denied a promotion that the employee otherwise would have received.~~
  - e. ~~Be demoted.~~
  - f. ~~Be discriminated against in any term or condition of employment.~~
3. An employer may not discharge, discipline, intimidate, penalize, discriminate against, threaten any of these prohibited actions against, or otherwise retaliate against an employee regarding the employee's compensation or benefits, conditions, location, terms, duties, or privileges of employment because:
  - a. The employee, or a person acting on behalf of an employee, in good faith reports to the employer, employee organization, the attorney general, the state auditor, the labor commissioner, a state's attorney, or a law enforcement official:
    - (1) A violation or suspected violation of federal, state, or local law, ordinance, regulation, or rule; or
    - (2) A job-related misuse of public resources.
  - b. The employee is requested by a public body or official to participate in an investigation, a hearing, or an inquiry.
  - c. The employee refuses an employer's order to perform an action the employee believes violates local, state, or federal law, ordinance, rule, or regulation. The employee must have an objective basis in fact for this belief and shall inform the employer that the order is being refused for that reason.
2. ~~An employee who intentionally furnishes false information is subject to disciplinary action, including suspension or dismissal as determined by the employee's appointing authority or designee. An employee claiming reprisal under this section may appeal first to the human resource management services division and then to the district court in the manner prescribed by chapter 28-32, or to other appropriate offices and then to district court if the employee is not under the jurisdiction of the human resource management services division.~~
4. ~~The labor department shall receive complaints of violations of this section and may attempt to obtain voluntary compliance with this section through informal advice, negotiation, or conciliation. To receive assistance from the labor department, a person claiming to be aggrieved by a violation of this section shall file a complaint with the department within three hundred days after the alleged act of wrongdoing. An employee is not prohibited from filing, or required to file, a complaint with the labor department under this subsection before proceeding under other provisions of this section.~~
5. ~~An employee of the state may appeal a claim of reprisal under this section in the manner prescribed for a classified employee under chapter 54-44.3. This subsection does not apply to an employee under the jurisdiction of the state board of higher education or the judicial branch of government.~~

**SECTION 2.** Section 34-11.1-04.3 of the North Dakota Century Code is created and enacted as follows:

**34-11.1-04.3. Claims of employer retaliation - Recourse.**

As provided under this chapter, an employee claiming retaliation under section 34-11.1-04 may do one or more of the following:

1. File a complaint with the labor department for assistance in obtaining voluntary compliance as provided under section 34-11.1-04.5;
2. Appeal to the human resource management services division or other appropriate office at the state or local level as provided under subsection 1 or 2 of section 34-11.1-04.4; and
3. Bring a civil action as provided under subsection 3 of section 34-11.1-04.4.

**SECTION 3.** Section 34-11.1-04.4 of the North Dakota Century Code is created and enacted as follows:

**34-11.1-04.4. Appeal to human resource management services division or other appropriate office - Civil action.**

1. A state employee who is claiming retaliation under section 34-11.1-04 may appeal the retaliation to the human resource management services division under chapter 54-44.3 and then to the district court in the manner prescribed under chapter 28-32. This subsection does not apply to an employee under the jurisdiction of the state board of higher education or the judicial branch of government.
2. An employee who is not covered under subsection 2 may appeal to the appropriate office at the state or political subdivision level and then to the district court.
3. An employee who is not covered under subsection 1 or 2 may bring a civil action for injunctive relief or actual damages or both in the same manner as provided under subsection 3 of section 34-01-20.

**SECTION 4.** Section 34-11.1-04.5 of the North Dakota Century Code is created and enacted as follows:

**34-11.1-04.5. Claims of employer retaliation - Labor department - Voluntary compliance.**

1. The labor department shall receive complaints of retaliation under section 34-11.1-04.1. In order to receive assistance from the labor department under this section, an employee claiming to be aggrieved shall file a complaint with the department within three hundred days after the alleged act of retaliation. An employee is not prohibited from filing nor is required to file a complaint with the labor department under this section before proceeding with any other legal remedy available.
2. If an employee files a complaint of retaliation with the labor department, the department shall review the complaint to determine whether the complaint may be substantiated. If the department determines the complaint may be substantiated, the department shall attempt to obtain voluntary compliance with this section through informal advice, negotiation, or conciliation. The department's determination under this subsection is not an appealable order.

