

## JOURNAL OF THE SENATE

## Sixty-second Legislative Assembly

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Bismarck, April 11, 2011

The Senate convened at 8:00 a.m., with President Pro Tempore Wardner presiding.

The prayer was offered by Pastor LaRue Goetz, Revival Prayer Fellowship, Bismarck.

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

A quorum was declared by the President Pro Tempore.

## MOTION

**SEN. CHRISTMANN MOVED** that HB 1012 be placed after HB 1020 on the Sixth order on the calendar, which motion prevailed.

## MOTION

**SEN. CHRISTMANN MOVED** that HB 1339 be placed at the bottom of the Sixth order, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**HB 1451, as engrossed and amended: SEN. WARDNER (Appropriations Committee) MOVED** that the amendments on SJ pages 1349-1350 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 1451:** A BILL for an Act to amend and reenact sections 15-08.1-08 and 57-51.1-07.2 of the North Dakota Century Code, relating to the lands and minerals trust fund and the permanent oil tax trust fund; to provide an effective date; and to declare an emergency.

## ROLL CALL

The question being on the final passage of the amended bill, which has been read, 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; Kilzer; Klein; 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:** Krebsbach

Engrossed HB 1451, as amended, passed and the emergency clause was declared carried.

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## CONSIDERATION OF AMENDMENTS

**HB 1020, as engrossed: SEN. BOWMAN (Appropriations Committee) MOVED** that the amendments on SJ pages 1341-1345 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 1020:** A BILL for an Act to provide an appropriation for defraying the expenses of the extension service, northern crops institute, upper great plains transportation institute, main research center, branch research centers, and agronomy seed farm; to amend and reenact section 4-14.2-02 of the North Dakota Century Code, relating to the northern crops council; to provide for transfers; to provide an exemption; 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 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; Kilzer; Klein; 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:** Krebsbach

Engrossed HB 1020, as amended, passed and the emergency clause was declared carried.

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#### CONSIDERATION OF AMENDMENTS

**HB 1012, as engrossed: SEN. WARDNER (Appropriations Committee) MOVED** that the amendments on SJ pages 1304-1308 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 1012:** A BILL for an Act to provide an appropriation for defraying the expenses of the department of transportation; to provide appropriations to the state treasurer for transportation funding distributions; to repeal section 2 of chapter 573 of the 2009 Session Laws, relating to highway-rail grade safety projects; to provide for transfers; to provide for borrowing authority; to provide an exemption; to provide for a legislative management study; 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 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; Kilzer; Klein; 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:** Krebsbach

Engrossed HB 1012, as amended, passed and the emergency clause was declared carried.

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#### MOTION

**SEN. CHRISTMANN MOVED** that HB 1340 be placed at the top of the Sixth order, which motion prevailed.

#### CONSIDERATION OF AMENDMENTS

**HB 1340: SEN. NETHING (Judiciary Committee) MOVED** that the amendments on SJ pages 1348-1349 be adopted and then be placed on the Fourteenth order with **DO NOT PASS**, which motion prevailed on a voice vote.

#### SECOND READING OF HOUSE BILL

**HB 1340:** A BILL for an Act to amend and reenact section 5-01-17 of the North Dakota Century Code, relating to sales by a winery.

**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 22 YEAS, 24 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Berry; Christmann; Dotzenrod; Erbele; Fischer; Grindberg; Heckaman; Larsen; Lee, J.; Luick; Marcellais; Mathern; Miller; Murphy; Nodland; O'Connell; Robinson; Sitte; Taylor; Triplett; Uglem; Warner

**NAYS:** Andrist; Bowman; Burckhard; Cook; Dever; Flakoll; Freborg; Hogue; Holmberg; Kilzer; Klein; Laffen; Lee, G.; Lyson; Nelson; Nething; Oehlke; Olafson; Schaible; Schneider; Sorvaag; Stenehjerm; Wanzek; Wardner

**ABSENT AND NOT VOTING:** Krebsbach

HB 1340, as amended, lost.

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**MOTION**

**SEN. CHRISTMANN MOVED** that HB 1012, HB 1020, and HB 1451 be messaged to the House immediately, which motion prevailed.

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

**MR. SPEAKER:** The Senate has amended, subsequently passed, and the emergency clause carried: HB 1012, HB 1020, HB 1451.

**MOTION**

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

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

**CORRECTION AND REVISION OF THE JOURNAL**

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

Page 1199, line 12, replace "1186" with "1185"

Page 1244, line 24, replace "on thousand" with "one thousand"

Page 1266, line 47, remove ", and the emergency clause was declared carried"

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

**CONSIDERATION OF AMENDMENTS**

**HB 1289, as engrossed and amended: SEN. COOK (Appropriations Committee) MOVED** that the amendments on SJ pages 1347-1348 be adopted and then be placed on the Fourteenth order with **DO PASS**.

