

JOURNAL OF THE SENATE

Sixty-second Legislative Assembly

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Bismarck, March 16, 2011

The Senate convened at 1:00 p.m., with President Wrigley presiding.

The prayer was offered by Senator Bill Bowman, District 39.

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

A quorum was declared by the President.

THE SENATE RECOGNIZED THE PRESENCE OF:

Former Senator Ben Tollefson.

CORRECTION AND REVISION OF THE JOURNAL

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

Page 648, lines 30-31, replace "to provide an effective date; and to declare an emergency" with "and to provide an effective date"

Page 733, after line 27, insert:

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

MR. PRESIDENT: The Speaker has signed: HB 1263."

Page 734, line 19, after "HB 1399" insert ", as engrossed"

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

POINT OF PERSONAL PRIVILEGE

SEN. SORVAAG rose on a point of personal privilege.

REMARKS OF SENATOR SORVAAG

MR. PRESIDENT: Today I have the distinct privilege of recognizing two groups of young women from Fargo North High School. The Fargo North girls' basketball and girls' hockey teams have recently come to the end of exciting and commendable seasons. Finishing their season strong was the Fargo North girls' hockey team. This group of talented high school athletes played well throughout the season, which culminated with them winning their state championship matchup against West Fargo during the North Dakota State Girls' Hockey Tournament in Grand Forks in late February.

Like their puck-shooting counterparts, the Fargo North girls' basketball team also had a phenomenal season. Finishing their season with a 14-12 record, the team took home their third ever state title during the hard-fought championship game at the North Dakota Class A in Fargo last weekend. Senior Alyssa Dehne and sophomore Kira Larson both had the honor of representing the Fargo North Spartans on the All-Tournament Team for the year. Alyssa was also named Most Valuable Player.

The passion and hard work with which these exceptional high school athletes performed this season is remarkable. On behalf of my fellow North Fargo Senators, Senators Flakoll, Nelson, and the North Dakota Senate, I wish to congratulate the girls' basketball and hockey teams of Fargo North on their fine performance. They have done an extraordinary job in representing their community on a statewide level and their accomplishment should indeed be celebrated.

REQUEST

SEN. SORVAAG REQUESTED that his remarks be printed in the Journal, which request was granted.

CONSIDERATION OF AMENDMENTS

HB 1425, as reengrossed: SEN. LARSEN (Industry, Business and Labor Committee) MOVED that the amendments on SJ page 734 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

CONSIDERATION OF AMENDMENTS

HB 1355, as engrossed: SEN. ANDRIST (Industry, Business and Labor Committee) MOVED that the amendments on SJ page 734 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

SECOND READING OF HOUSE BILL

HB 1096: A BILL for an Act to amend and reenact section 6-09-27, subsection 3 of section 6-09.15-01, and section 6-09.15-03 of the North Dakota Century Code, relating to venue of civil actions involving the Bank of North Dakota and the beginning entrepreneur loan guarantee program.

ROLL CALL

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

YEAS: Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Kilzer

HB 1096 passed.

SECOND READING OF HOUSE BILL

HB 1066: A BILL for an Act to amend and reenact sections 15.1-36-01, 15.1-36-04, and 18-12-04 of the North Dakota Century Code, relating to thresholds and criteria for school district construction projects; to provide an effective date; and to declare an emergency.

ROLL CALL

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

YEAS: Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Kilzer

Engrossed HB 1066 passed and the emergency clause was declared carried.

SECOND READING OF HOUSE BILL

HB 1130: A BILL for an Act to create and enact section 13-08-05.1 and two new sections to chapter 13-09 of the North Dakota Century Code, relating to notice regarding

change of name and address of licensed deferred presentment service providers and money transmitters and prohibited acts and practices of licensed money transmitters; to amend and reenact sections 13-08-02 and 13-08-11, subsection 6 of section 13-08-12, sections 13-08-14 and 13-08-14.1, subsection 7 of section 13-09-02, subsection 3 of section 13-09-14, and section 13-09-17 of the North Dakota Century Code, relating to license requirements, retention of records, licensee transaction procedures, suspension and revocation of license, suspension and removal of agency officers and employees, definition of electronic instruments regarding deferred presentment service providers, and money transmitters; and to provide a penalty.