**SECTION 5.** Section 34-11.1-04.6 of the North Dakota Century Code is created and enacted as follows:

**34-11.1-04.6. Claims of employer retaliation - State auditor investigation.**

If an executive branch state employee, or a person acting on behalf of that employee, makes a report under subdivision a of subsection 1 of section 34-11.1-04.1 to the attorney general, the labor commissioner, a state's attorney, or a law

enforcement official, and if the recipient of the report is not the employer, the recipient of the report shall forward the report to the state auditor. If the employee is employed by the state auditor, for purposes of this section the attorney general shall fulfill the investigation and reporting duties under this section.

1. Upon the state auditor's receipt of a report under this section, the state auditor shall investigate the alleged violation or suspected violation of federal, state, or local law, ordinance, regulation, or rule or the alleged job-related misuse of public resources. The state auditor may not disclose the employee's name to the public until this investigation is complete.
2. Following an investigation under this section, the state auditor shall provide the state auditor's finding to the employee and to the employer. The state auditor's report must include:
  - a. A determination of whether a violation of federal, state, or local law, ordinance, regulation, or rule or the alleged job-related misuse of public resources occurred;
  - b. Whether the employer is required to take any actions to remedy a violation or misuse of public funds; and
  - c. The process through which the state auditor will track whether the employer is implementing actions that may be required under subdivision b.
3. A state auditor report issued under this section is an appealable order under chapter 28-32."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1236: Government and Veterans Affairs Committee (Rep. Grande, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1236 was placed on the Sixth order on the calendar.

Page 1, line 21, remove "that assume additional duties or responsibilities"

Page 1, line 22, replace "due to not filling the vacancy" with "of that agency or branch"

Page 2, line 1, replace "or" with "and"

Page 2, line 1, remove "that has not filled a vacant position during the"

Page 2, line 2, remove "biennium"

Page 2, line 4, remove "that assume additional duties or responsibilities due to not filling a"

Page 2, line 5, remove "vacant position"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1285, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)** recommends **DO NOT PASS** (12 YEAS, 9 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1285 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1317: Agriculture Committee (Rep. D. Johnson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1317 was placed on the Sixth order on the calendar.

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

Page 2, line 6, remove the overstrike over "may" and insert immediately thereafter "first contact the occupant and request that the occupant control the noxious weeds within a prescribed time period and in a prescribed manner. If the county weed control officer determines that the occupant has failed to control the noxious weeds, as requested, the county weed officer"

Page 3, line 13, remove the overstrike over "may"

Page 3, line 13, remove "shall"

Page 3, line 27, remove the overstrike over "~~The city weed officer shall deliver a copy of the notice personally or forward a~~"

Page 3, remove the overstrike over lines 28 and 29

Page 3, line 30, remove the overstrike over "d:"

Page 4, line 5, remove the overstrike over "e:"

Page 4, line 5, remove "d."

Page 4, line 9, remove the overstrike over "f:"

Page 4, line 9, remove "e."

Page 4, after line 15, insert:

**"SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1333, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)** recommends **DO NOT PASS** (20 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1333 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1344: Transportation Committee (Rep. Ruby, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1344 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "to provide for a legislative management study of transportation infrastructure development.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - TRANSPORTATION INFRASTRUCTURE DEVELOPMENT.** During the 2011-12 interim, the legislative management shall consider studying transportation infrastructure program development from local planning to state completion, including the relevance, consistency, and substance of current laws with a focus on reducing delay from planning to completion. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1382: Political Subdivisions Committee (Rep. N. Johnson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1382 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsections 11 and 15 of section 49-23-01, subdivision a of subsection 3 of section 49-23-03, and section 49-23-04 of the North Dakota Century Code, relating to the one-call excavation notice system.

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

**SECTION 1. AMENDMENT.** Subsections 11 and 15 of section 49-23-01 of the North Dakota Century Code are amended and reenacted as follows:

11. "Locate" means an operator's markings of an underground facility showing the approximate horizontal location, including all lines, line direction, intersections, tees, and lateral facilities.
15. "Underground facility" means an underground line, pipeline, cable, facility, system, and its appurtenances used to produce, store, convey, gather, transmit, or distribute communications, data, electricity, power, television signals, heat, gas, oil, petroleum products, carbon dioxide, water, steam, sewage, hazardous liquids, and other similar substances. Privately owned and operated underground facilities which do not extend beyond the boundary of the private property are excluded.

