

## JOURNAL OF THE HOUSE

## Sixty-fourth Legislative Assembly

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Bismarck, April 2, 2015

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

The prayer was offered by Pastor Paul Herr, Century Baptist Church, Bismarck.

The roll was called and all members were present except Representatives Brandenburg, Frantsvog, and Monson.

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-ninth Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 1070, line 25, replace "Sukut; Paur; Hanson" with "D. Johnson; Looyesen; Hunskor"

Page 1070, line 26, replace "Schreiber Beck; Zubke; Mock" with "Froseth; Lefor; Hunskor"

Page 1070, line 27, replace "Looyesen; Meier; Nathe" with "Dockter; Trottier; Mitskog"

Page 1070, line 28, replace "D. Johnson; Looyesen; Hunskor" with "Schreiber Beck; Zubke; Mock"

Page 1070, line 29, replace "Devlin" with "Nathe"

Page 1070, line 30, replace "Froseth; Lefor; Hunskor" with "Looyesen; Meier; Nathe"

Page 1070, line 42, replace "Dockter; Trottier; Mitskog" with "Owens; Dockter; Haak"

Page 1070, line 43, replace "D. Johnson; Schrieber Beck; Kelsh" with "Owens; Meier; Delmore"

Page 1070, line 44, replace "Owens; Dockter; Haak" with "D. Anderson; Porter; Mooney"

Page 1070, line 45, replace "Owens; Meier; Delmore; Amerman" with "D. Johnson; Schreiber Beck; Kelsh"

Page 1070, line 46, replace "D. Anderson; Porter; Mooney" with "Hofstad; Fehr; Oversen"

Page 1070, line 47, replace "Hofstad; Fehr; Oversen" with "Sukut; Paur; Hanson"

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

**COMMUNICATION FROM GOVERNOR JACK DALRYMPLE**

This is to inform you that on April 1, 2015, I have signed the following: HB 1138, HB 1338, HB 1347, and HB 1373.

**POINT OF PERSONAL PRIVILEGE**

**REP. THORESON** rose on a point of personal privilege.

**REMARKS OF REPRESENTATIVE THORESON**

**MR. SPEAKER** and Members of the Assembly:

Singer, Songwriter, Actor, Author and recovery advocate Paul Williams is one of the most beloved and respected music creators in the world today. As a renowned lyricist and composer who has won an Oscar, and multiple Grammy and Golden Globe Awards, he has earned induction into the "Songwriters Hall of Fame." The hit songs he wrote dominated the charts and became staples, including Three Dog Night's "An Old Fashioned Love Song." The Carpenters' "We've Only Just Begun," the Oscar winning "Evergreen," from "A Star is Born" with Barbra Streisand, and the iconic "Rainbow Connection," performed by Kermit the Frog in The Muppet Movie.

Mr. Williams' standards have been recorded by musical icons such as Elvis Presley, Frank Sinatra, Barbra Streisand, Ella Fitzgerald, Ray Charles, David Bowie, Tony Bennett, The Carpenters, Willie Nelson, REM, Sarah McLachlan, Jason Mraz, and The Dixie Chicks. In 2014, Mr. Williams won yet another Grammy award for "Album of the Year" with the group "Daft Punk."

He is also widely known as an actor in dozens of films and on television. In fact, while Mr. Williams is publicly lauded for his work as a songwriter, performer, actor, leader and humanitarian, he predicts he'll be best remembered for playing "Little Enos" in the "Smokey and the Bandit" trilogy and for writing the lyrics to the theme for "The Love Boat."

His career, life, and work in recovery have been chronicled in the acclaimed documentary, "Paul Williams: Still Alive." Sober now for twenty-five years, his humorous observations of life, love, and creativity - augmented by the education and knowledge he gained through his studies and certification from UCLA as a Certified Drug Rehabilitation Counselor - are now shared in the book: "Gratitude and Trust: Six Affirmations That Will Change Your Life." Being his number one passion, he considers writing this book about recovery to be the greatest opportunity of his lifetime to carry the message to the masses that it works for all.

In addition to all of these accomplishments, Mr. Williams currently serves as President and Chairman of the Board of the American Society of Composers, Authors and Publishers (ASCAP), and is the leading spokesperson for music creators in the digital age. As such, he is called upon often to testify before the U.S. Congress on vital Intellectual Property matters.

Mr. Speaker and Members of the Assembly, please help me welcome to the North Dakota House of Representatives our guest, Mr. Paul Williams.

#### **REQUEST**

**REP. VIGESAA REQUESTED** that the remarks of Rep. Thoreson be printed in the Journal, which request was granted.

#### **SIXTH ORDER OF BUSINESS**

**SPEAKER BELTER DEEMED** approval of the amendments to Engrossed SB 2030, Reengrossed SB 2048, Reengrossed SB 2272, SB 2279, Engrossed SB 2333, and Reengrossed SCR 4003.

Reengrossed SB 2048 and Reengrossed SB 2272, as amended, were rereferred to the **Appropriations Committee**.

Engrossed SB 2030, SB 2279, Engrossed SB 2333, and Reengrossed SCR 4003, as amended, were placed on the Fourteenth order of business on today's calendar.

#### **SECOND READING OF SENATE BILL**

**SB 2279:** A BILL for an Act to amend and reenact sections 14-02.4-01, 14-02.4-02, 14-02.4-03, 14-02.4-04, 14-02.4-05, 14-02.4-06, 14-02.4-08, 14-02.4-09, 14-02.4-14, 14-02.4-15, 14-02.4-16, 14-02.4-17, 14-02.5-02, 14-02.5-03, 14-02.5-04, 14-02.5-05, 14-02.5-07, 14-02.5-08, and 14-02.5-10, subsection 11 of section 26.1-04-03, subsection 1 of section 26.1-30.1-01.1, subsection 1 of section 26.1-39-17, and sections 26.1-40-11, 26.1-47-04, and 27-09.1-02 of the North Dakota Century Code, relating to prohibition of discrimination on the basis of sexual orientation.

#### **REQUEST**

**REP. MOCK REQUESTED** that the House divide SB 2279, as amended, which request was granted.

**DIVISION A:** Sections 9, 10,11

**DIVISION B:** Sections 1-8, Section 12-25

**REQUEST**

**REP. CARLSON REQUESTED** a recorded roll call vote on Division A of SB 2279, as amended, which request was granted.

**ROLL CALL**

The question being on the final adoption of Division A of SB 2279, as amended, the roll was called and there were 30 YEAS, 61 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson, P.; Beadle; Becker, Rick C.; Boschee; Delmore; Glasheim; Guggisberg; Haak; Hanson; Hawken; Hogan; Holman; Hunskor; Johnson, M.; Keiser; Kelsh; Maragos; Martinson; Mitskog; Mock; Nelson, M.; Oversen; Porter; Sanford; Schneider; Schreiber Beck; Strinden; Wallman; Zubke

**NAYS:** Anderson, B.; Anderson, D.; Becker, Rich S.; Bellew; Boe; Boehning; Brabandt; Carlson; Damschen; Delzer; Devlin; Dockter; Dosch; Fehr; Froseth; Hatlestad; Headland; Hofstad; Johnson, D.; Kading; Karls; Kasper; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Laning; Larson; Lefor; Looyesen; Louser; Meier; Mooney; Muscha; Nathe; Nelson, J.; Olson; Onstad; Owens; Paur; Pollert; Rohr; Ruby; Schatz; Schmidt; Seibel; Silbernagel; Skarphol; Steiner; Streyle; Sukut; Thoreson; Toman; Trottier; Vigesaa; Weisz; Speaker Belter

**ABSENT AND NOT VOTING:** Brandenburg; Frantsvog; Monson

Division A of SB 2279, as amended, failed on a recorded roll call vote.