**REQUEST**

**SEN. COOK REQUESTED** that the Senate divide the amendments to Engrossed HB 1289, as amended, which request was granted.

**DIVISION A:** "Page 4, line 24, after "for" insert "the first two"

Page 4, line 25, after "2010" insert ", and is thereafter ineffective"

**DIVISION B:** Remainder of proposed amendment

**REQUEST**

**SEN. COOK REQUESTED** a verification vote on Division A of the proposed amendments to Engrossed HB 1289, as amended, which request was granted.

The question being the adoption of Division A of the proposed amendments to Engrossed HB 1289, as amended, the motion passed on a verification vote.

Division A of the proposed amendments to Engrossed HB 1289, as amended, was adopted on a verification vote.

The question being the adoption of Division B of the proposed amendments to Engrossed HB 1289, as amended, the motion passed on a verification vote.

Division B of the proposed amendments to Engrossed HB 1289, as amended, was adopted on a verification vote.

The question being on the motion to adopt the amendments to Engrossed HB 1289, as amended which includes Division A and Division B, the motion prevailed on a voice vote.

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

**HB 1289:** A BILL for an Act to amend and reenact section 57-38-30 and subsection 1 of section 57-38-30.3 of the North Dakota Century Code, relating to reduction of income tax rates for corporations and individuals, estates, and trusts; to provide an effective date; and to provide an expiration date.

### **MOTION**

**SEN. TAYLOR MOVED** that Engrossed HB 1289, as amended, be amended as follows.

In lieu of the amendments adopted by the Senate as printed on pages 1347 and 1348 of the Senate Journal, Engrossed House Bill No. 1289 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 57-38 and a new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to an individual income tax relief credit; to amend and reenact section 57-38-30 of the North Dakota Century Code, relating to a corporate income tax exemption; to provide an effective date; and to provide an expiration date.

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

**SECTION 1. AMENDMENT.** Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

#### **57-38-30. Imposition and rate of tax on corporations.**

A tax is hereby imposed upon the taxable income of every domestic and foreign corporation which must be levied, collected, and paid annually as in this chapter provided:

1. a. For the first ~~twenty-five~~seventy-five thousand dollars of taxable income, ~~at the rate of two and one-tenth percent~~no tax.
- b. ~~On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of five and twenty-five hundredths percent.~~
- e. ~~On all taxable income exceeding fifty~~seventy-five thousand dollars, at the rate of six and four-tenths percent.
2. A corporation that has paid North Dakota alternative minimum tax in years beginning before January 1, 1991, may carry over any alternative minimum tax credit remaining to the extent of the regular income tax liability of the corporation for a period not to exceed four taxable years.

**SECTION 2.** A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

**Individual income tax relief credit.**

A credit is provided against individual income tax liability as determined under section 57-38-30.3 in the amount of one hundred forty dollars for an individual filing a single, married filing separately, or head of household return and two hundred eighty dollars for individuals filing a married filing jointly or surviving spouse return.

**SECTION 3.** A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

**Individual income tax relief credit under section 2 of this Act.**

**SECTION 4. EFFECTIVE DATE - EXPIRATION DATE.** Section 1 of this Act is effective for the first two taxable years beginning after December 31, 2010, and is thereafter ineffective. Sections 2 and 3 of this Act are effective for the first taxable year beginning after December 31, 2010, and are thereafter ineffective."

Renumber accordingly

**REQUEST**

**SEN. SCHNEIDER REQUESTED** a recorded roll call vote on the motion to adopt the proposed amendments to Engrossed HB 1289, as amended, which request was granted.

**ROLL CALL**

The question being on the motion to adopt the proposed amendments to Engrossed HB 1289, as amended, the roll was called and there were 12 YEAS, 34 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Dotzenrod; Heckaman; Marcellais; Mathern; Murphy; Nelson; O'Connell; Robinson; Schneider; Taylor; Triplett; Warner

**NAYS:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Erbele; Fischer; Flakoll; Freborg; Grindberg; Hogue; Holmberg; Kilzer; Klein; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Miller; Nething; Nodland; Oehlke; Olafson; Schaible; Sitte; Sorvaag; Stenehjerm; Uglem; Wanzek; Wardner

**ABSENT AND NOT VOTING:** Krebsbach

The proposed amendments to Engrossed HB 1289, as amended, failed on a recorded roll call vote.