**SECTION 2. AMENDMENT.** Subdivision a of subsection 3 of section 49-23-03 of the North Dakota Century Code is amended and reenacted as follows:

- a. Submitting the information required by the notification center before an underground facility is put into service to allow the center to notify the operator of excavation activity;

**SECTION 3. AMENDMENT.** Section 49-23-04 of the North Dakota Century Code is amended and reenacted as follows:

**49-23-04. Excavation.**

1. Except in an emergency, an excavator shall ~~contact~~:
  - a. White mark the excavation as required by the notification center.
  - b. Contact the notification center and provide an excavation or location notice at least forty-eight hours before beginning any excavation, excluding Saturdays, Sundays, and holidays, unless otherwise agreed to between the excavator and operator. If an operator determines more time is necessary for location, the operator may request a twenty-four-hour extension of the excavation or location notice by notifying the notification center. The notification center shall notify the excavator of the extension. An excavation begins the first time excavation occurs in an area that was not previously identified by the excavator in an excavation notice. ~~The~~
  - c. Include in the notice must contain:
    - a- (1) The name, address, and telephone number of the person making the notification;
    - b- (2) The name, address, and telephone number of the excavator;
    - e- (3) The date and time when excavation is scheduled to begin;
    - d- (4) The depth of planned excavation;
    - e- (5) The type and extent of excavation being planned, including whether the excavation involves tunneling or horizontal boring;
    - f- (6) Whether the use of explosives is anticipated and any other information as may be required by the notification center; and

- g- (7) The location of the excavation by any one or more of the following means:
- (1) (a) A specific street address;
  - (2) (b) A reference to a platted lot number of record; or
  - (3) (c) A specific quarter section by section number, range, township, and county. In this case, the location shall be further described by coordinates measured in feet from the nearest one-fourth corner or section corner.

2. The notification center shall:

- a. Provide a toll-free telephone number and assign an inquiry identification number to each excavation notice and retain a record of all excavation notices received for at least six years.
  - b. Immediately transmit the information contained in an excavation notice to every operator that has an underground facility in the area of the proposed excavation.
  - c. Inform the persons giving notice of an intent to engage in an excavation activity the names of participating operators of underground facilities to whom the notice will be given.
  - d. Establish procedures for assuring positive response from the affected operator in all emergency excavation notices.
3. a. An operator, within forty-eight hours, or any extension of that period, after receiving an excavation notice from the center, excluding Saturdays, Sundays, and holidays, unless otherwise agreed to between the excavator and operator, shall locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator.
- b. For purposes of this section, the approximate horizontal location of the underground facilities is a strip of land two feet [60.96 centimeters] on either side of the underground facilities. This subdivision does not apply to an underground facility to convey water.
  - c. When an operator cannot establish the exact location of the underground facility to convey water, the operator shall mark the location as accurately as possible and the excavator may proceed with caution. When excavation operations approach the estimated location of the underground facility to convey water, the exact location of the facility must be determined by safe and acceptable means. The uncovered facility must be supported and protected to prevent damage.
  - d. Markers used to designate the approximate location of underground facilities must follow the current color code standard used by the American public works association.
  - e. If the operator cannot complete marking of the excavation area before the excavation commencement time stated in the excavation notice, the operator shall promptly contact the excavator.
  - f. After facilities are located by an operator, an excavator shall notify the notification center if:
    - (1) The excavator postpones the excavation commencement time stated in the excavation notice by more than forty-eight hours, or any extension of that period, or cancels the excavation;
    - (2) The markings have been obliterated or obscured;

- (3) Weather conditions have impeded visibility of the markings;
  - (4) The site shows evidence of recent excavation; or
  - (5) The excavator has other reason to believe the markings are incorrect or missing.
- g. An excavator may not use a location more than ten days, or any extension of that period, after the planned excavation date unless the excavator has made previous arrangements with the operators affected.
  - h. If in the course of excavation the excavator is unable to locate the underground facility or discovers that the operator of the underground facility has incorrectly located the underground facility, or discovers a previously unidentified underground facility, the excavator shall promptly notify the operator or, if unknown, the one-call notification center.
  - i. A facility owner, excavator, or other person may not present or presume that an underground facility is abandoned, or treat an underground facility as abandoned, unless the facility has been verified as abandoned by reference to installation records or by testing. The notification center shall establish a method of providing personnel from a facility owner qualified to safely inspect and verify whether a facility is abandoned or inactive if necessary. An inactive facility must be considered active for purposes of this section.
- 4. If an excavation is being made in a time of emergency, all reasonable precautions must be taken to protect the underground facilities. In an emergency, the excavator shall give notification in compliance with this chapter, as soon as practical, that an emergency exists. As soon as practical, each operator shall provide all location information that is reasonably available to the excavator."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1399: Agriculture Committee (Rep. D. Johnson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1399 was placed on the Sixth order on the calendar.

