

JOURNAL OF THE SENATE

Fifty-ninth Legislative Assembly

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Bismarck, March 8, 2005

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

The prayer was offered by Reverend Douglas Wyatt, First Church of the Nazarene, Mandan.

The roll was called and all members were present except Senators Grindberg and Schobinger.

A quorum was declared by the President.

COMMUNICATION FROM GOVERNOR JOHN HOEVEN

This is to inform you that on March 7, 2005, I have signed the following: SB 2029, SB 2030, SB 2034, SB 2035, SB 2043, SB 2045, SB 2068, SB 2070, SB 2080, SB 2081, SB 2083, SB 2084, SB 2085, SB 2086, SB 2091, SB 2095, SB 2103, SB 2104, SB 2105, SB 2110, SB 2114, SB 2123, SB 2128, SB 2131, SB 2135, SB 2136, SB 2142, SB 2148, SB 2173, and SB 2218.

REPORT OF DELAYED BILLS COMMITTEE

MR. PRESIDENT: Your **Delayed Bills Committee (Sen. Cook, Chairman)** has cast a vote of 5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING in favor of accepting the introduction of a bill for an Act to amend and reenact subsection 5 of section 40-38-11 of the North Dakota Century Code, relating to property tax levies by joint public library services by cities and counties; and to provide an effective date.

The bill will be SB 2411.

REPORT OF DELAYED BILLS COMMITTEE

MR. PRESIDENT: Your **Delayed Bills Committee (Sen. Cook, Chairman)** has cast a vote of 5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING in favor of accepting the introduction of a concurrent resolution directing the Legislative Council to study state and local taxes and other funding sources that may be used to more equitably spread the responsibility for funding elementary and secondary education, reduce reliance on property taxes, and enhance equity and adequacy of funding for elementary and secondary education.

The resolution will be SCR 4039.

MOTION

SEN. CHRISTMANN MOVED that Engrossed HB 1317, as amended, which is on the Fourteenth order, be rereferred to the **Natural Resources Committee**, which motion prevailed. Pursuant to Sen. Christmann's motion, Engrossed HB 1317, as amended, was rereferred.

SECOND READING OF HOUSE BILL

HB 1357: A BILL for an Act to amend and reenact subsection 4 of section 39-12-02 of the North Dakota Century Code, relating to longer combination vehicle permits.

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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espgaard; Every; Fairfield; Fischer; Flakoll; Freborg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

ABSENT AND NOT VOTING: Grindberg; Schobinger

Engrossed HB 1357, as amended, passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1402: A BILL for an Act to create and enact a new subsection to section 20.1-03-12 of the North Dakota Century Code, relating to nonresident wild turkey permit fees; and to amend and reenact subsection 1 of section 20.1-03-07, subsection 11 of section 20.1-03-12, and section 20.1-04-07 of the North Dakota Century Code, relating to hunting of wild turkeys by nonresidents.

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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

ABSENT AND NOT VOTING: Grindberg; Schobinger

Engrossed HB 1402, as amended, passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1439: A BILL for an Act to amend and reenact sections 43-32-01, 43-32-03, 43-32-07, 43-32-08, 43-32-08.1, 43-32-08.2, 43-32-12, 43-32-13, 43-32-14, 43-32-17, 43-32-19, 43-32-20, 43-32-20.1, 43-32-23, 43-32-25, 43-32-26, 43-32-27, 43-32-27.1, 43-32-30, and 43-32-32 of the North Dakota Century Code, relating to North Dakota state board of psychologist examiners licensure of industrial-organizational psychologists; to provide a penalty; and to provide an effective date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

ABSENT AND NOT VOTING: Grindberg; Schobinger

Engrossed HB 1439, as amended, passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1032: A BILL for an Act to amend and reenact subsection 1 of section 15.1-27-11 of the North Dakota Century Code, relating to the formula for calculating supplemental payments to high school districts; 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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

ABSENT AND NOT VOTING: Grindberg; Schobinger

HB 1032 passed, the title was agreed to, and the emergency clause was declared carried.

SECOND READING OF HOUSE BILL

HB 1046: A BILL for an Act to create and enact a new subsection to section 54-11-01 of the North Dakota Century Code, relating to the correction of erroneous distributions by the state treasurer; 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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

ABSENT AND NOT VOTING: Grindberg; Schobinger

Engrossed HB 1046 passed, the title was agreed to, and the emergency clause was declared carried.