**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 36 YEAS, 10 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Erbele; Fischer; Flakoll; Freborg; Grindberg; Hogue; Holmberg; Kilzer; Klein; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Miller; Murphy; Nething; Nodland; O'Connell; Oehlke; Olafson; Schaible; Sitte; Sorvaag; Stenehjerm; Uglem; Wanzek; Wardner

**NAYS:** Dotzenrod; Heckaman; Marcellais; Mathern; Nelson; Robinson; Schneider; Taylor; Triplett; Warner

**ABSENT AND NOT VOTING:** Krebsbach

Engrossed HB 1289, as amended, passed.

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**CONSIDERATION OF AMENDMENTS**

**HB 1245, as engrossed and amended: SEN. WARDNER (Appropriations Committee) MOVED** that the amendments on SJ pages 1345-1347 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 1245:** A BILL for an Act to amend and reenact sections 40-57.3-01 and 40-57.3-01.1 and subsection 1 of section 57-39.2-02.1 of the North Dakota Century Code, relating to city lodging tax and state sales tax application to hotel, motel, and tourist court stays; and to provide an effective date.

**MOTION**

**SEN. WARDNER MOVED** that Engrossed HB 1245, as amended, be amended as follows, which motion prevailed on a voice vote.

In lieu of the amendments adopted by the Senate as printed on pages 837 and 838 and pages 1345-1347 of the Senate Journal, Engrossed House Bill No. 1245 is amended as follows:

Page 1, line 1, replace the third "and" with ", subsection 1 of section 57-39.2-02.1, and"

Page 1, line 3, remove "of thirty days or more"

Page 1, line 11, remove the overstrike over "~~for periods of~~"

Page 1, line 11, after "~~thirty~~" insert "ninety or fewer"

Page 1, line 11, remove the overstrike over "~~consecutive calendar days~~"

Page 2, line 1, remove the overstrike over "~~for periods of~~"

Page 2, line 1, after "~~thirty~~" insert "ninety or fewer"

Page 2, line 1, remove the overstrike over "~~consecutive calendar days~~"

Page 2, after line 22, insert:

**"SECTION 3. AMENDMENT.** Subsection 1 of section 57-39.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as otherwise expressly provided in subsection 2 for sales of mobile homes used for residential or business purposes, and except as otherwise expressly provided in this chapter, there is imposed a tax of five percent upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as provided in this section, within this state of the following to consumers or users:
  - a. Tangible personal property, consisting of goods, wares, or merchandise, except mobile homes used for residential or business purposes and including bundled transactions consisting entirely of tangible personal property.
  - b. The furnishing or service of communication services or steam other than steam used for processing agricultural products.
  - c. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity and the playing of any machine for amusement or entertainment in response to the use of a coin. The tax imposed by this section applies only to eighty percent of the gross receipts collected from coin-operated amusement devices.
  - d. Magazines and other periodicals.
  - e. The leasing or renting of a hotel or motel room or tourist court accommodations for periods of ninety or fewer consecutive calendar days.

- f. The leasing or renting of tangible personal property the transfer of title to which has not been subjected to a retail sales tax under this chapter or a use tax under chapter 57-40.2.
- g. Sale, lease, or rental of a computer and prewritten computer software, including prewritten computer software delivered electronically or by load and leave. For purposes of this subdivision:
  - (1) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.
  - (2) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.
  - (3) "Delivered electronically" means delivered from the seller to the purchaser by means other than tangible storage media.
  - (4) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
  - (5) "Load and leave" means delivery to the purchaser by use of a tangible storage media when the tangible storage media is not physically transferred to the purchaser.
  - (6) "Prewritten computer software" means computer software, including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more "prewritten computer software" programs or prewritten portions thereof does not cause the combination to be other than "prewritten computer software". "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. If a person modifies or enhances "computer software" of which the person is not the author or creator, the person is deemed to be the author or creator only of such person's modifications or enhancements. "Prewritten computer software" or a prewritten portion thereof that is modified or enhanced to any degree, if such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains "prewritten computer software". However, if there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute "prewritten computer software".
- h. A mandatory computer software maintenance contract for prewritten computer software.
- i. An optional computer software maintenance contract for prewritten computer software that provides only software upgrades or updates or an optional computer software maintenance contract for prewritten computer software that is a bundled transaction and provides software upgrades or updates and support services."