**REQUEST**

**REP. CARLSON REQUESTED** a recorded roll call vote on Division B of SB 2279, as amended, which request was granted.

**ROLL CALL**

The question being on the final adoption of Division B of SB 2279, as amended, the roll was called and there were 35 YEAS, 56 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson, P.; Beadle; Becker, Rick C.; Boe; Boschee; Delmore; Fehr; Glasheim; Guggisberg; Haak; Hanson; Hawken; Hogan; Holman; Hunskor; Johnson, M.; Keiser; Kelsh; Maragos; Martinson; Mitskog; Mock; Mooney; Muscha; Nelson, M.; Onstad; Oversen; Sanford; Schneider; Schreiber Beck; Strinden; Thoreson; Wallman; Zubke

**NAYS:** Anderson, B.; Anderson, D.; Becker, Rich S.; Bellew; Boehning; Brabandt; Carlson; Damschen; Delzer; Devlin; Dockter; Dosch; Froseth; Hatlestad; Headland; Hofstad; Johnson, D.; Kading; Karls; Kasper; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Laning; Larson; Lefor; Looyesen; Louser; Meier; Nathe; Nelson, J.; Olson; Owens; Paur; Pollert; Porter; Rohr; Ruby; Schatz; Schmidt; Seibel; Silbernagel; Skarphol; Steiner; Streyle; Sukut; Toman; Trottier; Vigesaa; Weisz; Speaker Belter

**ABSENT AND NOT VOTING:** Brandenburg; Frantsvog; Monson

Division B of SB 2279, 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 NOT PASS, the roll was called and there were 35 YEAS, 56 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson, P.; Beadle; Becker, Rick C.; Boe; Boschee; Delmore; Fehr; Glasheim; Guggisberg; Haak; Hanson; Hawken; Hogan; Holman; Hunskor; Johnson, M.; Keiser; Kelsh; Maragos; Martinson; Mitskog; Mock; Mooney; Muscha; Nelson, M.; Onstad; Oversen; Sanford; Schneider; Schreiber Beck; Strinden; Thoreson; Wallman; Zubke

**NAYS:** Anderson, B.; Anderson, D.; Becker, Rich S.; Bellew; Boehning; Brabandt; Carlson; Damschen; Delzer; Devlin; Dockter; Dosch; Froseth; Hatlestad; Headland; Hofstad; Johnson, D.; Kading; Karls; Kasper; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Laning; Larson; Lefor; Looyesen; Louser; Meier; Nathe; Nelson, J.; Olson; Owens; Paur; Pollert; Porter; Rohr; Ruby; Schatz; Schmidt; Seibel; Silbernagel; Skarphol; Steiner; Streyle; Sukut; Toman; Trotter; Vigesaa; Weisz; Speaker Belter

**ABSENT AND NOT VOTING:** Brandenburg; Frantsvog; Monson

SB 2279, as amended, failed.

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#### APPOINTMENT OF CONFERENCE COMMITTEE

**REP. VIGESAA MOVED** that the Speaker appoint a committee of three to act with a like committee from the Senate as a Conference Committee on Engrossed SB 2035, Reengrossed SB 2175, Engrossed SB 2188, Engrossed SB 2233, and Engrossed SB 2347, which motion prevailed.

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

**Engrossed SB 2035:** Reps. Headland, Owens, Haak  
**Reengrossed SB 2175:** Reps. Klein, Kading, Strinden  
**Engrossed SB 2188:** Reps. Laning, Sukut, M. Nelson  
**Engrossed SB 2233:** Reps. Beadle, Louser, Boschee  
**Engrossed SB 2347:** Reps. Lefor, Kasper, Amerman

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

**MR. PRESIDENT:** The House has passed, unchanged: SB 2219, SB 2232, SB 2357.

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

**MR. PRESIDENT:** The House has amended and subsequently passed: SB 2070, SB 2139, SB 2214, SB 2250, SB 2368.

#### 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 2178, SB 2189, SB 2312.

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

**MR. PRESIDENT:** The House has amended and subsequently failed to pass: SB 2279.

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

**MR. PRESIDENT:** The House has amended and subsequently failed to pass: SB 2279.

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

**MR. PRESIDENT:** The House has failed to pass, unchanged: SB 2045, SB 2218, SB 2253.

#### MESSAGE TO THE HOUSE FROM THE SENATE (JANE SCHAIBLE, SECRETARY)

**MR. SPEAKER:** The Senate has passed, unchanged: HB 1235.

#### MESSAGE TO THE HOUSE FROM THE SENATE (JANE SCHAIBLE, SECRETARY)

**MR. SPEAKER:** The Senate has passed, unchanged: HCR 3004.

#### MESSAGE TO THE HOUSE FROM THE SENATE (JANE SCHAIBLE, SECRETARY)

**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1089, HB 1095, HB 1102, HB 1210, HB 1328, HB 1399.

#### SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1089

Page 2, line 17, after "b." insert ""Data center" means a centralized repository for the storage, management, and dissemination of electronic data and information organized around a particular body or bodies of knowledge.

c."

Page 2, line 26, replace "c." with "d."

Page 2, line 28, replace "d." with "e."

Page 2, line 30, after "buildings" insert ", the primary purpose of which is to contain a data center."

Page 3, line 13, replace "e." with "f."

Re-number accordingly

#### **SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1095**

Page 1, line 17, remove "funds have been appropriated"

Page 1, line 18, remove "approved by the legislative assembly for a specific project"

Page 1, line 19, overstrike "appropriated" and insert immediately thereafter "approved by Congress, the legislative assembly, or any federal or state agency"

Page 4, line 26, replace "the" with "that"

Page 4, line 30, remove "Drain" also"

Page 4, remove line 31

Re-number accordingly

#### **SENATE AMENDMENTS TO HOUSE BILL NO. 1102**

Page 1, line 3, replace "65-05-02" with "65-01-02"

Re-number accordingly

#### **SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1210**

Page 1, line 1, remove "subsection 4 of section 27-20-13 and"

Page 1, line 3, remove "; and to amend and reenact"

Page 1, remove lines 4 and 5

Page 1, line 6, remove "custodian of a deprived child"

Page 1, remove lines 8 through 19

Page 1, line 23, replace "shall" with "must"

Re-number accordingly

#### **SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1328**

Page 1, line 1, after "of" insert "an"

Page 2, line 2, after "warrant" insert ", unless the information was obtained under the circumstances described in subdivision a or b of subsection 1 or was obtained through the monitoring of public lands or international borders"

Page 3, line 27, after "the" insert "lawful"

Page 3, line 27, after "rights" insert ", unless the surveillance is otherwise allowed under this chapter"

Page 3, line 27, remove "A state agency may not authorize"

Page 3, remove lines 28 through 30

Renumber accordingly

**SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1399**

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study of spousal support.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - SPOUSAL SUPPORT.** During the 2015-16 interim, the legislative management shall study the types of spousal support ordered by the district courts and the desirability of providing statutory guidance for awards of spousal support. The legislative management shall report its findings and recommendations, together with any proposed legislation required to implement the recommendations, to the sixty-fifth legislative assembly."