SECOND READING OF HOUSE BILL

HB 1110: A BILL for an Act to create and enact a new section to chapter 50-06 of the North Dakota Century Code, relating to duties of the department of human services with respect to least restrictive care options; to amend and reenact sections 25-03.2-03.1 and 50-11-02.3 of the North Dakota Century Code, relating to extending the moratorium on expansion of residential treatment center for children bed capacity and residential child care facility or group home bed capacity; 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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

ABSENT AND NOT VOTING: Grindberg; Schobinger

Reengrossed HB 1110 passed, the title was agreed to, and the emergency clause was declared carried.

SECOND READING OF HOUSE BILL

HB 1054: A BILL for an Act to amend and reenact section 39-06.1-11 of the North Dakota Century Code, relating to temporary restricted driver's licenses.

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 43 YEAS, 2 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

NAYS: Lyson; Seymour

ABSENT AND NOT VOTING: Grindberg; Schobinger

HB 1054 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1095: A BILL for an Act to amend and reenact subsection 2 of section 39-09-02 and section 39-09-07.1 of the North Dakota Century Code, relating to highway construction zone speed limits and speed limit reductions.

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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espesgard; Every; Fairfield; Fischer; Flakoll; Freborg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

ABSENT AND NOT VOTING: Grindberg; Schobinger

HB 1095 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1208: A BILL for an Act to amend and reenact subdivision d of subsection 2 of section 26.1-36-08 and paragraph 4 of subdivision f of subsection 2 of section 26.1-36-09 of the North Dakota Century Code, relating to excluding high-deductible health plans from mental health and substance abuse mandates in order to meet federal requirements for tax qualification of health savings accounts.

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 34 YEAS, 11 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espesgard; Every; Fischer; Flakoll; Freborg; Hacker; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lyson; Mutch; Nething; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner; Warner

NAYS: Bercier; Fairfield; Heitkamp; Krauter; Lindaas; Mathern; Nelson; O'Connell; Robinson; Seymour; Triplett

ABSENT AND NOT VOTING: Grindberg; Schobinger

HB 1208 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1243: A BILL for an Act to amend and reenact section 23-27-04.3 of the North Dakota Century Code, relating to emergency medical services personnel training.

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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espesgard; Every; Fairfield; Fischer; Flakoll; Freborg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; O'Connell; Robinson; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

ABSENT AND NOT VOTING: Grindberg; Schobinger

Engrossed HB 1243 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1281: A BILL for an Act to create and enact two new sections to chapter 50-24.1 of the North Dakota Century Code, relating to medical assistance eligibility and long-term care facilities.

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 43 YEAS, 2 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Andrist; Bercier; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Hacker; Heitkamp; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mutch; Nelson; Nething; O'Connell; Robinson; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

NAYS: Krauter; Mathern

ABSENT AND NOT VOTING: Grindberg; Schobinger

Engrossed HB 1281 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1442: A BILL for an Act to amend and reenact subsection 3 of section 50-06-05.3 and section 50-06-05.4 of the North Dakota Century Code, relating to the human service council of a human service center.

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 17 YEAS, 28 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Brown; Christmann; Dever; Espegard; Fischer; Flakoll; Hacker; Holmberg; Kilzer; Klein; Kringstad; Lee, G.; Lee, J.; Lyson; Mutch; Stenehjem; Syverson

NAYS: Andrist; Bercier; Bowman; Cook; Erbele; Every; Fairfield; Freborg; Heitkamp; Krauter; Krebsbach; Lindaas; Mathern; Nelson; Nething; O'Connell; Robinson; Seymour; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Triplett; Urlacher; Wardner; Warner

ABSENT AND NOT VOTING: Grindberg; Schobinger

HB 1442 lost.

SECOND READING OF HOUSE CONCURRENT RESOLUTION

HCR 3045: A concurrent resolution directing the Legislative Council to study the feasibility and desirability of authorizing nonprofit organizations to participate in a government liability self-insurance pool.

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

Engrossed HCR 3045 was declared adopted, and the title was agreed to on a voice vote.

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

MR. SPEAKER: The Senate has passed unchanged: HB 1070, HB 1170, HB 1220, HB 1306, HB 1341, HB 1366, HB 1395, HCR 3016.

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

MR. SPEAKER: The Senate has passed, the emergency clause carried, unchanged: HB 1399.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has amended and subsequently passed: HB 1205, HB 1206, HB 1286.