Page 2, line 28, overstrike "and the gross receipts from the leasing or renting of a hotel or motel room or"

Page 2, line 29, overstrike "tourist court accommodations"

Page 2, line 30, overstrike "for periods of thirty or more consecutive days"

Renumber accordingly

### 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 19 YEAS, 28 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Burckhard; Christmann; Dever; Dotzenrod; Erbele; Heckaman; Kilzer; Krebsbach; Laffen; Mathern; Murphy; Nodland; O'Connell; Oehlke; Schneider; Taylor; Triplett; Wanzek; Wardner

**NAYS:** Andrist; Berry; Bowman; Cook; Fischer; Flakoll; Freborg; Grindberg; Hogue; Holmberg; Klein; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Miller; Nelson; Nething; Olafson; Robinson; Schaible; Sitte; Sorvaag; Stenehjerm; Uglem; Warner

Engrossed HB 1245, as amended, lost.

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### CONSIDERATION OF AMENDMENTS

**HB 1339, as engrossed: SEN. NOTHING (Judiciary Committee) MOVED** that the amendments on SJ page 1348 be adopted and then be placed on the Fourteenth order with **DO NOT PASS**, which motion prevailed on a voice vote.

### SECOND READING OF HOUSE BILL

**HB 1339:** A BILL for an Act to create and enact a new section to chapter 5-01 of the North Dakota Century Code, relating to brewery licenses; and to amend and reenact section 5-03-07 of the North Dakota Century Code, relating to taxes on alcohol.

### 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 1 YEA, 46 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Hogue

**NAYS:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Holmberg; Kilzer; 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

Engrossed HB 1339, as amended, lost.

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### SECOND READING OF HOUSE BILL

**HB 1416:** A BILL for an Act to amend and reenact subsection 13 of section 23-11-01, section 23-11-21, subsection 23 of section 23-11-24, and section 23-11-29 of the North Dakota Century Code, relating to housing authorities and bonded indebtedness; 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 NOT PASS, the roll was called and there were 1 YEA, 46 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Andrist

**NAYS:** Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; 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

HB 1416 lost.

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

**SEN. CHRISTMANN MOVED** that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on HB 1006, Engrossed HB 1014, Engrossed HB 1021, Engrossed HB 1046, and Engrossed HB 1424, which motion prevailed.

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

**HB 1006:** Sens. Krebsbach, Grindberg, O'Connell  
**Engrossed HB 1014:** Sens. Wardner, Erbele, Warner  
**Engrossed HB 1021:** Sens. Christmann, Fischer, Robinson  
**Engrossed HB 1046:** Sens. Cook, Hogue, Dotzenrod  
**Engrossed HB 1424:** Sens. Cook, Oehlke, Triplett

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

**SEN. CHRISTMANN MOVED** that the Senate Conference Committee on Engrossed HB 1164, be dissolved, which motion prevailed.

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

**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1289.

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

**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1417.

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

**MR. SPEAKER:** The Senate has amended and subsequently failed to pass: HB 1245, HB 1339.

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

**MR. SPEAKER:** The Senate has failed to pass, unchanged: HB 1416.

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

**MR. PRESIDENT:** The House has amended and subsequently passed: SB 2008.

#### **HOUSE AMENDMENTS TO SENATE BILL NO. 2008**

Page 1, line 3, replace "authorize a transfer" with "provide for a legislative management study"

Page 2, replace lines 19 through 27 with:

**"SECTION 4. LEGISLATIVE MANAGEMENT STUDY - PIPELINE SAFETY STUDY.** During the 2011-12 interim, the legislative management shall consider studying gas pipelines in the state focusing on safety concerns of gas utility distribution and transmission. The study must include all pipeline activity and address the jurisdiction of pipelines in the state in consultation with the public service commission, industrial commission, and North Dakota one call. 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

#### **STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2008 - Public Service Commission - House Action**

Section 4 of the bill relating to use of the beginning farmer revolving loan fund for costs

associated with the rail rate complaint case is removed.

A section is added providing for a Legislative Management study relating to gas pipelines in the state, focusing on safety concerns of gas utility distribution and transmission, in consultation with the Public Service Commission, Industrial Commission, and North Dakota One Call.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has amended, subsequently passed, and the emergency clause carried: SB 2020.

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2020**

Page 1, line 2, after the semicolon insert "to create and enact a new section to chapter 61-04 of the North Dakota Century Code, relating to metering certain water sources;"

Page 1, line 3, remove "to repeal section 5 of chapter 535"

Page 1, remove line 4

Page 1, line 5, remove "center;"

Page 2, after line 30, insert:

**"SECTION 6.** A new section to chapter 61-04 of the North Dakota Century Code is created and enacted as follows:

**Metering of certain water sources required - Rules.**

The state engineer shall require the remote metering of water used pursuant to a temporary or perfected water permit and sold for oil and gas purposes. Except for nonpotable ground water used for enhanced oil recovery purposes and water uses of less than fifteen acre-feet per year, all other permitted and temporarily permitted industrial water supplies sold for oil and gas purposes are subject to the metering requirements of this section. The state engineer shall develop rules to provide:

1. The specifications for remote terminal water metering devices;
2. That metering be operational by July 1, 2012;
3. That meters be available for inspection by state water commission staff on a daily basis;
4. That meters be sealed and tamperproof;
5. That meters may be replaced only under supervision of the state engineer; and
6. That the penalty for circumventing the provisions of this section shall be a thirty-day suspension of the noncompliant permit."

