

JOURNAL OF THE HOUSE

Sixty-second Legislative Assembly

* * * * *

Bismarck, March 17, 2011

The House convened at 1:00 p.m., with Speaker Drovdal presiding.

The prayer was offered by Rev. Gary Heaton, Chaplain, MedCenter One, Bismarck.

The roll was called and all members were present except Representatives Froseth and Owens.

A quorum was declared by the Speaker.

SIXTH ORDER OF BUSINESS

SPEAKER DROVDAL DEEMED approval of the amendments to Engrossed SB 2129, Engrossed SB 2138, Reengrossed SB 2159, SB 2173, Engrossed SB 2185, Engrossed SB 2232, SB 2241, SB 2247, and Engrossed SB 2285.

Engrossed SB 2129, Engrossed SB 2138, Reengrossed SB 2159, SB 2173, Engrossed SB 2185, Engrossed SB 2232, SB 2241, SB 2247, and Engrossed SB 2285, as amended, were placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

MOTION

REP. VIGESAA MOVED that SB 2184, which is on the Fourteenth order, be laid over one legislative day, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2137: A BILL for an Act to create and enact a new subsection to section 57-39.2-04 of the North Dakota Century Code, relating to a sales and use tax exemption for sales by thrift stores owned and operated by nonprofit corporations; 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 37 YEAS, 55 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Amerman; Beadle; Bellew; Conklin; Damschen; Delmore; Frantsvog; Glasheim; Grande; Gruchalla; Guggisberg; Hanson; Hawken; Hogan; Holman; Hunskor; Johnson, N.; Kaldor; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kilichowski; Kretschmar; Kroeber; Maragos; Metcalf; Meyer, S.; Mock; Monson; Mueller; Nelson, M.; Onstad; Porter; Schatz; Williams; Winrich; Zaiser

NAYS: Anderson; Belter; Boe; Boehning; Brabandt; Brandenburg; Carlson; Clark; Dahl; DeKrey; Delzer; Devlin; Dosch; Hatlestad; Headland; Heilman; Heller; Hofstad; Johnson, D.; Karls; Kasper; Keiser; Kempenich; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kreun; Louser; Martinson; Meier, L.; Nathe; Nelson, J.; Paur; Pietsch; Pollert; Rohr; Ruby; Rust; Sanford; Schmidt; Skarphol; Steiner; Streytle; Sukut; Thoreson; Trottier; Vigesaa; Wall; Weiler; Weisz; Wieland; Wrangham; Speaker Drovdal

ABSENT AND NOT VOTING: Froseth; Owens

SB 2137 lost.

SECOND READING OF SENATE BILL

SB 2142: A BILL for an Act to amend and reenact sections 15.1-02-16, 15.1-18-05, and

15.1-18-06, subsection 4 of section 15.1-32-01, subsection 4 of section 20.1-03-04, subsection 11 of section 25-03.1-02, subsections 3, 4, and 8 of section 25-03.3-01, section 25-03.3-07, subsection 2 of section 25-03.3-08, subsection 2 of section 25-03.3-09, sections 25-03.3-10, 25-03.3-11, and 25-03.3-12, subsection 1 of section 25-03.3-18, sections 25-03.3-19, 25-16.1-02, 25-18-01, and 25-18-15, subsection 4 of section 26.1-36-22, subsection 1 of section 27-20-34, subsection 2 of section 50-06-05.3, subsection 1 of section 50-24.1-07, subsection 9 of section 50-25.1-02, subsection 7 of section 57-38-01, and sections 57-63-01, 57-63-02, 57-63-03, and 57-63-13 of the North Dakota Century Code, relating to changing mental retardation to intellectual disability and mentally retarded to individual with an intellectual disability; and to provide for reconciliation by the legislative council of these terms in statutory provisions.

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 91 YEAS, 1 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Amerman; Anderson; Beadle; Bellew; Belter; Boe; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; DeKrey; Delmore; Delzer; Devlin; Dosch; Frantsvog; 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; 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

NAYS: Damschen

ABSENT AND NOT VOTING: Froseth; Owens

Engrossed SB 2142 passed.

SECOND READING OF SENATE BILL

SB 2148: A BILL for an Act to amend and reenact section 43-12.1-18 of the North Dakota Century Code, relating to prescriptive practice standards for advanced practice registered nurses.

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 85 YEAS, 7 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Amerman; Anderson; Bellew; Belter; Boe; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Frantsvog; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; 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; Pietsch; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schmidt; Skarphol; Steiner; Streyle; Sukut; Thoreson; Trottier; Vigasaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovdal

NAYS: Beadle; Boehning; Karls; Kasper; Kingsbury; Paur; Schatz

ABSENT AND NOT VOTING: Froseth; Owens

SB 2148 passed.

SECOND READING OF SENATE BILL

SB 2208: A BILL for an Act to amend and reenact subdivision o of subsection 2 of section 57-38-30.3 of the North Dakota Century Code, relating to the income tax exemption applying to qualifying reservation residents, activities, and sources; 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 PASS, the roll was called and there were 88 YEAS, 4 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Amerman; Anderson; Beadle; Belter; Boe; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Devlin; Frantsvog; 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; Metcalf; Meyer, S.; Mock; Monson; Mueller; Nathe; Nelson, J.; Nelson, M.; Onstad; Paur; Pietsch; Pollert; Porter; Rohr; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Thoreson; Trottier; Vigasaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovdal

NAYS: Bellew; Dosch; Meier, L.; Ruby

ABSENT AND NOT VOTING: Froseth; Owens

SB 2208 passed.