Renumber accordingly

**MESSAGE TO THE HOUSE FROM THE SENATE (JANE SCHAIBLE, SECRETARY)**  
**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1005, HB 1017, HB 1022, HB 1024, HB 1057, HB 1124, HB 1229, HB 1359, HB 1372, HB 1409.

**SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1005**

Page 1, replace lines 14 through 18 with:

"Salaries and wages	\$852,869	\$80,170	\$933,039
Accrued leave payments	8,421	(8,421)	0
Operating expenses	<u>166,268</u>	<u>117,938</u>	<u>284,206</u>
Total general fund	\$1,027,558	\$189,687	\$1,217,245
Full-time equivalent positions	5.00	0.00	5.00"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1005 - Indian Affairs Commission - Senate Action**

	Base Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$852,869	\$936,802	(\$3,763)	\$933,039
Operating expenses	166,268	276,706	7,500	284,206
Accrued leave payments	<u>8,421</u>			
Total all funds	\$1,027,558	\$1,213,508	\$3,737	\$1,217,245
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General fund	\$1,027,558	\$1,213,508	\$3,737	\$1,217,245
FTE	5.00	5.00	0.00	5.00

**Department No. 316 - Indian Affairs Commission - Detail of Senate Changes**

	Adjusts Funding for Health Insurance Premium Increases <sup>1</sup>	Adds Funding for Desktop Services <sup>2</sup>	Adds Funding for Travel <sup>3</sup>	Total Senate Changes
Salaries and wages	(\$3,763)			(\$3,763)
Operating expenses		4,500	3,000	7,500
Accrued leave payments				
Total all funds	(\$3,763)	\$4,500	\$3,000	\$3,737
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

General fund	(\$3,763)	\$4,500	\$3,000	\$3,737
FTE	0.00	0.00	0.00	0.00

<sup>1</sup> Funding for employee health insurance premiums is adjusted to reflect the revised premium estimate of \$1,130.22 per month.

<sup>2</sup> Desktop support service funding is added to the level recommended in the executive budget of \$21,775 (\$12,000 ongoing funding for desktop support services and \$9,775 one-time funding for hardware).

<sup>3</sup> Funding is added to increase travel from \$48,529 to \$51,529 for increased costs incurred due to the addition of the Native American health system program administrator in the 2013-15 biennium.

**SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1017**

Page 1, replace lines 10 through 13 with:

"Salaries and wages	\$1,059,175	\$136,109	\$1,195,284
Accrued leave payments	10,698	(10,698)	0
Operating expenses	<u>1,749,023</u>	<u>3,744</u>	<u>1,752,767</u>
Total special funds	\$2,818,896	\$129,155	\$2,948,051"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1017 - Office of Administrative Hearings - Senate Action**

	Base Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$1,059,175	\$1,199,048	(\$3,764)	\$1,195,284
Operating expenses	1,749,023	1,752,767		1,752,767
Accrued leave payments	<u>10,698</u>			
Total all funds	\$2,818,896	\$2,951,815	(\$3,764)	\$2,948,051
Less estimated income	<u>2,818,896</u>	<u>2,951,815</u>	(3,764)	<u>2,948,051</u>
General fund	\$0	\$0	\$0	\$0
FTE	5.00	5.00	0.00	5.00

**Department No. 140 - Office of Administrative Hearings - Detail of Senate Changes**

	Adjusts Funding for Health Insurance Premium Increases <sup>1</sup>	Total Senate Changes
Salaries and wages	(\$3,764)	(\$3,764)
Operating expenses		
Accrued leave payments		
Total all funds	(\$3,764)	(\$3,764)
Less estimated income	<u>(3,764)</u>	<u>(3,764)</u>
General fund	\$0	\$0
FTE	0.00	0.00

<sup>1</sup> Funding for employee health insurance premiums is adjusted to reflect the revised premium estimate of \$1,130.22 per month.

**SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1022**

Page 1, line 2, after "indigents" insert "; and to amend and reenact subsection 6 of section 54-61-01 of the North Dakota Century Code, relating to the commission on legal counsel for indigents"

Page 1, replace lines 12 and 13 with:

"Commission on legal counsel for indigents"	\$14,304,404	\$5,891,758	\$20,196,162
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Page 1, replace lines 15 through 17 with:

"Total all funds	\$14,421,276	\$5,774,886	\$20,196,162
Less special funds	<u>2,497,866</u>	<u>(590,952)</u>	<u>1,906,914</u>
Total general fund	\$11,923,410	\$6,365,838	\$18,289,248"

Page 1, after line 18, insert:

**"SECTION 2. AMENDMENT.** Subsection 6 of section 54-61-01 of the North Dakota Century Code is amended and reenacted as follows:

6. A member of the commission is entitled to reimbursement for travel and expenses as provided by law for other state officers. If not otherwise employed by the state of North Dakota, a member is entitled to receive per diem compensation of sixty-two dollars and fifty cents for each day devoted to attending meetings or performing other duties relating to the official business of the commission. A member of the commission who is a member of the legislative assembly is entitled to receive per diem compensation at the rate as provided under section 54-35-10 for each day devoted to attending meetings or performing other duties relating to the official business of the commission."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1022 - Commission on Legal Counsel for Indigent - Senate Action**

	Base Budget	House Version	Senate Changes	Senate Version
Comm. on legal counsel for indigents	\$14,304,404	\$20,026,275	\$169,887	\$20,196,162
Accrued leave payments	<u>116,872</u>			
Total all funds	\$14,421,276	\$20,026,275	\$169,887	\$20,196,162
Less estimated income	<u>2,497,866</u>	<u>1,906,914</u>	0	<u>1,906,914</u>
General fund	\$11,923,410	\$18,119,361	\$169,887	\$18,289,248
FTE	33.00	40.00	0.00	40.00

**Department No. 188 - Commission on Legal Counsel for Indigent - Detail of Senate Changes**

	Adjusts Funding for Health Insurance Premium Increases <sup>1</sup>	Adds Funding for Legal Contract Services <sup>2</sup>	Total Senate Changes
Comm. on legal counsel for indigents	(\$30,113)	\$200,000	\$169,887
Accrued leave payments			
Total all funds	(\$30,113)	\$200,000	\$169,887
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>
General fund	(\$30,113)	\$200,000	\$169,887
FTE	0.00	0.00	0.00

<sup>1</sup> Funding for employee health insurance premiums is adjusted to reflect the revised premium estimate of \$1,130.22 per month.