Page 3, line 31, replace "\$250,000" with "\$100,000"

Page 4, replace lines 3 through 6 with:

**"SECTION 10. LEGISLATIVE INTENT - WATER-RELATED FUNDING PRIORITIES.** It is the intent of the sixty-second legislative assembly that the \$5,000,000 for the Red River valley water supply project identified by the state water commission as a 2011-13 biennium funding priority be used for general statewide water management and that the state water commission not spend any funding for the Red River valley water supply project during the 2011-13 biennium."

Page 4, remove line 7

Page 4, line 8, replace "6" with "7"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2020 - State Water Commission - House Action**

This amendment changes the legislative intent section relating to a grant to Wildlife Services by reducing it from \$250,000 to \$100,000.

The amendment removes:

- Section 9 providing legislative intent relating to the Garrison Diversion Conservancy District.
- Section 10 repealing Section 5 of the 1999 Session Laws Chapter 535 relating to a pledge of revenues from the Grand Forks Corporate Center.

In addition, the amendment:

- Adds a section to create a new section to Chapter 61-04 relating to the metering of certain water sources.
- Provides legislative intent relating to the use of funds for water project priorities.

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

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

**SB 2012:** Reps. Pollert; Bellew; Kaldor

**SB 2298:** Reps. Kreidt; Hawken; Metcalf

**SB 2309:** Reps. Kasper; Ruby; Gruchalla

**SB 2369:** Reps. Delzer; Thoreson; Kroeber

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

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

**SB 2327:** Reps. Grande; Paur; Amerman

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

**MR. PRESIDENT:** The House does not concur in the Senate amendments to HB 1004, HB 1019, HB 1074, HB 1126, HB 1134, HB 1141, and HB 1206, and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

**HB 1004:** Reps. Bellew; J. Nelson; Kaldor

**HB 1019:** Reps. Skarphol; Dosch; Williams

**HB 1074:** Reps. Monson; R. Kelsch; Williams

**HB 1126:** Reps. Keiser; Kasper; Gruchalla

**HB 1134:** Reps. Grande; Streyle; Amerman

**HB 1141:** Reps. Boehning; L. Meier; Winrich

**HB 1206:** Reps. Keiser; Hofstad; S. Kelsh

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

**MR. PRESIDENT:** The House does not concur in the Senate amendments to HB 1006, HB 1014, and HB 1021, and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

**HB 1006:** Reps. Kempenich; Dahl; Glassheim

**HB 1014:** Reps. Brandenburg; Thoreson; Kroeber

**HB 1021:** Reps. Thoreson; Pollert; Glassheim

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

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

**HB 1006:** Sens. Krebsbach; Grindberg; O'Connell

**HB 1014:** Sens. Wardner; Erbele; Warner

**HB 1021:** Sens. Christmann; Fischer; Robinson

**HB 1046:** Sens. Cook; Hogue; Dotzenrod

**HB 1424:** Sens. Cook; Oehlke; Triplett

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

**MR. SPEAKER:** The Senate has dissolved the Senate conference committee on: HB 1164.

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

**MR. PRESIDENT:** The House has adopted the conference committee report and subsequently passed: HB 1092.

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

**MR. SPEAKER:** Your signature is respectfully requested on: SB 2002, SB 2006, SB 2010, SB 2011, SB 2022, SB 2024, SB 2043, SB 2115, SB 2275, SB 2306, SB 2323, SCR 4003, SCR 4013.

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

**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1267, HB 1297.

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

**MR. PRESIDENT:** The Speaker has signed: SB 2002, SB 2006, SB 2010, SB 2011, SB 2022, SB 2024, SB 2043, SB 2115, SB 2275, SB 2306, SB 2323, SCR 4003, SCR 4007, SCR 4013.

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

**MR. SPEAKER:** The President has signed: SCR 4007.

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

**MR. SPEAKER:** The President has signed: HB 1267, HB 1297.

**COMMUNICATION FROM GOVERNOR JACK DALRYMPLE**

This is to inform you that on April 1, 2011, I have signed the following: SB 2069, SB 2148, and SB 2256.