Page 1, line 3, after the first comma insert "4.1-53-35,"

Page 1, line 5, after the first "to" insert "label requirements,"

Page 1, line 5, after "certificates" insert a comma

Page 7, after line 3, insert:

**"SECTION 12. AMENDMENT.** Section 4.1-53-35 of the North Dakota Century Code as created by section 3 of House Bill No. 1027, as approved by the sixty-second legislative assembly, is amended and reenacted as follows:

#### **4.1-53-35. Tree seed and shrub seed - Label requirements - Percentage of germination.**

- 1. If the tree seed or shrub seed belongs to a species for which standard germination testing procedures are prescribed by the association of official seed analysts, the label must include:
  - a. (1) The percentage of germination, exclusive of hard seed;
  - (2) The percentage of hard seed; and



- (3) The month and year in which the percentage of germination was determined; or
  - b. A statement indicating that the test to determine the percentage of germination is not yet completed and that the results will be supplied upon request.
2. If the tree or shrub seed belongs to a species for which standard germination testing procedures are not prescribed, the label must include the year in which the seed was collected."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1431: Political Subdivisions Committee (Rep. N. Johnson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (7 YEAS, 5 NAYS, 2 ABSENT AND NOT VOTING). HB 1431 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "subsection 4 of section 16.1-02-05, section 16.1-05-06,"

Page 1, line 2, remove "subdivision a of subsection 2 of section 16.1-07-15, and"

Page 1, line 3, remove "the canvassing of ballots of voters whose eligibility to vote has"

Page 1, line 4, remove "been challenged, early voting precincts, and"

Page 1, remove lines 6 through 23

Page 2, remove lines 1 through 31

Page 3, remove lines 1 through 31

Page 4, remove lines 1 through 13

Page 4, line 17, overstrike "The"

Page 4, line 17, remove "qualified electors of a county having a population of fewer than fifteen thousand may"

Page 4, remove lines 18 through 22

Page 4, line 23, remove "percent of the qualified electors voting on the question, the"

Page 4, line 23, overstrike "board of county commissioners of a"

Page 4, line 24, overstrike "county may conduct"

Page 4, line 24, remove "any subsequent"

Page 4, line 24, overstrike "election by mail ballot."

Page 4, line 24, remove "A"

Page 4, line 24, overstrike "mail ballot election must"

Page 4, overstrike lines 25 through 31

Page 5, overstrike lines 1 and 2 and insert immediately thereafter:

- "1. The board of county commissioners of a county, by resolution, may elect to conduct an election in the county by mail ballot.
2. The qualified electors of a county may petition the board of county commissioners to request that elections be conducted, or discontinue being

conducted, in the county by mail ballot. Upon receipt of a petition signed by at least ten percent of the qualified electors of the county as determined by the vote cast for the office of governor at the last general election, the board of county commissioners shall place on the ballot at the next primary or general election the question of whether mail ballot elections may be used in the county. The board of county commissioners shall conduct subsequent elections in the manner determined by a majority vote of the qualified electors of the county.

3. A mail ballot election must include city elections administered by the county auditor and may include any other election administered by the county auditor pursuant to an agreement with the governing body of a political subdivision within the county. The board shall designate one or more polling places in the county to be open on the day of the election for voting in the usual manner. The county auditor shall place a notice at all polling places in the county used at the last statewide election which states the location of the polling places open for the election. The county auditor shall keep a record of each mail ballot provided to qualified electors and provide to the election board at each polling place open on the day of the election a list of every person who applied for a mail ballot.

**SECTION 2. APPLICATION.** A county that is conducting elections by mail ballot before August 1, 2011, may continue to conduct elections by mail ballot."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1434: Industry, Business and Labor Committee (Rep. Keiser, Chairman)** recommends **DO NOT PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1434 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1442: Transportation Committee (Rep. Ruby, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1442 was placed on the Sixth order on the calendar.