<sup>2</sup> Funding is added for contract fees for legal services related to increasing case loads to provide a total of \$4.4 million.

This amendment also adds a section providing that a member of the Commission on Legal Counsel for Indigents who is also a legislator is entitled to receive per diem compensation as provided under Section 54-35-10.

### SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1024

Page 1, replace lines 11 through 14 with:

"Comprehensive tobacco control	\$15,807,437	\$740,602	\$16,548,039
Accrued leave	8,391	(8,391)	0
Total special funds	\$15,815,828	\$732,211	\$16,548,039
Full-time equivalent positions	8.00	0.00	8.00"

Renumber accordingly

### STATEMENT OF PURPOSE OF AMENDMENT:

#### House Bill No. 1024 - Tobacco Prevention & Control Exec Comm - Senate Action

	Base Budget	House Version	Senate Changes	Senate Version
Comprehensive tobacco control	\$15,807,437	\$16,047,355	\$500,684	\$16,548,039
Accrued leave payments	8,391			
Total all funds	\$15,815,828	\$16,047,355	\$500,684	\$16,548,039
Less estimated income	15,815,828	16,047,355	500,684	16,548,039
General fund	\$0	\$0	\$0	\$0
FTE	8.00	8.00	0.00	8.00

#### Department No. 305 - Tobacco Prevention & Control Exec Comm - Detail of Senate Changes

	Adjusts Funding for Health Insurance Premium Increases <sup>1</sup>	Increases Funding for Information Technology <sup>2</sup>	Adds Funding for State Department of Health Grant <sup>3</sup>	Total Senate Changes
Comprehensive tobacco control	(\$6,776)	\$7,460	\$500,000	\$500,684
Accrued leave payments				
Total all funds	(\$6,776)	\$7,460	\$500,000	\$500,684
Less estimated income	(6,776)	7,460	500,000	500,684
General fund	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00

<sup>1</sup> Funding for employee health insurance premiums is adjusted to reflect the revised premium estimate of \$1,130.22 per month.

<sup>2</sup> Funding for information technology is increased to provide a total of \$21,460 for ongoing information technology costs related to House Bill No. 1053, the same as the executive recommendation.

<sup>3</sup> Funding is added to provide a grant to the State Department of Health to be used for the Centers for Disease Control *Best Practices for Comprehensive Tobacco Prevention and Control Programs*.

**SENATE AMENDMENTS TO HOUSE BILL NO. 1057**

Page 1, line 6, after the semicolon insert "to provide for a legislative management study;"

Page 6, after line 11, insert:

**"SECTION 7. LEGISLATIVE MANAGEMENT STUDY - PROPERTY TAX INFORMATION.** During the 2015-16 interim, the legislative management shall consider studying delivery and contents of property tax information to taxpayers when the property assessment has been determined by the assessor, when the budget hearing will be held for each taxing district in which the property is located, and when the property tax statement for the taxable year is delivered. The study must consider the feasibility and desirability of changes to the timing of events scheduled by law for the taxable year and must consider improvements to the transparency, administration, and understanding of the property tax system. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-fifth legislative assembly."

Re-number accordingly

**SENATE AMENDMENTS TO HOUSE BILL NO. 1124**

Page 1, line 7, overstrike "Every" and insert immediately thereafter "Each"

Page 1, line 8, remove "and file"

Page 1, line 9, replace "Every" with "Each"

Re-number accordingly

**SENATE AMENDMENTS TO HOUSE BILL NO. 1229**

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 43-09-09.2 and 43-09-14 of the North Dakota Century Code, relating to contracting for electrical services and undertakings for electricians contracting for electrical installations; and to provide for a legislative management study.

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

**SECTION 1. AMENDMENT.** Section 43-09-09.2 of the North Dakota Century Code is amended and reenacted as follows:

**43-09-09.2. Advertising prohibited - Exceptions - Liability - Penalty.**

1. Except as provided in this section, if an electrical license is required under section 43-09-09 or by local ordinance, ~~no~~ a person may not advertise to contract for electrical services without being licensed as or being associated with a class B or master electrician unless that person intends to contract the electrical services with a licensed electrical contractor.
2. If a person associates with a class B or master electrician under subsection 1, that person is jointly and severally liable for any electrical services contracts entered under that association.
3. A person that violates subsection 1 is guilty of:
  - a. ~~A person violating this section is guilty of a class B misdemeanor for a first conviction, but no fine in excess of one hundred dollars and no term of imprisonment may be imposed.~~
  - b. ~~A person violating this section is guilty of a class A misdemeanor for a second or subsequent conviction, but the penalties are as follows:~~

- (1) For a second conviction, no fine in excess of one thousand dollars and no term of imprisonment may be imposed.
- (2) For a third or subsequent conviction, a fine not to exceed one thousand dollars, or imprisonment not to exceed thirty days, or both, may be imposed.

**SECTION 2. AMENDMENT.** Section 43-09-14 of the North Dakota Century Code is amended and reenacted as follows:

**43-09-14. Master electrician and class B electrician - Undertaking - Fund.**

1. ~~Before entering into a contract agreement or undertaking with another person for the installation of electrical wiring or installation of electrical parts of other apparatus, a master electrician or a class B electrician shall execute and deposit with the board an initial undertaking in the sum of five thousand amount of one hundred dollars for a master electrician or four thousand dollars for a class B electrician conditioned on the faithful performance of all electrical work undertaken by the electrician, on strict compliance with the provisions of this chapter, and on the requirements of the board. In addition, a deposit must be made with a term of licensure renewal for an electrician who made an initial undertaking under this section, the board may require a renewal undertaking in the amount of fifty dollars by a master electrician and in the amount of forty dollars by a class B electrician, in lieu of a surety bond not to exceed one hundred dollars.~~
2. ~~The deposit so made must be accumulated by the board shall deposit in a special fund to be used for the completion of installations abandoned by electricians all money collected under this section. The board shall use this fund to make code compliant an installation abandoned by an electrician referred to in this section, not to exceed the amount of fivethirty-five thousand dollars for a master electrician and four thousand dollars for a class B electrician per electrician. The board shall waive the deposit for requirement for a renewal of license by electricians who have made an initial deposit under this section undertaking if at the beginning of the renewal year the fund exceeds fiftytwo hundred thousand dollars. Funds in excess of fifty thousand dollars at the end of each year may be committed and used at the direction of~~
3. ~~Annually, the board may use from the fund an amount not to exceed ten percent of the fund's year-end balance to inform and educate electricians concerning the requirements of the electrical code.~~
4. ~~The board may prescribe forms for the undertaking and make rules if the board deems necessary to carry out the intent of this section.~~

**SECTION 3. LEGISLATIVE MANAGEMENT STUDY - ABANDONED ELECTRICAL INSTALLATIONS.** During the 2015-16 interim, the legislative management shall consider studying the current process used by the state electrical board to address abandoned electrical installations and the feasibility and desirability of changing this process. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly."

