

JOURNAL OF THE HOUSE

Fifty-ninth Legislative Assembly

* * * * *

Bismarck, April 15, 2005

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

The prayer was offered by Pastor Lester Wolfgram, Shepherd of the Valley Lutheran Church, Bismarck.

The roll was called and all members were present except Representatives Carlson, Hawken, Kasper, and L. Meier.

A quorum was declared by the Speaker.

CORRECTION AND REVISION OF THE JOURNAL

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

Page 1234, line 25 after CONCURRENT add "RESOLUTION 3048"

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

REPORT OF CONFERENCE COMMITTEE

HB 1291, as engrossed: Your conference committee (Sens. Erbele, Urlacher, Taylor and Reps. Nicholas, Brandenburg, Froelich) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1321-1322, adopt amendments as follows, and place HB 1291 on the Seventh order:

That the Senate recede from its amendments as printed on pages 977 and 978 of the Senate Journal and pages 1321 and 1322 of the House Journal and that Engrossed House Bill No. 1291 be amended as follows:

Page 1, line 1, replace "section" with "sections" and after "23-25-11" insert "and 42-04-01"

Page 1, line 2, after "operations" insert "and livestock auction markets"

Page 1, line 18, after the underscored period insert "The measurement may not be taken within five hundred feet [.15 kilometer] of the property boundary of the agricultural operation."

Page 2, line 12, replace the third "a" with "an animal"

Page 2, line 13, remove "concentrated"

Page 2, line 14, remove the second "section" and after the underscored comma insert "or if the setback distance under subsection 7 is greater than one-half mile [.80 kilometer]."

Page 2, line 19, replace "concentrated" with "animal"

Page 2, line 20, replace "concentrated" with "animal"

Page 4, line 1, replace "animals" with "animal units"

Page 4, line 3, replace "animals" with "animal units"

Page 4, line 4, replace "animals" with "animal units"

Page 4, line 6, replace "animals" with "animal units"

Page 4, line 7, replace "animals" with "animal units"

Page 4, line 10, replace "animals" with "animal units"

Page 4, line 11, replace "animals" with "animal units"

Page 4, line 14, replace "animals" with "animal units"

Page 4, line 20, replace "The department shall define by rule the number of animals that constitute an" with "For purposes of this section:

- (1) One mature dairy cow, whether milking or dry, equals 1.33 animal units;
- (2) One dairy cow, heifer or bull, other than an animal described in paragraph 1 equals 1.0 animal unit;
- (3) One weaned beef animal, whether a calf, heifer, steer, or bull, equals 0.75 animal unit;
- (4) One cow-calf pair equals 1.0 animal unit;
- (5) One swine weighing fifty-five pounds [24.948 kilograms] or more equals 0.4 animal unit;
- (6) One swine weighing less than fifty-five pounds [24.948 kilograms] equals 0.1 animal unit;
- (7) One horse equals 2.0 animal units;
- (8) One sheep or lamb equals 0.1 animal unit;
- (9) One turkey equals 0.0182 animal unit;
- (10) One chicken, other than a laying hen, equals 0.008 animal unit;
- (11) One laying hen equals 0.012 animal unit;
- (12) One duck equals 0.033 animal unit; and
- (13) Any livestock not listed in paragraphs 1 through 12 equals 1.0 animal unit per each one thousand pounds [453.59 kilograms] whether single or combined animal weight."

Page 4, remove line 21

Page 4, after line 23, insert:

"9. Neither a county nor a township may regulate or through any means impose restrictions or requirements on animal feeding operations or on other agricultural operations except as permitted under sections 11-33-02 and 58-03-11.

SECTION 2. AMENDMENT. Section 42-04-01 of the North Dakota Century Code is amended and reenacted as follows:

42-04-01. Agricultural operation defined. As used in this chapter, "agricultural operation" means the science and art of ~~production of~~ producing plants and animals useful to people, by a corporation or a limited liability company as allowed under chapter 10-06.1, or by a corporation or limited liability company, a partnership, or a proprietorship, and ~~including, to a variable extent,~~ includes the preparation of these products for people's use and ~~their~~ the disposal of these products by marketing or ~~otherwise, and other means.~~ The term includes livestock auction markets and horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bee, and any and all forms of farm products, and farm production."