Page 1, line 2, after "vehicles" insert "; and to provide for a legislative management study"

Page 1, line 9, remove the overstrike over "with a" and insert immediately thereafter "registered gross"

Page 1, line 9, remove the overstrike over "weight of"

Page 1, line 9, after "seven" insert "sixteen"

Page 1, line 9, remove the overstrike over "~~thousand pounds-~~"

Page 1, line 9, after "~~3175.14~~" insert "7257.48"

Page 1, line 9, remove the overstrike over "~~kilograms~~ or less"

Page 1, line 14, remove "An inspection certificate from the department or highway patrol is required after the"

Page 1, remove lines 15 through 17

Page 1, line 18, remove "3."

Page 1, line 18, remove "tires."

Page 1, line 18, remove the overstrike over "~~permitted modifications~~"

Page 1, line 18, remove "fenders"

Page 1, line 23, remove "Air or hydraulic suspension systems used"

Page 1, remove line 24

Page 2, remove lines 1 through 3

Page 2, line 8, overstrike "specialty equipment marketing"

Page 2, line 9, overstrike "association" and insert immediately thereafter "national highway traffic safety administration"

Page 2, line 9, remove "or federal motor vehicle safety standards"

Page 2, line 12, remove the overstrike over "~~department of transportation requirements~~"

Page 2, line 12, remove "federal motor vehicle safety"

Page 2, line 13, remove "standards"

Page 2, line 20, overstrike "frame" and insert immediately thereafter "structure"

Page 2, remove lines 24 through 30

Page 3, line 1, replace "g." with "e."

Page 3, line 3, replace "h." with "f."

Page 3, line 5, replace "4." with "3."

Page 3, after line 5, insert:

**"SECTION 2. LEGISLATIVE MANAGEMENT STUDY - DRIVERS AND MOTOR VEHICLES.** During the 2011-12 interim, the legislative management shall consider studying the regulations of drivers and of motor vehicles in the North Dakota Century Code for consistency, clarity, and substance. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly."

Renumber accordingly

#### **REPORT OF STANDING COMMITTEE**

**HB 1447: Political Subdivisions Committee (Rep. N. Johnson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1447 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 16.1-05 of the North Dakota Century Code, relating to the appointment of poll checkers; to amend and reenact sections 16.1-02-05, 16.1-05-04, 16.1-05-07, 16.1-10-06.1, 16.1-15-06, 16.1-15-08, and 58-04-09 of the North Dakota Century Code, relating to verification of eligibility of voters; and to repeal section 16.1-05-06 of the North Dakota Century Code, relating to challenging the right to vote.

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

**SECTION 1. AMENDMENT.** Section 16.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

##### **16.1-02-05. Entry of new voters into the central voter file - Query of the central voter file for double voting - Challenges--Postelection verification.**

1. Within forty-five days following an election, the county auditor shall enter the name and required information of each individual who voted at the last election who is not already contained in the central voter file and update

any required information requested and obtained at the last election for any individual contained in the central voter file.

2. The secretary of state, with the assistance of the county auditors, within eighty-five days following an election, shall query the central voter file to determine if any individual voted more than once during the preceding election. The secretary of state shall immediately notify the county auditor and state's attorney in each affected county for further investigation.
3. Upon return of any nonforwardable mail from an election official, the county auditor shall ascertain the name and address of that individual. If the individual is no longer at the address recorded in the central voter file, the county auditor shall transfer the voter to the correct precinct in the central voter file or notify the county of the voter's new residence so the voter record can be transferred to the correct county. If a notice mailed at least sixty days after the return of the first nonforwardable mail is also returned by the postal service, the county auditor shall designate the individual as "inactive" in the central voter file.
- ~~4. Within forty five days after an election, the county auditor shall send a notice to each individual who was challenged on election day according to section 16.1-05-06. If a notice is returned as not deliverable, the county auditor shall attempt to determine the reason for the return. A county auditor who does not receive or obtain satisfactory proof of an individual's eligibility to vote shall notify immediately the state's attorney to conduct an investigation of the individual's eligibility to vote in that election.~~

**SECTION 2. AMENDMENT.** Section 16.1-05-04 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-05-04. Duties of the members of the election board during polling hours.**