Also, on March 29, 2011, I have signed the following: SB 2322.

Also, on April 7, 2011, I have signed the following: SB 2071 and SB 2120.

Also, on April 8, 2011, I have signed the following: SB 2232.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following resolution was delivered to the Secretary of State for filing on April 11, 2011: SCR 4007.

**MOTION**

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

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate be on the Fourth, Fifth, Seventh, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 8:00 a.m., Tuesday, April 12, 2011, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**HCR 3009: Judiciary Committee (Sen. Nething, Chairman)** recommends **DO PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HCR 3009 was placed on the

Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HCR 3048: Judiciary Committee (Sen. Nething, Chairman)** recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HCR 3048 was placed on the Fourteenth order on the calendar.

#### REPORT OF CONFERENCE COMMITTEE

**SB 2073, as engrossed:** Your conference committee (Sens. Olafson, Sorvaag, Nelson and Reps. Klemin, Maragos, Kilichowski) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 875-877, adopt amendments as follows, and place SB 2073 on the Seventh order:

That the House recede from its amendments as printed on pages 875-877 of the Senate Journal and pages 1048-1050 of the House Journal and that Engrossed Senate Bill No. 2073 be amended as follows:

Page 1, line 1, after "reenact" insert "section 16.1-08.1-01,"

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

Page 1, line 2, remove ", and subsection 2 of section 16.1-08.1-03.8"

Page 1, line 3, after "to" insert "the definition of direct expenditures and"

Page 1, after line 4, insert:

**"SECTION 1. AMENDMENT.** Section 16.1-08.1-01 of the North Dakota Century Code is amended and reenacted as follows:

#### **16.1-08.1-01. Definitions.**

As used in this chapter, unless the context otherwise requires:

1. "Association" means any club, association, union, brotherhood, fraternity, organization, or group of any kind of two or more persons, including labor unions, trade associations, professional associations, or governmental associations, which is united for any purpose, business, or object and which assesses any dues, membership fees, or license fees in any amount, or which maintains a treasury fund in any amount. The term does not include corporations, cooperative corporations, limited liability companies, political committees, or political parties.
2. "Candidate" means an individual who seeks nomination for election or election to public office, and includes:
  - a. A person holding public office;
  - b. A person who has publicly declared that person's candidacy for nomination for election or election to public office or has filed or accepted a nomination for public office;
  - c. A person who has formed a campaign or other committee for that person's candidacy for public office;
  - d. A person who has circulated a nominating petition to have that person's name placed on the ballot; and
  - e. A person who has, in any manner, solicited or received a contribution for that person's candidacy for public office, whether before or after the election for that office.
3. "Contribution" means a gift, transfer, conveyance, provision, receipt, subscription, loan, advance, deposit of money, or anything of value, made for the purpose of influencing the nomination for election, or

election, of any person to public office or aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure. The term also means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any of the above purposes. The term includes funds received by a candidate for public office or a political party or committee which are transferred or signed over to that candidate, party, or committee from another candidate, party, or political committee or other source. The term "anything of value" includes any good or service of more than a nominal value. The term "nominal value" means the cost, price, or worth of the good or service is trivial, token, or of no appreciable value. The term "contribution" does not include:

- a. A loan of money from a bank or other lending institution made in the regular course of business.
  - b. Time spent by volunteer campaign or political party workers.
  - c. Money spent by a candidate on the candidate's own behalf.
  - d. Money or anything of value received for commercial transactions, including rents, advertising, or sponsorships made as a part of a fair market value bargained-for exchange.
  - e. Money or anything of value received by a candidate in that person's personal capacity, including pursuant to a contract or agreement made for personal or private employment purposes, and not received for a political purpose or to influence the performance of that person's official duty.
  - f. Contributions of products or services for which the actual cost or fair market value are reimbursed by a payment of money.
4. "Cooperative corporations", "corporations", and "limited liability companies" are as defined in this code, and for purposes of this chapter "corporations" includes nonprofit corporations.
  5. "Direct expenditure" means an expenditure made by a corporation, cooperative corporation, limited liability company, or association for the specific purpose of promoting passage or defeat of an initiated or referred measure without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of a measure committee.
  6. "Expenditure" means a gift, transfer, conveyance, provision, loan, advance, payment, distribution, disbursement, outlay, or deposit of money or anything of value, except a loan of money from a bank or other lending institution made in the regular course of business, made for the direct purpose of influencing the passage or defeat of a measure or the nomination for election, or election, of any individual to office. The term also means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure and includes the transfer of funds by a political committee to another political committee.
  7. "Patron" means a person who owns equity interest in the form of stock, shares, or membership or maintains similar financial rights in a cooperative corporation.
  - ~~7-8.~~ "Person" means an individual, partnership, political committee, association, corporation, cooperative corporation, limited liability company, or other organization or group of persons.