Renumber accordingly

**SENATE AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1359**

Page 1, line 1, replace "50-24.5-02" with "50-24.5-02.3"

Page 1, line 4, replace "50-24.5-02" with "50-24.5-02.3"

Page 1, line 6, replace "**50-24.5-02**" with "**50-24.5-02.3**"

Page 1, line 18, remove "The department shall establish the direct"

Page 1, remove lines, 19 through 23

Page 1, line 24, replace "percent" with "The department shall work with stakeholders to determine the methodology to be used to establish the annual limits required under this subsection within the limits of legislative appropriation"

Page 2, line 1, after the second underscored comma insert "within the limits of legislative appropriation."

Page 2, line 2, replace "twenty" with "thirty"

Page 2, after line 4, insert:

- "5. Within the limits of legislative appropriation, the department shall establish an uncompensated care expense of one hundred eighty days.
6. The department shall abolish the annual compensation cap for top management of basic care facilities."

Renumber accordingly

#### **SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1372**

Page 1, line 5, after the third comma insert "and out of any moneys in the environment and rangeland protection fund in the state treasury, the sum of \$25,000,"

Renumber accordingly

#### **SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1409**

Page 4, line 5, replace "eight" with "six"

Page 4, line 7, remove the overstrike over "fifteen"

Page 4, line 7, remove "twenty"

Page 4, line 8, remove the overstrike over "thirty"

Page 4, line 8, remove "forty"

Page 8, line 7, replace "eight" with "six"

Page 8, line 9, remove the overstrike over "fifteen"

Page 8, line 9, remove "twenty"

Page 8, line 10, remove the overstrike over "thirty"

Page 8, line 10, remove "forty"

Renumber accordingly

**MESSAGE TO THE HOUSE FROM THE SENATE (JANE SCHAIBLE, SECRETARY)**  
**MR. SPEAKER:** The Senate has failed to pass, unchanged: HB 1294.

**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 1056, HB 1206, HB 1256, HB 1283, HB 1396, and HB 1469, and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

**HB 1056:** Reps. Owens; Dockter; Haak  
**HB 1206:** Reps. Owens; Meier; Delmore  
**HB 1256:** Reps. D. Anderson; Porter; Mooney

**HB 1283:** Reps. D. Johnson; Schreiber Beck; Kelsh

**HB 1396:** Reps. Hofstad; Fehr; Oversen

**HB 1469:** Reps. Sukut; Paur; Hanson

**MESSAGE TO THE HOUSE FROM THE SENATE (JANE SCHAIBLE, SECRETARY)**

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

**HB 1056:** Sens. Unruh; Cook; Triplett

**HB 1206:** Sens. Rust; Campbell; Axness

**HB 1283:** Sens. Flakoll; Schaible; Marcellais

**HB 1469:** Sens. Casper; Rust; Sinner

**MESSAGE TO THE HOUSE FROM THE SENATE (JANE SCHAIBLE, SECRETARY)**

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

**HB 1256:** Sens. Dever; Larsen; Warner

**HB 1396:** Sens. Larsen; Anderson; Axness

**MESSAGE TO THE HOUSE FROM THE SENATE (JANE SCHAIBLE, SECRETARY)**

**MR. SPEAKER:** The Senate has concurred in the House amendments and subsequently passed: SB 2085, SB 2105, SB 2231, SB 2277, SB 2299, SB 2343, and SCR 4006.

**MESSAGE TO THE HOUSE FROM THE SENATE (JANE SCHAIBLE, SECRETARY)**

**MR. SPEAKER:** The Senate does not concur in the House amendments to SB 2050, SB 2066, SB 2072, SB 2113, SB 2161, SB 2259, SB 2334, SB 2367, and SCR 4010, and the President has appointed as a conference committee to act with a like committee from the House on:

**SB 2050:** Sens. J. Lee; Dever; Axness

**SB 2066:** Sens. Anderson; Dever; Axness

**SB 2072:** Sens. Casper; Luick; Nelson

**SB 2113:** Sens. Bekkedahl; Oehlke; Triplett

**SB 2161:** Sens. Hogue; Armstrong; Grabinger

**SB 2259:** Sens. Anderson; J. Lee; Warner

**SB 2334:** Sens. Anderson; J. Lee; Warner

**SB 2367:** Sens. Larsen; Dever; Warner

**SCR 4010:** Sens. Hogue; Armstrong; Grabinger

**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 2035:** Reps. Headland; Owens; Hawken

**SB 2175:** Reps. Klein; Kading; Strinden

**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 2092:** Reps. D. Johnson; Looyesen; Hunskor

**SB 2120:** Reps. Froseth; Lefor; Hunskor

**SB 2143:** Reps. Dockter; Trottier; Mitskog

**SB 2326:** Reps. Schreiber Beck; Zubke; Mock

**SB 2356:** Reps. Brabandt; Nathe; Muscha

**SCR 4011:** Reps. Looyesen; Meier; Nathe

**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 2188:** Reprs. Laning; Sukut; M. Nelson

**SB 2233:** Reprs. Beadle; Louser; Boschee

**SB 2347:** Reprs. Lefor; Kasper; Amerman

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

**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1041, HB 1186, HB 1194, HB 1238, HB 1352, HB 1370, HB 1394, HB 1395, HCR 3018, HCR 3020, HCR 3026, HCR 3040, HCR 3046.

**MESSAGE TO THE HOUSE FROM THE SENATE (JANE SCHAIBLE, SECRETARY)**

**MR. SPEAKER:** Your signature is respectfully requested on: SB 2037, SB 2065, SB 2104, SB 2119, SB 2121, SB 2123, SB 2171, SB 2181, SB 2238, SB 2255, SB 2266, SB 2283, SB 2300, SB 2352, SCR 4016.

**MESSAGE TO THE HOUSE FROM THE SENATE (JANE SCHAIBLE, SECRETARY)**

**MR. SPEAKER:** Your signature is respectfully requested on: SB 2154, SB 2182, SB 2276.

**MESSAGE TO THE HOUSE FROM THE SENATE (JANE SCHAIBLE, SECRETARY)**

**MR. SPEAKER:** The President has signed: HB 1060, HB 1082, HB 1083, HB 1107, HB 1302, HB 1311, HB 1378, HB 1407, HB 1428, HB 1445, HCR 3003, HCR 3005, HCR 3006.