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 1346.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has failed to pass: HB 1067.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The House has passed unchanged: SB 2039, SB 2069, SB 2071, SB 2075, SB 2098, SB 2160, SB 2225, SB 2262, SB 2322, SB 2334, SB 2339, SB 2355, SB 2367, SB 2369, SB 2403, SB 2405.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The House has amended and subsequently passed: SB 2033, SB 2149, SB 2167, SB 2170, SB 2261.

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2033

Page 2, line 1, after "t" insert an underscored comma

Page 2, line 2, after "guardian" insert an underscored comma

Page 2, line 3, after the third underscored comma insert "located outside the student's school district of residence,"

Page 2, line 4, replace "section" with "sections 25-01.2-01 and"

Page 4, line 22, after the second underscored comma insert "located outside the student's school district of residence," and replace "section" with "sections 25-01.2-01 and"

Renumber accordingly

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2149

Page 1, line 14, remove the underscored colon

Page 1, line 15, replace "a. The" with "the"

Page 1, line 16, remove the underscored semicolon

Page 1, line 17, replace "b. The" with "the"

Page 1, line 18, after the underscored period insert "If a county is released from the county's duty to supervise and administer designated child welfare services under this subsection, the county retains its financial responsibility for providing those services."

Renumber accordingly

HOUSE AMENDMENTS TO SENATE BILL NO. 2167

Page 1, line 12, after "bank" insert ", credit union, or any other financial institution"

Renumber accordingly

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2170

Page 1, line 4, replace "subdivision b of subsection 5 of section 57-51.1-03" with "sections 38-08.1-01 and 38-08.1-04.1"

Page 1, line 5, replace "an oil extraction tax exemption for incremental production from a tertiary" with "definitions and exploration permit requirements to conduct geophysical exploration"

Page 1, line 6, remove "recovery project"

Page 1, after line 7, insert:

"SECTION 1. AMENDMENT. Section 38-08.1-01 of the North Dakota Century Code is amended and reenacted as follows:

38-08.1-01. Definitions. As used in this chapter, unless the context requires otherwise:

1. "Commission" means the industrial commission.
2. "Geophysical exploration" means any method of obtaining petroleum-related geophysical surveys.
3. "Operator of the land" means the surface owner or the surface owner's tenant of the land upon or within one-half mile [.80 kilometer] of the land on which geophysical operations are to be conducted.
4. "Permitting agent" means a person who secures a permit from an operator of the land to conduct geophysical exploration activities.
5. "Person" means and includes any natural person, corporation, limited liability company, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind, and includes any department, agency, or instrumentality of the state or of any governmental subdivision thereof.

SECTION 2. AMENDMENT. Section 38-08.1-04.1 of the North Dakota Century Code is amended and reenacted as follows:

38-08.1-04.1. Exploration permit.

1. Upon filing a complete application for permit to explore pursuant to section 38-08.1-04, the commission may issue to any person desiring to engage in geophysical exploration a "geophysical exploration permit". A person may not engage in geophysical exploration activities in this state without having first obtained a geophysical exploration permit from the commission.
2. The permit must show, at a minimum:
 - a. The name of the person.
 - b. The name and address of the resident agent for service of process.
 - c. That an application to engage in geophysical exploration has been duly filed.
 - d. That a good and sufficient surety bond has been filed by the person, naming the surety company and giving its address.
3. The permit must be signed by the director of the commission's oil and gas division or the director's designee. The permit is valid for one year.
4. Within seven days of initial contact between the permitting agent and the operator of the land, the permitting agent shall provide the operator of the land and each landowner owning land within one-half mile [.80 kilometer] of the land on which geophysical exploration activities are to be conducted a written copy of section 38-08.1-04.1 and chapter 38-11.1.
5. ~~The permitholder~~ permitting agent shall notify the operator of the land at least ~~three~~ seven days ~~prior to~~ before the commencement of any geophysical exploration activity, unless waived by mutual agreement of both parties. The notice must include the approximate time schedule and the location of the planned activity.
5. 6. The permit or a photostatic copy thereof must be carried at all times by a member of the crew during the period of geophysical exploration and must be exhibited upon demand of the landowner or tenant operator or county or state official.
6. 7. The permitholder shall notify the county auditor or the auditor's designee at least twenty-four hours, excluding Saturdays and holidays, before the permitholder commences geophysical exploration in the county. Notice must include the approximate time schedule and location of the planned activity."