- ~~8-9.~~ "Political committee" means any committee, club, association, or other group of persons which receives contributions or makes expenditures for political purposes and includes the following:
- a. A political action committee, derived from a corporation, cooperative corporation, limited liability company, or an association that is prohibited from making direct contributions for political purposes under section 16.1-08.1-03.3, and which solicits or receives contributions or makes expenditures for political purposes;
  - b. A candidate committee, established to support an individual candidate seeking statewide office, that solicits or receives contributions for political purposes;
  - c. An organization governed by section 527 of the Internal Revenue Code [26 U.S.C. 527], which solicits or receives contributions or makes expenditures for political purposes;
  - d. A multicandidate political committee, established to support multiple groups or slates of candidates seeking public office, that solicits or receives contributions for political purposes; and
  - e. A measure committee that solicits or receives contributions for the purpose of aiding or opposing a measure to be voted upon by the voters of the state.
- ~~9-10.~~ "Political party" means any association, committee, or organization which nominates a candidate for election to any office which may be filled by a vote of the electors of this state or any of its political subdivisions and whose name appears on the election ballot as the candidate of such association, committee, or organization.
- ~~10-11.~~ "Political purpose" means any activity undertaken in support of or in opposition to the election or nomination of a candidate to public office and includes using "vote for", "oppose", or any similar support or opposition language in any advertisement whether the activity is undertaken by a candidate, a political committee, a political party, or any person. In the period thirty days before a primary election and sixty days before a special or general election, "political purpose" also means any activity in which a candidate's name, office, district, or any term meaning the same as "incumbent" or "challenger" is used in support of or in opposition to the election or nomination of a candidate to public office. The term does not include activities undertaken in the performance of a duty of a state office or any position taken in any bona fide news story, commentary, or editorial.
- ~~11-12.~~ "Public office" means every office to which persons can be elected by vote of the people under the laws of this state."

Page 3, remove lines 28 through 31

Page 4, remove lines 1 through 7

Renumber accordingly

Engrossed SB 2073 was placed on the Seventh order of business on the calendar.

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

**SB 2085, as engrossed:** Your conference committee (Sens. Miller, Luick, Murphy and Reps. Wall, Mueller, Schmidt) recommends that the **SENATE ACCEDE** to the House amendments as printed on SJ page 877 and place SB 2085 on the Seventh order.

Engrossed SB 2085 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2145, as engrossed:** Your conference committee (Sens. Lyson, Sitte, Nelson and Reps. Devlin, Heilman, Mock) recommends that the **SENATE ACCEDE** to the House amendments as printed on SJ pages 694-695 and place SB 2145 on the Seventh order.

Engrossed SB 2145 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2158, as engrossed:** Your conference committee (Sens. Sitte, Olafson, Sorvaag and Reps. Beadle, Kretschmar, Hogan) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ page 753, adopt amendments as follows, and place SB 2158 on the Seventh order:

That the House recede from its amendments as printed on page 753 of the Senate Journal and page 950 of the House Journal and that Engrossed Senate Bill No. 2158 be amended as follows:

Page 1, line 9, after the period insert:

"a."

Page 1, line 15, after the period insert "If the state's attorney or holder determines the person identified as the issuer of the instrument did not make, draw, utter, or deliver the instrument in violation of this section but instead is the victim of fraud, that state's attorney or holder shall provide the holder or its agent or representative written notice of the fraud and upon receipt of the notice that holder or its agent or representative may not collect fees or costs under this subdivision."

b."

Page 1, line 18, after the period insert:

"c."

Page 2, line 1, after the period insert:

"d."

Page 2, line 27, replace "ninety" with "one hundred twenty"

Page 2, line 28, remove ". and"

Page 2, remove line 29

Page 2, line 30, remove "notice under this subsection the state's attorney may."

Page 3, line 9, after the period insert "If the state's attorney or holder determines the person identified as the issuer of the instrument did not issue the instrument in violation of this section but instead is the victim of fraud, that state's attorney or holder shall provide the holder or its agent or representative written notice of the fraud and upon receipt of the notice that holder or its agent or representative may not collect fees or costs under this subsection."

Page 3, line 17, replace "ninety" with "one hundred twenty"

Page 3, line 18, remove ". and thereafter until the expiration of one hundred twenty days after the drawer"

Page 3, line 19, remove "received notice under this subsection the state's attorney may."