1. The election inspector shall supervise the conduct of the election to ensure all election officials are properly performing their duties at the polling place. The election inspector shall assign duties so as to equally and fairly include both parties represented on the election board.
2. The election inspector shall assign ministerial duties to poll clerks, who shall carry out the ministerial duties assigned by the election inspector.
3. The election inspector shall assign the poll clerks to perform the function of maintaining the pollbook. The designated poll clerks shall maintain the pollbook. The pollbook must contain the name and address of each individual voting at the precinct and must be arranged in the form and manner prescribed by the secretary of state.
- ~~4. The members of the election board shall challenge the right of anyone to vote whom they know or have reason to believe is not a qualified elector by requiring the elector to complete and sign a voter's affidavit.~~
5. Each member of the election board shall remain on the premises of the polling place during the time the polls are open to prevent the occurrence of fraud, deceit, or other irregularity in the conduct of the election.
- ~~6.5.~~ All members of the election board shall distribute ballots and other election materials to electors. An election judge from each party represented on the election board shall give any assistance requested by electors in marking ballots or operating electronic voting system devices.
- ~~7.6.~~ Each member of the election board shall maintain order in the polling place.

**SECTION 3. AMENDMENT.** Section 16.1-05-07 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-05-07. Poll clerks to check identification and verify eligibility - Poll clerks to request, correct, and update incorrect information contained in the pollbook.**

1. Before ~~delivering~~ a member of an election board delivers a ballot to an individual according to section 16.1-13-22, the poll clerks shall request the individual to show identification, which includes the individual's residential address and date of birth. ~~The~~ An approved form of identification may include:
  - a. An official form of identification issued by the state;
  - b. An official form of identification issued by a tribal government;
  - c. A form of identification prescribed by the secretary of state; or
  - d. A combination of any of the forms of identification under subdivisions a through c.
2. If an individual offering to vote does not have or refuses to show an appropriate form of identification, the individual may be allowed to vote ~~without being challenged according to section 16.1-05-06 if the individual provides to the election board the individual's date of birth and if a member of the election board or a poll clerk knows the individual and can personally vouch that the individual is a qualified elector of the precinct administered by the polling place. The individual shall provide the individual's date of birth to the poll clerk entering the name of the voter in the pollbook.~~
3. ~~If an individual offering to vote does not meet either of the options set forth in subsection 1 or 2, the election board shall challenge the individual's right to vote and the individual may not vote unless the individual executes a voter's affidavit, as provided in section 16.1-05-06.~~
4.
  - a. When verifying an individual's eligibility or when entering the name of an individual into the pollbook, poll clerks shall request, correct, and update any incorrect or incomplete information about an individual required to be included in the pollbook generated from the central voter file.
  - b. If the individual's name is contained in the pollbook generated from the central voter file, the poll clerks shall verify the individual's residential address and mailing address, if different from the individual's residential address.
  - c. If the individual's name is not contained in the pollbook generated from the central voter file but the individual is determined eligible to vote, the poll clerks shall record the individual's name in the pollbook. The poll clerks shall request and obtain any additional information for the individual required to be included in the pollbook.
- ~~5.4.~~ Poll clerks shall direct an individual who is attempting to vote in the incorrect precinct to the proper precinct and voting location.
5. If an individual offering to vote does not meet either of the options set forth in subsection 1 or 2, the election board shall offer the individual the opportunity to execute a voter's affidavit acknowledged before an election board member.
6. The voter's affidavit must include:
  - a. The name of the affiant.
  - b. The address of the affiant.
  - c. The birth date of the affiant.