Page 1, remove lines 16 through 23

Page 2, remove lines 1 and 2

Re-number accordingly

HOUSE AMENDMENTS TO SENATE BILL NO. 2261

Page 1, line 1, remove "create and enact a new section to chapter 23-12 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to breastfeeding; and to" and remove "subsection 4 of section"

Page 1, line 3, remove "12.1-20-02 and" and remove ", 12.1-27.1-11,"

Page 1, remove lines 6 through 12

Page 2, remove lines 2 through 18

Re-number accordingly

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

MR. PRESIDENT: The House has amended, subsequently passed, and the emergency clause carried: SB 2202, SB 2410.

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2202

Page 1, line 4, after "agency" insert "; and to declare an emergency"

Page 1, after line 13, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Re-number accordingly

HOUSE AMENDMENTS TO SENATE BILL NO. 2410

Page 1, line 3, after "determinations" insert "; and to declare an emergency"

Page 1, after line 9, insert:

"SECTION 2. EMERGENCY. This Act is declared to be an emergency measure."

Re-number accordingly

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

MR. PRESIDENT: The House has amended, subsequently passed, and the emergency clause carried: SB 2159.

HOUSE AMENDMENTS TO SENATE BILL NO. 2159

Page 1, line 1, after the first "new" insert "subsection to" and replace "to chapter 50-24.1 and a new section to" with "28-32-03"

Page 1, line 2, remove "chapter 50-29"

Page 1, line 3, after the semicolon insert "to provide an expiration date;"

Page 1, line 6, after "new" insert "subsection to" and replace "to chapter 50-24.1" with "28-32-03"

Page 1, line 8, remove "**Authority to adopt interim final rules.**"

Page 1, line 9, replace "a" with "the" and replace "that emergency rulemaking is necessary and without the" with "required by subsection 2"

Page 1, line 10, remove "approval of the governor", after "eligibility" insert "requirements", and after the second "of" insert "the"

Page 1, line 11, after "assistance" insert "program described in chapter 50-24.1"

Page 1, line 15, replace "A new section to chapter 50-29 of the North Dakota Century Code is" with "**EXPIRATION DATE**. This Act is effective through July 1, 2007, and after that date is ineffective."

Page 1, remove lines 16 through 23

Renumber accordingly

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

MR. PRESIDENT: The House has failed to pass: SB 2376, SB 2382.

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

MR. SPEAKER: The President has signed and your signature is respectfully requested on: SB 2062, SB 2064, SB 2065, SB 2066, SB 2109, SB 2155, SB 2166, SB 2180, SB 2189, SB 2199, SB 2210.

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

MR. SPEAKER: The President has signed: HB 1075, HB 1107, HB 1122, HB 1123, HB 1125, HB 1144, HB 1182, HB 1199, HB 1223, HB 1358, HB 1389, HB 1491, HB 1498.

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

MR. PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1096, HB 1145, HB 1217, HB 1253, HB 1287, HB 1288, HB 1315, HB 1474.

DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following bills were delivered to the Governor for approval on March 8, 2005: SB 2040, SB 2057, SB 2072, SB 2088, SB 2089, SB 2092, SB 2093, SB 2097, SB 2100, SB 2106, SB 2107, SB 2108, SB 2124, SB 2126, SB 2140, SB 2154, SB 2156, SB 2161, SB 2165, SB 2171, SB 2176, SB 2185, SB 2207, SB 2276.

MOTION

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

MOTION

SEN. CHRISTMANN MOVED that the Senate be on the Fourth, Fifth, Ninth, Thirteenth, and Sixteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Wednesday, March 9, 2005, which motion prevailed.

REPORT OF STANDING COMMITTEE

HB 1048: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1048 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1055: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1055 was rereferred to the **Appropriations Committee**.

REPORT OF STANDING COMMITTEE

HB 1069, as engrossed: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1069 was placed on the Sixth order on the calendar.

Page 1, line 2, after "54-52" insert ", a new section to chapter 54-52.1"

Page 1, line 5, after "system" insert "and the acceptance and expenditure of funds by the retirement board for the uniform group insurance program from third parties"

Page 1, line 16, replace "and" with "to provide a continuing appropriation;" and after "appropriation" insert "; and to provide an effective date"

Page 11, after line 25, insert:

"SECTION 14. A new section to chapter 54-52.1 of the North Dakota Century Code is created and enacted as follows:

Acceptance and expenditure of third-party payments - Continuing appropriation. The board may receive moneys from third parties, including the federal government, pursuant to one or more federal programs. Any money received from a third party by the board is appropriated to the board on a continuing basis for the board's use in paying benefits, premiums, or administrative expenses under the uniform group insurance program."