SECOND READING OF SENATE BILL

SB 2233: A BILL for an Act to create and enact subsection 3 to section 50-25.1-03 of the North Dakota Century Code, relating to a requirement to report sexual conduct by a child discovered on a workplace computer; and to amend and reenact subsection 4 of section 12.1-27.2-01 of the North Dakota Century Code, relating to the definition of sexual conduct as it pertains to sexual performances by children.

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 92 YEAS, 0 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; Delzer; Devlin; Dosch; Frantsvog; 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; 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: Froseth; Owens

SB 2233 passed.

MOTION

REP. DEVLIN MOVED that the House reconsider its action whereby SB 2114 passed, which

motion failed on a verification vote.

SECOND READING OF SENATE BILL

SB 2237: A BILL for an Act to amend and reenact subsection 7 of section 26.1-04-03 of the North Dakota Century Code, relating to prohibited practices in the insurance business.

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 92 YEAS, 0 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; Delzer; Devlin; Dosch; Frantsvog; 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; 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

ABSENT AND NOT VOTING: Froseth; Owens

Reengrossed SB 2237 passed.

SECOND READING OF SENATE BILL

SB 2251: A BILL for an Act to amend and reenact subsection 1 of section 19-03.1-23 and subsection 1 of section 19-03.1-23.1 of the North Dakota Century Code, relating to manufacture, delivery, or possession with intent to manufacture or deliver controlled substances.

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 92 YEAS, 0 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; Delzer; Devlin; Dosch; Frantsvog; 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; 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

ABSENT AND NOT VOTING: Froseth; Owens

SB 2251 passed.

SECOND READING OF SENATE BILL

SB 2259: A BILL for an Act to create and enact a new subsection to section 19-03.4-08 of the North Dakota Century Code, relating to records of the sale of methamphetamine precursors; and to amend and reenact subsection 4 of section 19-03.4-08 of the North Dakota Century Code, relating to records of the sale of methamphetamine precursors.

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 87 YEAS, 6 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; Devlin; Frantsvog; Glassheim; Grande; 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.; 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; Weisz; Wieland; Williams; Winrich; Zaiser; Speaker Drovdal

NAYS: Delzer; Dosch; Headland; Ruby; Weiler; Wrangham

ABSENT AND NOT VOTING: Froseth

SB 2259 passed.

REQUEST

REP. GRUCHALLA REQUESTED that the record show that he intended to vote "YEA" on SB 2174, which request was granted.

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

MR. PRESIDENT: The House has passed, unchanged: SB 2048, SB 2088, SB 2174, SB 2197, SB 2214, SB 2223, SB 2249, SB 2287, SB 2346.

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

MR. PRESIDENT: The House has passed, the emergency clause carried, unchanged: SB 2203, SB 2280.

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

MR. PRESIDENT: The House has amended and subsequently passed: SB 2053, SB 2080, SB 2112, SB 2158.

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

MR. SPEAKER: The Senate has passed, unchanged: HB 1096, HB 1130, HB 1200, HB 1271, HB 1399, HCR 3024.

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

MR. SPEAKER: The Senate has passed, the emergency clause carried, unchanged: HB 1066.

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

MR. SPEAKER: The Senate has failed to pass, unchanged: HB 1140, HB 1385.

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

MR. PRESIDENT: Your signature is respectfully requested on: HB 1078, HB 1213, HB 1375, HCR 3005, HCR 3010.

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

MR. SPEAKER: Your signature is respectfully requested on: SB 2023, SB 2026, SB 2075, SB 2109, SB 2165, SB 2179, SB 2215, SB 2234, SB 2322, SB 2352.

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

MR. SPEAKER: The President has signed: HB 1027, HB 1078, HB 1083, HB 1098, HB 1102, HB 1108, HB 1122, HB 1131, HB 1137, HB 1156, HB 1159, HB 1181, HB 1213, HB 1218, HB 1261, HB 1337, HB 1375, HB 1396, HCR 3005, HCR 3010.

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

MR. PRESIDENT: The Speaker has signed: 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: The Speaker has signed: SB 2023, SB 2026, SB 2075, SB 2109, SB 2165, SB 2179, SB 2215, SB 2234, SB 2322, SB 2352.

MOTION

REP. VIGESAA MOVED that the absent members be excused, which motion prevailed.

MOTION

REP. VIGESAA MOVED that the House be on the Fourth, Fifth, and Thirteenth orders of business and at the conclusion of those orders, the House stand adjourned until 12:30 p.m., Friday, March 18, 2011, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2182: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 1 NAYS, 2 ABSENT AND NOT VOTING). SB 2182 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 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, 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

REPORT OF STANDING COMMITTEE

SB 2232, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2232 was placed on the Sixth order on the calendar.

Page 1, line 21, after "and" insert "are not open records under"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2361: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). SB 2361 was placed on the Sixth order on the calendar.

Page 3, line 8, remove "State and local government code enforcement agencies are not liable in"

Page 3, remove lines 9 through 12

Renumber accordingly

REPORT OF STANDING COMMITTEE

SCR 4016: Human Services Committee (Rep. Weisz, Chairman) recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SCR 4016 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

SCR 4021: Political Subdivisions Committee (Rep. N. Johnson, Chairman) recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). SCR 4021 was placed on the Tenth order on the calendar.

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

Buell J. Reich, Chief Clerk