ReNUMBER accordingly

Engrossed HB 1291 was placed on the Seventh order of business on the calendar.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

REP. NICHOLAS MOVED that the conference committee report on Engrossed HB 1291 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1291, as amended, was placed on the Eleventh order.

SECOND READING OF HOUSE BILL

HB 1291: A BILL for an Act to amend and reenact sections 23-25-11 and 42-04-01 of the North Dakota Century Code, relating to animal feeding operations and livestock auction markets.

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 90 YEAS, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Amerman; Bellew; Belter; Berg; Bernstein; Boe; Boehning; Boucher; Brandenburg; Brusegaard; Carlisle; Charging; Clark; Conrad; Damschen; DeKrey; Delmore; Delzer; Devlin; Dietrich; Dosch; Drovdal; Ekstrom; Froelich; Froseth; Galvin; Glassheim; Grande; Gulleson; Haas; Hanson; Headland; Herbel; Horter; Hunskor; Iverson; Johnson, D.; Johnson, N.; Kaldor; Keiser; Kelsch, R.; Kelsh, S.; Kempenich; Kerzman; Kingsbury; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Metcalf; Meyer, S.; Monson; Mueller; Nelson; Nicholas; Norland; Nottestad; Onstad; Owens; Pietsch; Pollert; Porter; Potter; Price; Rennerfeldt; Ruby; Sandvig; Schmidt; Sitte; Skarphol; Solberg; Svedjan; Thoreson; Thorpe; Timm; Uglem; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Wrangham; Zaiser; Speaker Klein

ABSENT AND NOT VOTING: Carlson; Hawken; Kasper; Meier, L.

Engrossed HB 1291 passed and the title was agreed to.

MOTION

REP. MONSON MOVED that the Speaker appoint Rep. Berg to replace Rep. Carlson on the Conference Committee on SB 2032 and SB 2018, which motion prevailed.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The Speaker has appointed Rep. Berg to replace Rep. Carlson on the Conference Committee on SB 2018.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The Speaker has appointed Rep. Berg to replace Rep. Carlson on the Conference Committee on SB 2032.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The House has adopted the conference committee report and subsequently passed: HB 1291.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: Your signature is respectfully requested on: HB 1342, HB 1370, HB 1454, HB 1524.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The Speaker has signed: SB 2361, SB 2388.

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

MR. SPEAKER: The President has appointed Sen. Seymour to replace Sen. Taylor on the Conference Committee on HB 1154.

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

MR. SPEAKER: The Senate has reconsidered its action whereby it did not concur with the House amendments to SB 2409 and wishes to inform you that the Senate does now concur with the House amendments to SB 2409 and subsequently passed the same. Also, the Senate has dissolved the Senate Conference Committee on SB 2409.

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

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: HB 1172.

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

MR. SPEAKER: The Senate has adopted the conference committee report, subsequently passed, and the emergency clause carried: HB 1522.

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

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

SB 2274: Sens. Mutch; Espegard; Bercier

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

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

HB 1252: Sens. J. Lee; Fischer; Mathern

HB 1459: Sens. Brown; J. Lee; Warner

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

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: HB 1074, HB 1181, HB 1324, HB 1332.

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

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: SB 2190, SB 2204, SB 2300.

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

MR. SPEAKER: The President has signed: SCR 4021, SCR 4040.

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

MR. SPEAKER: The President has signed: SB 2026, SB 2078, SB 2096, SB 2129, SB 2133, SB 2146, SB 2149, SB 2179, SB 2195, SB 2205, SB 2237, SB 2256, SB 2294, SB 2303, SB 2324, SB 2341, SB 2342, SB 2383, SB 2384.

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

MR. SPEAKER: Your signature is respectfully requested on: SB 2361, SB 2388.

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

MR. SPEAKER: The President has signed: HB 1203, HB 1222, HB 1231, HB 1275, HB 1346, HB 1417, HB 1434, HB 1437, HB 1453, HCR 3059.

MOTION

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

MOTION

REP. MONSON MOVED that the House be on the Fifth, Thirteenth, Fourteenth, and Sixteenth orders of business and at the conclusion of those orders, the House stand adjourned until 8:00 a.m., Monday, April 18, 2005, which motion prevailed.

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

Bradley C. Fay, Chief Clerk