ROLL CALL

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

YEAS: Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Kilzer

Engrossed HB 1130 passed.

SECOND READING OF HOUSE BILL

HB 1140: A BILL for an Act to create and enact two new sections to chapter 10-04 of the North Dakota Century Code, relating to requirement of statutory or administrative rules as a basis for action by the securities commissioner and prohibition of imposition by the securities commissioner of restrictions on income or assets of investors or potential investors in real estate investment trusts; and to provide an effective date.

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 0 YEAS, 46 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

NAYS: Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Kilzer

Engrossed HB 1140 lost.

SECOND READING OF HOUSE BILL

HB 1385: A BILL for an Act to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to the attendance of mature students at institutions of higher education.

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 9 YEAS, 37 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Dever; Mathern; Nodland; O'Connell; Sorvaag; Stenehjerm; Wardner

NAYS: Berry; Burckhard; Christmann; Cook; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Miller; Murphy; Nelson; Nething; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Taylor; Triplett; Uglem; Wanzek; Warner

ABSENT AND NOT VOTING: Kilzer

Engrossed HB 1385 lost.

SECOND READING OF HOUSE BILL

HB 1200: A BILL for an Act to amend and reenact section 54-53-02 of the North Dakota Century Code, relating to members of the advisory transportation council to the upper great plains transportation institute.

ROLL CALL

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

YEAS: Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Kilzer

Engrossed HB 1200 passed.

SECOND READING OF HOUSE BILL

HB 1271: A BILL for an Act to amend and reenact subsection 2 of section 37-01-42 of the North Dakota Century Code, relating to honorary high school diplomas for Korean conflict veterans.

ROLL CALL

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

YEAS: Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Kilzer

HB 1271 passed.

SECOND READING OF HOUSE BILL

HB 1399: A BILL for an Act to amend and reenact sections 4-09-06.1, 4-11-01, 4-11-03, 4-11-04, 4-11-04.1, 4-11-14, 4-11-15.2, 4-11-20, 4-11-22, and 4-11-23 of the North Dakota Century Code or in the alternative to amend and reenact sections 4.1-53-10, 4.1-53-35, 4.1-57-01, 4.1-57-03, 4.1-57-04, 4.1-57-05, 4.1-57-12, 4.1-57-15, 4.1-57-

19, 4.1-57-21, and 4.1-57-22 of the North Dakota Century Code, relating to label requirements, phytosanitary certificates, and wholesale potato dealers; to repeal sections 4-09-22, 4-11-17, and 4-11-18 of the North Dakota Century Code or in the alternative to repeal sections 4.1-53-56, 4.1-57-17, and 4.1-57-18 of the North Dakota Century Code, relating to reports, complaints, and the prosecution of violations pertaining to the sale of potatoes; and to provide a penalty.

ROLL CALL

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

YEAS: Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Kilzer

Engrossed HB 1399 passed.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

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.

MOTION

SEN. STENEHJEM MOVED that HCR 3027 be placed at the bottom of the Fourteenth order, which motion prevailed.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3024: A concurrent resolution congratulating the North Dakota Grain Dealers Association as it celebrates 100 years of existence.

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

HCR 3024 was declared adopted on a voice vote.

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

MR. SPEAKER: The Senate has passed, unchanged: HB 1078, HB 1213, HB 1375, HCR 3005, HCR 3010.

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

MR. SPEAKER: The Senate has amended and subsequently passed: HB 1071.