**MESSAGE TO THE HOUSE FROM THE SENATE (JANE SCHAIBLE, SECRETARY)**

**MR. SPEAKER:** The President has signed: SB 2077, SB 2086.

**ANNOUNCEMENT**

**SPEAKER BELTER ANNOUNCED** that the House stand in recess until 5:00 p.m.

**THE HOUSE RECONVENED** pursuant to recess taken, with Speaker Belter presiding.

**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-ninth Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 1276, line 44, replace "bill" with "amended bill"

Page 1277, line 24, replace "bill" with "amended bill"

Page 1278, line 3, replace "bill" with "amended bill"

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

**SECOND READING OF SENATE BILL**

**SB 2030:** A BILL for an Act to amend and reenact section 19-03.4-03 of the North Dakota Century Code, relating to drug paraphernalia; and to provide a penalty.

**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 84 YEAS, 5 NAYS, 0 EXCUSED, 5 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson, B.; Anderson, D.; Anderson, P.; Beadle; Becker, Rich S.; Becker, Rick C.; Boe; Boehning; Boschee; Brabandt; Carlson; Damschen; Delmore; Delzer; Devlin; Dockter; Dosch; Fehr; Froseth; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Headland; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, M.; Kading; Karls; Kasper; Keiser; Kelsh; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Laning; Larson; Lefor;

Looyesen; Louser; Maragos; Martinson; Meier; Mitskog; Mock; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Onstad; Oversen; Owens; Paur; Pollert; Porter; Sanford; Schmidt; Schneider; Schreiber Beck; Seibel; Silbernagel; Skarphol; Streyle; Strinden; Sukut; Thoreson; Toman; Trottier; Vigesaa; Wallman; Weisz; Zubke; Speaker Belter

**NAYS:** Bellew; Rohr; Ruby; Schatz; Steiner

**ABSENT AND NOT VOTING:** Brandenburg; Frantsvog; Glassheim; Monson; Olson

Engrossed SB 2030, as amended, passed.

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### SECOND READING OF SENATE BILL

**SB 2333:** A BILL for an Act to amend and reenact section 5-02-06 of the North Dakota Century Code, relating to individuals under twenty-one years of age allowed in alcoholic beverage establishments.

### 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 70 YEAS, 20 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson, D.; Anderson, P.; Beadle; Becker, Rich S.; Becker, Rick C.; Boe; Boehning; Boschee; Brabandt; Carlson; Delmore; Dockter; Dosch; Fehr; Glassheim; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Headland; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, M.; Kading; Kasper; Kelsh; Kempenich; Kiefert; Klein; Kreidt; Kretschmar; Looyesen; Louser; Maragos; Martinson; Meier; Mitskog; Mock; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Onstad; Oversen; Owens; Paur; Pollert; Porter; Ruby; Sanford; Schmidt; Schneider; Schreiber Beck; Seibel; Skarphol; Steiner; Streyle; Strinden; Sukut; Thoreson; Toman; Trottier; Weisz; Zubke

**NAYS:** Anderson, B.; Bellew; Damschen; Delzer; Devlin; Froseth; Karls; Keiser; Klemin; Koppelman, B.; Koppelman, K.; Laning; Larson; Lefor; Rohr; Schatz; Silbernagel; Vigesaa; Wallman; Speaker Belter

**ABSENT AND NOT VOTING:** Brandenburg; Frantsvog; Monson; Olson

Engrossed SB 2333, as amended, passed.

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### SECOND READING OF SENATE CONCURRENT RESOLUTION

**SCR 4003:** A concurrent resolution to amend and reenact section 24 of article X of the Constitution of North Dakota, relating to the foundation aid stabilization fund.

### ROLL CALL

The question being on the final adoption of the amended resolution, which has been read, and has committee recommendation of DO PASS. The roll was called and there were 69 YEAS, 22 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Anderson, B.; Anderson, D.; Beadle; Becker, Rich S.; Becker, Rick C.; Bellew; Boe; Boehning; Brabandt; Carlson; Damschen; Delzer; Dockter; Dosch; Fehr; Froseth; Glassheim; Guggisberg; Hatlestad; Hawken; Headland; Hofstad; Johnson, D.; Johnson, M.; Kading; Karls; Kasper; Keiser; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Laning; Larson; Lefor; Looyesen; Louser; Maragos; Meier; Nathe; Nelson, J.; Olson; Owens; Pollert; Porter; Rohr; Ruby; Sanford; Schatz; Schmidt; Schreiber Beck; Seibel; Silbernagel; Skarphol; Steiner; Streyle; Strinden; Sukut; Thoreson; Toman; Trottier; Vigesaa; Weisz; Zubke; Speaker Belter

**NAYS:** Amerman; Anderson, P.; Boschee; Delmore; Devlin; Haak; Hanson; Hogan; Holman; Hunskor; Kelsh; Martinson; Mitskog; Mock; Mooney; Muscha; Nelson, M.; Onstad;

Oversen; Paur; Schneider; Wallman

**ABSENT AND NOT VOTING:** Brandenburg; Frantsvog; Monson

Reengrossed SCR 4003, as amended, was declared adopted on a recorded roll call vote.

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#### SECOND READING OF SENATE BILL

**SB 2332:** A BILL for an Act to create and enact section 12.1-29-07 of the North Dakota Century Code, relating to an offender education program; to amend and reenact section 12.1-29-06 of the North Dakota Century Code, relating to hiring an individual to engage in sexual activity; and to provide a penalty.

#### 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, 1 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson, B.; Anderson, D.; Anderson, P.; Beadle; Becker, Rich S.; Bellew; Boe; Boehning; Boschee; Brabandt; Carlson; Damschen; Delmore; Delzer; Devlin; Dockter; Dosch; Fehr; Froseth; Glassheim; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Headland; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, M.; Kading; Karls; Kasper; Keiser; Kelsh; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Laning; Larson; Lefor; Looyen; Louser; Maragos; Martinson; Meier; Mitskog; Mock; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Olson; Onstad; Oversen; Owens; Paur; Pollert; Porter; Rohr; Ruby; Sanford; Schatz; Schmidt; Schneider; Schreiber Beck; Seibel; Silbernagel; Skarphol; Steiner; Streyle; Strinden; Sukut; Thoreson; Toman; Trottier; Vigasaa; Wallman; Weisz; Zubke; Speaker Belter

**NAYS:** Becker, Rick C.

**ABSENT AND NOT VOTING:** Brandenburg; Frantsvog; Monson

Engrossed SB 2332, as amended, passed.

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#### MOTION

**REP. VIGESAA MOVED** that SB 2275, which is on the Fourteenth order, be laid over one legislative day, which motion prevailed.

#### SECOND READING OF SENATE BILL

**SB 2176:** A BILL for an Act to amend and reenact section 23-01-41 of the North Dakota Century Code, relating to the autism spectrum disorder database; 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 86 YEAS, 3 NAYS, 0 EXCUSED, 5 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson, B.; Anderson, D.; Anderson, P.; Beadle; Becker, Rich S.; Becker, Rick C.; Boe; Boehning; Boschee; Brabandt; Damschen; Delmore; Devlin; Dockter; Dosch; Fehr; Froseth; Glassheim; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Headland; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Kading; Karls; Kasper; Keiser; Kelsh; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Laning; Larson; Lefor; Looyen; Louser; Maragos; Martinson; Meier; Mitskog; Mock; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Olson; Onstad; Oversen; Owens; Paur; Porter; Rohr; Ruby; Sanford; Schatz; Schmidt; Schneider; Schreiber Beck; Seibel; Silbernagel; Skarphol; Steiner; Streyle; Strinden; Sukut; Thoreson; Toman; Trottier; Vigasaa; Wallman; Weisz; Zubke; Speaker Belter



**NAYS:** Bellew; Delzer; Pollert

**ABSENT AND NOT VOTING:** Brandenburg; Carlson; Frantsvog; Johnson, M.; Monson

SB 2176 passed and the emergency clause was declared carried.