- d. The contact telephone number of the affiant.
  - e. The address of the affiant at the time the affiant last voted.
  - f. The previous last name of the affiant if it was different when the affiant last voted.
  - g. The identification number and state of any state-issued identification regardless of the state in which the identification was issued, if available.
  - h. A recitation of the qualifications for voting as set forth in section 16.1-01-04 and the rules for determining residence.
  - i. Notice of the penalty for making a false affidavit and that the individual will be required to provide an approved form or forms of identification showing the individual's qualification as an elector of the precinct to a member of the polling place election board while the polls remain open or to the appropriate election official before the meeting of the canvassing board before the vote can be counted.
  - j. A notice indicating the affidavit is not an open record, but information identifying who voted after executing an affidavit may be an open record as part of the pollbook, unless the individual is listed as "secured active" in the central voter file under section 16.1-02-13.
  - k. A place for the affiant to sign and swear to the affiant's qualifications as a voter.
7. Upon the execution of the affidavit, the individual must be given a notice clearly stating the affiant's ballot will be counted if the affiant returns with approved identification to the polling place before the polls close or verifies the affiant's identity with the office of the appropriate election official before the meeting of the canvassing board. The notice also must state the hour at which the polls will close; the date, time, and location of the meeting of the canvassing board; and the address, location, and office hours of the appropriate election official.
8. The election inspector shall place the ballot of an individual who executes an affidavit under this section in a secure envelope designed by the secretary of state to protect the secrecy of the ballot.
9. If the elector returns to the polling place before the polls close and shows identification providing proof of qualification as an elector, the election inspector shall return the sealed envelope containing the individual's ballot to the voter to allow the voter to cast the ballot. The election inspector shall mark the voter's affidavit as "verified".
10. Each election inspector shall deliver to the appropriate election official a list including the name of each individual who executed an affidavit under this section who has not returned to verify the individual's qualification as an elector and each ballot cast by an individual on the list. The election official shall forward the ballot of each affiant verified to the official's office with approved identification to the canvassing board for canvassing and forward the remaining ballots to the county canvassing board marked as "rejected - elector failed to verify qualification".

**SECTION 4.** A new section to chapter 16.1-05 of the North Dakota Century Code is created and enacted as follows:

**Poll checkers.**

The district chairman of each political party represented on the election board may appoint up to three poll checkers to a polling place. A poll check may not interfere with the election process or with the members of the election board in the

performance of the member's duties. A poll checker may not be a member of the election board. The district chairman shall notify the county auditor of each county contained in the legislative district one day before the day of the election of the name of any individual the district chairman has appointed to serve as a poll checker in the legislative district.

**SECTION 5. AMENDMENT.** Section 16.1-10-06.1 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-10-06.1. Paying for certain election-related activities prohibited.**

~~No~~

1. ~~A person may not pay another person~~any individual for:
  - 1- ~~a.~~ Any loss or damage due to attendance at the polls;
  - 2- ~~b.~~ Registering;
  - 3- ~~c.~~ The expense of transportation to or from the polls; or
  - 4- ~~d.~~ Personal services to be performed on the day of a caucus, primary election, or any election which tend in any way, directly or indirectly, to affect the result of such caucus or election.

~~The provisions of this~~

2. ~~This section does not apply to the hiring of a person~~an individual whose sole duty it is to act as a challengerduties are to observe the polls and to watch the count of official ballots.

**SECTION 6. AMENDMENT.** Section 16.1-15-06 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-06. Reports and pollbooks sent to county auditor - Compensation for making returns.**

Immediately following the canvass, except in cases of emergency or inclement weather, the inspector of elections, or one of the judges appointed by the inspector of elections, personally shall deliver one of the signed canvass reports provided for in section 16.1-15-04 to the county auditor. The sealed ballots of voters executing affidavits under section 16.1-05-07 and reports, carefully sealed under cover, accompanied by the pollbook provided for in sections 16.1-02-13 and 16.1-06-21 with the oaths of the inspector and poll clerks affixed thereto, must be delivered properly to the county auditor. The person making the return shall receive compensation therefor in accordance with section 16.1-05-05. The compensation and mileage must be paid out of the county treasury on a warrant of the county auditor and is full compensation for returning all used or voided ballots to the proper official.

**SECTION 7. AMENDMENT.** Section 16.1-15-08 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-08. Wrapping and returning of ballots to county recorder.**

After generating the reports and poll lists provided for in section 16.1-15-06 and providing the sealed ballots of voters executing affidavits provided for in section 16.1-05-07 for delivery to the county auditor, the election board shall cause the ballots containing lawful write-in votes cast at the election to be placed in a suitable wrapper to form a complete wrapper for the ballots. All ballots without write-in votes shall be wrapped in a similar manner. The ballots and wrappers must then be tightly secured at the outer end to completely envelop and hold the ballots together. Ballots that are void must be secured in a separate wrapper and must be marked "void". Ballots that are spoiled must be separately secured and marked "spoiled". In sealing ballots, the various classes of ballots must be kept separate. Each wrapper must be endorsed with the names or numbers of the precincts and the date on which the election was

held. The wrappers must be sealed securely in a manner prescribed by the county auditor so the wrappers cannot be opened without an obvious and permanent breaking of the seal. The ballots, together with those found void or spoiled, and the opened envelopes from voted absentee ballots and the unopened envelopes of absentee ballots rejected as defective, must be returned in person to the county recorder. At the meeting of the county canvassing board, the county recorder shall deliver the ballots containing lawful write-in votes from all the precincts within the county. At the meeting of the county canvassing board, the county recorder shall deliver each ballot that may contain a write-in vote referenced in a demand made under subsection 1 of section 16.1-12-02.2. Ballots used with any electronic voting system or counted by an electronic counting machine must be sealed and returned as provided in this section. The sealed ballot of any voter whose affidavit has been verified with the county auditor must be delivered to the canvassing board for tabulation.