Page 14, line 9, replace "Sections" with "Section" and remove "and 54-52.6-09.3"

Page 14, line 10, replace "are" with "is"

Page 14, after line 10, insert:

"SECTION 20. REPEAL. Section 54-52.6-09.3 of the North Dakota Century Code is repealed."

Page 15, after line 3, insert:

"SECTION 22. EFFECTIVE DATE. Sections 3 through 7, 10, 13 through 16, 18, and 19 become effective on August 1, 2005."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1112: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1112 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1113: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1113 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1142: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1142 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1188: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1188 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "subsection to" and replace "28-01-18" with "to chapter 28-01"

Page 1, line 2, replace "two-year" with "four-year"

Page 1, line 5, remove "subsection to" and replace "28-01-18" with "to chapter 28-01"

Page 1, line 6, after the colon insert:

"Action having four-year limitation."

Page 1, line 8, after "transaction" insert "must be commenced within four years after the claim for relief has accrued"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1198, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed HB 1198 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1200, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1200 was placed on the Sixth order on the calendar.

Page 3, line 6, after "to" insert "a board-approved" and remove the overstrike over "~~medical~~"

Page 3, line 7, remove "a health care" and remove "health system,"

Page 3, after line 13, insert:

"10. For any unlicensed person to direct or interfere with a licensed dentist's judgment concerning the practice of dentistry."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1202: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1202 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1233: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1233 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1260, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1260 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1359, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1359 was placed on the Sixth order on the calendar.

Page 1, line 16, after the period insert "Interest may not begin to accrue until the ninety-first day after the obligation of the debtor to pay has been incurred."

Page 1, line 17, overstrike "that does not exceed one percent per month" and insert immediately thereafter "equal to the prime rate published in the Wall Street Journal on the first Monday in December of each year plus two percentage points rounded to the nearest whole number percentage point and may not be compounded in any manner" and remove the overstrike over "~~but~~"

Page 1, line 18, remove the overstrike over "~~the charge cannot exceed twenty five dollars per month~~" and after the period insert "The twenty-five dollar per month limit under this subsection does not apply to a creditor that is a licensed nursing facility or a basic care facility."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1488, as engrossed: Education Committee (Sen. Freborg, Chairman) recommends **DO NOT PASS** (4 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). Engrossed HB 1488 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1518, as reengrossed: Agriculture Committee (Sen. Flakoll, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Reengrossed HB 1518 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new section to chapter 4-28 of the North Dakota Century Code, relating to the wheat tax levy; to"

Page 1, line 2, after the semicolon insert "to repeal section 4-28-07 of the North Dakota Century Code, relating to the wheat tax levy;"

Page 4, line 3, after the period insert "The contracts must require that any trade association receiving money under this section pay from that money all dues required as a condition of the trade association's membership in any national trade association. The contracts also must prohibit any trade association receiving money under this section from

eliminating any dues required as a condition of membership in that trade association or from reducing such dues below the amount required for membership as of January 1, 2005.

5. The commission shall expend an amount at least equal to that raised by three mills of the levy provided for in this section to pay any debts for legal services incurred by the commission, until the debts for legal services are paid in full."

Page 4, line 4, remove the overstrike over "~~6~~." and remove "5."

Page 4, after line 8, insert:

- "7. At the time the wheat commission presents the report required by section 4-24-10, each trade association with which the wheat commission has contracted under subsection 4 also shall present a report detailing all activities in which the trade association engaged under the provisions of the contract.

SECTION 3. A new section to chapter 4-28 of the North Dakota Century Code is created and enacted as follows:

Wheat tax levy.