Renumber accordingly

Engrossed SB 2158 was placed on the Seventh order of business on the calendar.



**REPORT OF CONFERENCE COMMITTEE**

**SB 2182:** Your conference committee (Sens. Nething, Sitte, Lyson and Reps. Koppelman, Maragos, Onstad) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 819-820, adopt amendments as follows, and place SB 2182 on the Seventh order:

That the House recede from its amendments as printed on pages 819 and 820 of the Senate Journal and pages 1014 and 1015 of the House Journal and that Senate Bill No. 2182 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 51-12-01 of the North Dakota Century Code, relating to false and misleading advertising; and to provide a penalty.

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

**SECTION 1. AMENDMENT.** Section 51-12-01 of the North Dakota Century Code is amended and reenacted as follows:

**51-12-01. False and misleading advertising prohibited.**

1. No person with intent to sell, dispose of, increase the consumption of, or induce the public to enter an obligation relative to or to acquire title or interest in any ~~food, drug, medicine, patent and proprietary product,~~ merchandise, security, service, performance, ~~medical treatment, paint, varnish, oil, clothing, wearing apparel, machinery, or anything offered to~~ the public may make, publish, disseminate, circulate, broadcast, or place before the public, or directly or indirectly shall cause to be made, published, disseminated, circulated, broadcast, or placed before the public in a newspaper, or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, tab, label, letter, television or radio broadcast, placement on the internet, or in any other way, an advertisement or web page that contains any assertion, representation, or statement of fact, including the price thereof or name suggesting the business location of the offeror, which is untrue, deceptive, or misleading regarding such ~~food, drug, medicine, patent and proprietary product,~~ merchandise, security, service, performance, ~~medical treatment, paint, varnish, oil, clothing, wearing apparel, machinery,~~ price, business location, or anything offered to the public.
2. It is not a violation of this section to advertise a performance by a performing group if at least one member of the performing group was a member of the recording group, the performance is identified as a "salute" or "tribute" to the recording group, the performance is expressly authorized in the advertising by the recording group, the advertising does not relate to a live music performance taking place in this state, or the advertising contains a disclaimer that the performing group is not the recording group or is not affiliated with the recording group.
3. This section imposes liability on only the offeror of a product or service. This section does not impose liability on a publisher, broadcaster, other advertising media, or an advertising agency that relies on the assurances of a person placing an advertisement that the claims or representations are true."

Renumber accordingly

SB 2182 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**HB 1421, as engrossed:** Your conference committee (Sens. Nodland, Larsen, Schneider and Reps. Kreun, Ruby, Amerman) recommends that the **HOUSE ACCEDE** to the Senate amendments as printed on HJ page 1106 and place HB 1421 on the Seventh order.

Engrossed HB 1421 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**HB 1425, as reengrossed:** Your conference committee (Sens. Larsen, Nodland, Murphy and Reps. Clark, Frantsvog, M. Nelson) recommends that the **HOUSE ACCEDE** to the Senate amendments as printed on HJ page 1029 and place HB 1425 on the Seventh order.

Reengrossed HB 1425 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**HB 1214, as engrossed:** Your conference committee (Sens. Flakoll, Schaible, Marcellais and Reps. R. Kelsch, Rust, Hunskor) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ page 1066, adopt amendments as follows, and place HB 1214 on the Seventh order:

That the Senate recede from its amendments as printed on page 1066 of the House Journal and pages 755 and 756 of the Senate Journal and that Engrossed House Bill No. 1214 be amended as follows:

Page 1, line 1, replace the first comma with "and"

Page 1, line 1, remove ", and 15.1-02-18.3"

Page 1, line 3, replace "sections" with "section"

Page 1, line 3, after "15.1-02-18" insert ", subsection 6 of section 23-02.1-27,"

Page 1, line 3, after the second "and" insert "section"

Page 1, line 4, after "system" insert "and to the disclosure of records"

Page 3, remove lines 22 through 28

Page 3, line 29, replace "15.1-02-18.3" with "15.1-02-18.2"

Page 4, line 1, replace "15.1-02-18.3" with "15.1-02-18.2"

Page 4, after line 10, insert:

**"SECTION 4. AMENDMENT.** Subsection 6 of section 23-02.1-27 of the North Dakota Century Code is amended and reenacted as follows:

6. The state department of health may grant limited access to birth and death information to the department of human services and the department of information technology necessary for the purpose of completing its official duties."

Renumber accordingly

Engrossed HB 1214 was placed on the Seventh order of business on the calendar.

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

**William R. Horton, Secretary**