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### SECOND READING OF SENATE BILL

**SB 2194:** A BILL for an Act to create and enact section 43-58-11 of the North Dakota Century Code, relating to the regulation of naturopaths; and to amend and reenact sections 43-58-01 and 43-58-08 of the North Dakota Century Code, relating to the regulation of naturopaths.

### 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 35 YEAS, 56 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Becker, Rich S.; Boschee; Damschen; Devlin; Dosch; Fehr; Froseth; Hofstad; Johnson, D.; Johnson, M.; Kading; Kasper; Keiser; Kiefert; Klein; Koppelman, B.; Koppelman, K.; Kretschmar; Laning; Meier; Olson; Porter; Rohr; Ruby; Schatz; Schmidt; Seibel; Steiner; Streyle; Thoreson; Toman; Trottier; Vigasaa; Wallman; Weisz

**NAYS:** Amerman; Anderson, B.; Anderson, D.; Anderson, P.; Beadle; Becker, Rick C.; Bellew; Boe; Boehning; Brabandt; Carlson; Delmore; Delzer; Dockter; Glassheim; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Headland; Hogan; Holman; Hunskor; Karls; Kelsh; Kempenich; Klemin; Kreidt; Larson; Lefor; Looyesen; Louser; Maragos; Martinson; Mitskog; Mock; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Onstad; Oversen; Owens; Paur; Pollert; Sanford; Schneider; Schreiber Beck; Silbernagel; Skarphol; Strinden; Sukut; Zubke; Speaker Belter

**ABSENT AND NOT VOTING:** Brandenburg; Frantsvog; Monson

Engrossed SB 2194 failed.

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### SECOND READING OF SENATE BILL

**SB 2358:** A BILL for an Act to authorize the department of human services to convey land in Walsh County.

### 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 6 YEAS, 85 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Froseth; Johnson, M.; Mock; Oversen; Paur; Schneider

**NAYS:** Amerman; Anderson, B.; Anderson, D.; Anderson, P.; Beadle; Becker, Rich S.; Becker, Rick C.; Bellew; Boe; Boehning; Boschee; Brabandt; Carlson; Damschen; Delmore; Delzer; Devlin; Dockter; Dosch; Fehr; Glassheim; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Headland; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Kading; Karls; Kasper; Keiser; Kelsh; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Laning; Larson; Lefor; Looyesen; Louser; Maragos; Martinson; Meier; Mitskog; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Olson; Onstad; Owens; Pollert; Porter; Rohr; Ruby; Sanford; Schatz; Schmidt; Schreiber Beck; Seibel; Silbernagel; Skarphol; Steiner; Streyle; Strinden; Sukut; Thoreson; Toman; Trottier; Vigasaa; Wallman; Weisz; Zubke; Speaker Belter

**ABSENT AND NOT VOTING:** Brandenburg; Frantsvog; Monson

Engrossed SB 2358 failed.

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**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)****MR. PRESIDENT:** The House has passed, unchanged: SB 2176.**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)****MR. PRESIDENT:** The House has amended and subsequently passed: SB 2030, SB 2332, SB 2333, SCR 4003.**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)****MR. PRESIDENT:** The House has failed to pass, unchanged: SB 2194, SB 2358.**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 Sixteenth orders of business and at the conclusion of those orders, the House stand adjourned until 8:00 a.m., Monday, April 6, 2015, which motion prevailed.**REPORT OF STANDING COMMITTEE****SB 2043, as engrossed: Human Services Committee (Rep. Weisz, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2043 was placed on the Sixth order on the calendar.

Page 1, line 1, after "50-24.1" insert "and a new subsection to section 50-24.6-04"

Page 1, line 3, remove "and"

Page 1, line 3, after "technicians" insert ",drug manufacturer rebates"

Page 1, after line 13, insert:

**"SECTION 2.** A new subsection to section 50-24.6-04 of the North Dakota Century Code is created and enacted as follows:

The department may negotiate additional rebates from drug manufacturers to supplement the rebates required by federal law governing the medical assistance program. Additionally, the department may join a multistate supplemental drug rebate pool, and if the department negotiates additional rebates outside this pool, any other manufacturer must be allowed to match those rebates."

Renumber accordingly

**REPORT OF STANDING COMMITTEE****SB 2079, as engrossed: Human Services Committee (Rep. Weisz, Chairman)** recommends **DO PASS** (10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2079 was placed on the Fourteenth order on the calendar.**REPORT OF STANDING COMMITTEE****SB 2083, as engrossed: Human Services Committee (Rep. Weisz, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (8 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2083 was placed on the Sixth order on the calendar.Page 4, line 17, after "facility" insert ", including any contract services allowed."Page 4, line 23, replace "not" with "only"Page 4, line 23, replace ", and may not" with "an individual who is bedbound with limited potential for improvement, requires extensive skilled nursing care, or needs restraints, upon the individual showing how the higher needs of the individual will be met through third party contractors that would provide a higher level of care than that"

which would otherwise be available in a basic care or nursing facility. An assisted living facility shall"

Page 4, line 23, remove "the"

Page 4, line 24, replace "option of serving." with "a requirement for"

Page 4, line 24, replace "who" with "to contract with a third party to receive services, if the individual"

Page 4, line 25, remove "not including an individual who is receiving hospice care; who"

Page 4, line 26, replace the underscored semicolon with an underscored comma

Page 4, line 26, remove "who"

Page 4, line 26, after the underscored period insert "An assisted living facility may not be held liable for the acts or omissions of a third-party contractor working in the facility. This subsection does not preclude an assisted living facility from serving a bedbound individual who is receiving hospice care."

Page 6, line 17, replace "the" with "a"

Page 6, line 18, replace "significant medication errors or a pattern of errors" with an underscored comma

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2093, as engrossed: Energy and Natural Resources Committee (Rep. Porter, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2093 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2206, as engrossed: Human Services Committee (Rep. Weisz, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2206 was placed on the Sixth order on the calendar.

Page 1, line 4, after "50-24.1-14" insert ", subsection 3 of section 57-15-01.1, and subsection 34 of section 57-15-06.7"

Page 1, line 6, after "expense" insert "and reduction of county property tax levy authority for social service board budgets to reflect county savings from programs funded at state expense"

Page 2, line 22, after the first "department" insert "of human services"

Page 2, line 22, after the second "department" insert "of human services"

Page 2, line 24, after the underscored period insert "The department of human services shall compute the amount of budget savings for each county created by the department's assumption of program costs in subdivision a and shall report that amount to the tax commissioner."