1.
 - a. A tax of twelve mills per bushel [35.24 liters] by weight must be levied and imposed upon all wheat grown in this state, delivered into this state, or sold through commercial channels to a first purchaser in this state.
 - b. The tax must be levied and assessed at the time of sale and deducted by the purchaser from the price paid, or in the case of a lien, pledge, or mortgage, deducted from the proceeds of the loan or claim secured, subject to adjustment at the time of settlement in the event the number of bushels [liters] is not accurately determined at the time of the lien, pledge, or mortgage.
 - c. At the time of sale, the first purchaser in this state shall issue and deliver to the producer or seller a record of the transaction in the manner prescribed by the commission.
2.
 - a. Any producer who sells wheat to a first purchaser in this state and who is subject to the deduction provided for in this chapter, within sixty days following the deduction or final settlement, may make application by personal letter to the wheat commission for a refund application blank.
 - b. Upon the return of the blank, properly executed by the producer, accompanied by a record of the deduction by the purchaser, the producer must be refunded the net amount of the deduction collected.
 - c. If no request for refund has been made within the period prescribed in this subsection, the producer is presumed to have agreed to the deduction. A producer that, for any reason, has paid the tax more than once on the same wheat, upon furnishing proof of that payment to the commission, is entitled to a refund of the overpayment.
3. To inform the producer, the commission shall develop and disseminate information and instructions relating to the purpose of the wheat tax and manner in which refunds may be claimed and to this extent shall cooperate with state and federal agencies and private businesses engaged in the purchase of wheat.
4. The commission shall expend an amount at least equal to that raised by two mills of the levy provided for in this section to contract for activities related to domestic wheat policy issues, wheat production, promotion, and sales. The contracts may be with no more than two trade associations that are incorporated in this state and which have as their primary purpose the representation of wheat producers. The contracts must require that any trade association receiving money under this section pay from the money all dues required as a condition of the trade association's membership in

any national trade association. The contracts also must prohibit any trade association receiving money under this section from eliminating any dues required as a condition of membership in that trade association or from reducing such dues below the amount required for membership as of January 1, 2005.

5. When the wheat commission presents the report required by section 4-24-10, the commission shall present a separate report detailing the nature and extent of the commission's efforts to address trade and domestic policy issues. The commission may invite other entities with which it has contracted to assist in the presentations.
6. At the time the wheat commission presents the report required by section 4-24-10, each trade association with which the wheat commission has contracted under subsection 4 also shall present a report detailing all activities in which the trade association engaged under the provisions of the contract.

SECTION 4. REPEAL. Section 4-28-07 of the North Dakota Century Code is repealed."

Page 4, line 10, replace "from" with "on"

Page 4, after line 11, insert:

"SECTION 6. EFFECTIVE DATE. Sections 3 and 4 of this Act become effective on July 1, 2009."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HCR 3001, as engrossed: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HCR 3001 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HCR 3022: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** (3 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HCR 3022 was placed on the Fourteenth order on the calendar.

FIRST READING OF SENATE BILL

Sen. Nothing introduced:

(Approved by the Delayed Bills Committee)

SB 2411: A BILL for an Act to amend and reenact subsection 5 of section 40-38-11 of the North Dakota Century Code, relating to property tax levies by joint public library services by cities and counties; and to provide an effective date.

Was read the first time and referred to the **Political Subdivisions Committee**.

FIRST READING OF SENATE CONCURRENT RESOLUTION

Sens. Cook, Freborg, G. Lee, Urlacher and Reps. Haas, Herbel introduced:

(Approved by the Delayed Bills Committee)

SCR 4039: A concurrent resolution directing the Legislative Council to study state and local taxes and other funding sources that may be used to more equitably spread the responsibility for funding elementary and secondary education, reduce reliance on property taxes, and enhance equity and adequacy of funding for elementary and secondary education.

Was read the first time and referred to the **Finance and Taxation Committee**.

FIRST READING OF HOUSE CONCURRENT RESOLUTIONS

HCR 3017: A concurrent resolution urging Congress to pass a human life amendment to the Constitution of the United States.

Was read the first time and referred to the **Human Services Committee**.

HCR 3037: A concurrent resolution for the amendment of sections 1 and 2 of article IX of the Constitution of North Dakota, relating to distributions from and management of the common schools trust fund and the trust funds of other educational or charitable institutions; and to provide a contingent effective date.

Was read the first time and referred to the **Education Committee**.

HCR 3048: A concurrent resolution for the amendment of section 24 of article X of the Constitution of North Dakota, relating to expenditures from the foundation aid stabilization fund.

Was read the first time and referred to the **Education Committee**.

HCR 3055: A concurrent resolution for the amendment of sections 1, 2, and 6 of article XII of the Constitution of North Dakota, relating to regulation of corporations and to cumulative voting by corporate members or shareholders; and to repeal sections 3, 4, 7, 8, 9, 11, 12, 13, 14, 15, and 17 of article XII of the Constitution of North Dakota, relating to regulation of business, railroad, and banking corporations; and to provide an effective date.

Was read the first time and referred to the **Industry, Business and Labor Committee**.

HCR 3056: A concurrent resolution urging the President and Congress to reform and strengthen the Social Security system in order to ensure its viability for future generations.

Was read the first time and referred to the **Government and Veterans Affairs Committee**.

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

William R. Horton, Secretary