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

MR. PRESIDENT: The House has passed, unchanged: SB 2026, SB 2075, SB 2109, SB 2165, SB 2179, SB 2215, SB 2234, SB 2352.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)
MR. PRESIDENT: The House has passed, the emergency clause carried, unchanged: SB 2023, SB 2322.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)
MR. PRESIDENT: The House has amended and subsequently passed: SB 2114.

HOUSE AMENDMENTS TO SENATE BILL NO. 2114

Page 1, line 22, remove the overstrike over "certified"

Page 1, line 22, remove "regular"

Page 1, line 23, remove "a notice of decision reversing the previous decision or, in accordance with the"

Page 1, line 24, remove "North Dakota Rules of Civil Procedure."

Renumber accordingly

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)
MR. PRESIDENT: The House has failed to pass, unchanged: SB 2183.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: Your signature is respectfully requested on: SB 2062, SB 2064, SB 2136, SB 2156, SB 2166, SB 2168, SB 2190, SB 2192, SB 2199, SB 2263, SB 2292.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)
MR. PRESIDENT: Your signature is respectfully requested on: HB 1027, HB 1083, HB 1098, HB 1102, HB 1108, HB 1109, HB 1122, HB 1131, HB 1137, HB 1156, HB 1159, HB 1181, HB 1218, HB 1261, HB 1337, HB 1396.

MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)
MR. PRESIDENT: The Speaker has signed: HB 1263.

MOTION

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

MOTION

SEN. CHRISTMANN MOVED that the Senate be on the Fourth, Fifth, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Thursday, March 17, 2011, which motion prevailed.

REPORT OF STANDING COMMITTEE

HB 1089: Transportation Committee (Sen. G. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1089 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new section to chapter 54-27 of the North Dakota Century Code, relating to effective dates of federal census data for use in tax distributions made by the state treasurer; to"

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

Page 3, after line 18, insert:

"SECTION 2. A new section to chapter 54-27 of the North Dakota Century Code is created and enacted as follows:

Effective date of census data - Tax distributions.

Unless otherwise provided by law, the effective date for federal decennial census data on any population-based tax distributions made by the state treasurer is July first following the release of the federal decennial census data.

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

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1106, as engrossed: Education Committee (Sen. Freborg, Chairman) recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1106 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1113: Transportation Committee (Sen. G. Lee, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1113 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1129, as reengrossed: Education Committee (Sen. Freborg, Chairman) recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1129 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1139: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1139 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1222: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1222 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1270, as engrossed: Education Committee (Sen. Freborg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1270 was placed on the Sixth order on the calendar.

Page 2, line 19, after "2." insert "a."

Page 2, line 20, remove "In all other cases, a license"

Page 2, replace line 21 with:

"b. Notwithstanding subdivision a, the board shall impose the following additional requirements upon certain individuals granted a teaching license under this section.

(1) If the individual received a teaching license or certificate from another state on or after January 1, 2002, and if the issuing state did not require that the individual pass a state test as a condition of licensure or certification, the board shall require that the individual, within two years from the date of licensure:

(a) Pass all state licensure tests normally required of applicants from this state; and

(b) Earn any college credits in native American or other multicultural courses as the board may prescribe.

(2) If the individual received a teaching license or certificate from another state before January 1, 2002, the board shall require that the individual, within two years from the date of licensure, earn any college credits in native American or multicultural courses as the board may prescribe.

c. In all other cases, a license granted under this section is valid for five years and is renewable if the licenseholder meets the reeducation requirements established for all five-year license renewals."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1319: Transportation Committee (Sen. G. Lee, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1319 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1373, as engrossed: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1373 was rereferred to the **Appropriations Committee**.

REPORT OF STANDING COMMITTEE

HB 1378, as engrossed: Agriculture Committee (Sen. Flakoll, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1378 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1391: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1391 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1465, as engrossed: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1465 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HCR 3032: Transportation Committee (Sen. G. Lee, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3032 was placed on the Fourteenth order on the calendar.

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

William R. Horton, Secretary