**SECTION 8. AMENDMENT.** Section 58-04-09 of the North Dakota Century Code is amended and reenacted as follows:

**58-04-09. Challenge to voter -- Duty of judges.**

If any ~~person~~individual offering to vote at any election or upon any question arising at a township meeting is challenged as unqualified using the criteria provided in ~~section 16.1-05-06~~chapter 16.1-05, the judges shall proceed in the manner in which judges at a general election are required to proceed, adapting the affidavit described in ~~section 16.1-05-06~~chapter 16.1-05 to the circumstances of the township meeting.

**SECTION 9. REPEAL.** Section 16.1-05-06 of the North Dakota Century Code is repealed."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1459: Agriculture Committee (Rep. D. Johnson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1459 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subsection to section 61-21-02 and a new section to chapter 61-32 of the North Dakota Century Code, relating to subsurface drainage of water; to provide a penalty; and to declare an emergency.

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

**SECTION 1.** A new subsection to section 61-21-02 of the North Dakota Century Code is created and enacted as follows:

The installation of artificial subsurface drainage systems.

**SECTION 2.** A new section to chapter 61-32 of the North Dakota Century Code is created and enacted as follows:



**Permit to drain subsurface waters - Permit form - Penalty.**

Installation of an artificial subsurface drainage system comprising eighty acres [32.37 hectares] of land area or more requires a permit. The state engineer shall develop an application form for a permit for subsurface drainage of water. A person seeking to construct an artificial subsurface drainage system must submit an application to the water resource district within which is found a majority of the land area for consideration and approval. Water resource districts may attach any necessary conditions to an approved permit, but may not deny an application unless the water resource district determines the application is of statewide significance or the proposed drainage will flood or adversely affect downstream landowners within one mile [1.61 kilometers] of the proposed subsurface drainage. Water resource districts must forward copies of all approved permits to the state engineer. Water resource districts shall determine if the application proposes drainage of statewide significance. If so, the application must be referred to the state engineer for consideration and approval, and the state engineer shall make a determination within thirty days. The permit applicant shall provide a thirty-day notice to downstream property owners within one mile [1.61 kilometers] of the proposed subsurface drainage. If an investigation by a water resource district or a downstream landowner within one mile [1.61 kilometers] shows that the proposed drainage will flood or adversely affect downstream landowners within one mile [1.61 kilometers], the water resource district may require flowage easements before issuing a permit. If an artificial subsurface drainage system drains into an assessment drain, natural watercourse, or pond, slough, or lake, a flowage easement is not required. Flowage easements must be filed for record in the office of the recorder of the county or counties in which the lands are situated. A person that installs an artificial subsurface drainage system without first securing a permit to do so, as provided in this section, is liable for all damage sustained by a person caused by the draining, and is guilty of an infraction.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1468, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (16 YEAS, 2 NAYS, 3 ABSENT AND NOT VOTING). Engrossed HB 1468 was placed on the Sixth order on the calendar.

Page 1, line 3, replace "transfers to the veterans' postwar trust fund and" with "transfer to"

Page 1, remove lines 14 through 20

Page 1, line 23, replace "\$100,000" with "\$50,000"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HCR 3015: Government and Veterans Affairs Committee (Rep. Grande, Chairman)** recommends **DO PASS** (10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HCR 3015 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3021: Government and Veterans Affairs Committee (Rep. Grande, Chairman)** recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3021 was placed on the Tenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3022: Political Subdivisions Committee (Rep. N. Johnson, Chairman)** recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3022 was placed on the Tenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3025: Government and Veterans Affairs Committee (Rep. Grande, Chairman)**  
recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR**  
(12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3025 was placed on the  
Tenth order on the calendar.

The House stood adjourned pursuant to Representative Vigesaa's motion.

**Buell J. Reich, Chief Clerk**