Page 2, line 27, remove "the full amount of the savings calculated for each year must be deducted"

Page 2, replace lines 28 through 31 with "The tax commissioner shall calculate the mill levy reduction in each county made possible by the program costs assumed in subdivision a and deduct that amount from the human services mill levy of the county in effect for taxable year 2014, apply to the resulting mill levy amount the percentage salary and benefits increase provided by legislative appropriations for state employees for taxable year 2015, and shall inform the auditor in each county"

that the amount so determined for the county is the mill levy limit for that county's human services mill levy for taxable year 2015. The tax commissioner shall increase the taxable year 2015 human services mill levy limit determined under this subdivision for each county by the percentage salary and benefits increase provided by legislative appropriations for state employees for taxable year 2016, and shall inform the auditor in each county that the amount so determined for the county is the mill levy limit for that county's human services mill levy for taxable year 2016 and each taxable year thereafter. The county share of the human service budget must be funded entirely from the county's property tax levy for that purpose and the county may not use funds from any other source available to the county for that purpose, with the exception of grant funds that may be available to the county under section 50-06-20.1."

Page 7, after line 6, insert:

**"SECTION 9. AMENDMENT.** Subsection 3 of section 57-15-01.1 of the North Dakota Century Code is amended and reenacted as follows:

3. A taxing district may elect to levy the amount levied in dollars in the base year. Any levy under this section must be specifically approved by a resolution approved by the governing body of the taxing district. Before determining the levy limitation under this section, the dollar amount levied in the base year must be:
  - a. Reduced by an amount equal to the sum determined by application of the base year's calculated mill rate for that taxing district to the final base year taxable valuation of any taxable property and property exempt by local discretion or charitable status which is not included in the taxing district for the budget year but was included in the taxing district for the base year.
  - b. Increased by an amount equal to the sum determined by the application of the base year's calculated mill rate for that taxing district to the final budget year taxable valuation of any taxable property or property exempt by local discretion or charitable status which was not included in the taxing district for the base year but which is included in the taxing district for the budget year.
  - c. Reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district. For purposes of this subdivision, an expired temporary mill levy increase does not include a school district general fund mill rate exceeding one hundred ten mills which has expired or has not received approval of electors for an extension under subsection 2 of section 57-64-03.
  - d. If the base year is a taxable year before 2013, reduced by the amount of state aid under chapter 15.1-27, which is determined by multiplying the budget year taxable valuation of the school district by the lesser of:
    - (1) The base year mill rate of the school district minus sixty mills; or
    - (2) Fifty mills.
  - e. If the base year is a taxable year before 2016, reduced by the amount of the savings from the reduction in the county's social service funding responsibility derived from transferring the county social service costs to the department of human services as calculated for the budget year and adjusted for the percentage salary and benefits increase provided by legislative appropriations for state employees for the taxable year under subsection 2 of section 11-23-01.

**SECTION 10. AMENDMENT.** Subsection 34 of section 57-15-06.7 of the North Dakota Century Code is amended and reenacted as follows:

34. Counties levying an annual tax for human services purposes as provided in section 50-06.2-05 may levy a tax not exceeding the lesser of twenty mills or the limitation as determined under section 11-23-01."

Page 8, line 15, remove "and"

Page 8, line 15, after "9" insert ", 10, and 11"

Page 8, line 17, replace "Section 10" with "Sections 1 and 12"

Page 8, line 17, replace "is" with "are"

Page 8, line 18, replace "is" with "are"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2274: Judiciary Committee (Rep. K. Koppelman, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2274 was placed on the Sixth order on the calendar.

Page 1, line 10, replace "identifies" with "identified"

Page 1, line 10, remove "or otherwise"

Page 2, line 18, remove "or maintains the applicant's address of record. The court shall review the chief"

Page 2, line 19, replace "law enforcement officer's decision to deny the certification de novo" with "in accordance with the procedures provided in section 28-34-01"

Page 2, line 21, remove the second "not"

Page 2, line 22, replace "any substantial" with "insufficient"

Page 2, line 22, replace "that supports" with "to support"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2348, as engrossed: Human Services Committee (Rep. Weisz, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2348 was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the House as printed on page 1152 of the House Journal, Engrossed Senate Bill No. 2348 is amended as follows:

Page 1, line 10, after "training" insert "in the most recent nationally recognized course"

Page 1, line 12, remove "by means of:"

Page 1, remove lines 13 and 14

Page 1, line 15, remove "(2) A"

Page 1, line 15, overstrike "nationally recognized course"

Page 1, line 16, remove the overstrike over the period

Page 1, line 16, remove "provided by an entity other than one"

Page 1, remove lines 17 through 19

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2377, as engrossed: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2377 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 create and enact section 57-61-01.9 of the North Dakota Century Code, relating to severance tax for commercial leonardite; to amend and reenact subsection 5 of section 38-11.2-01, sections 38-12.1-01, 38-12.1-02, 38-12.1-03, 38-12.1-04, 38-12.1-05, and 38-14.1-02, subsection 3 of section 38-14.1-05, subsection 3 of section 38-14.1-13, subdivisions r and s of subsection 1 of section 38-14.1-14, subdivision c of subsection 2 of section 38-14.1-14, paragraph 2 of subdivision e of subsection 3 of section 38-14.1-21, subdivision b of subsection 4 of section 38-14.1-21, subsections 1 and 1.1 of section 38-14.1-24, subdivision b of subsection 3 of section 38-14.1-24, subsections 5, 10, and 18 of section 38-14.1-24, section 38-14.1-25, subdivision b of subsection 1 of section 38-14.1-27, subsections 1, 3, and 4 of section 38-14.1-37, and section 38-15-01, 38-15-02, 38-18-07, and section 47-10-24 of the North Dakota Century Code, relating to the definition of coal and commercial leonardite; and to provide for application.

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

**SECTION 1. AMENDMENT.** Subsection 5 of section 38-11.2-01 of the North Dakota Century Code is amended and reenacted as follows:

5. "Subsurface mineral" means any naturally occurring element or compound recovered under the provisions of chapter 38-12, but for the purpose of this chapter excludes coal, commercial leonardite, oil and gas, sand and gravel, and rocks crushed for sand and gravel.

**SECTION 2. AMENDMENT.** Section 38-12.1-01 of the North Dakota Century Code is amended and reenacted as follows:

**38-12.1-01. Legislative findings.**

The legislative assembly of the state of North Dakota finds that:

1. The discovery and evaluation of coal or commercial leonardite deposits is advantageous in an industrial society.
2. Coal or commercial leonardite occurs hidden under the ground and must be searched for by diverse techniques, and that the search, exploration, or prospecting for coal or commercial leonardite is a necessary and expensive prerequisite to coal or commercial leonardite extraction and for land use planning in coal-bearing or commercial leonardite-bearing areas.
3. It is to the benefit of society to allow coal or commercial leonardite exploration and to require the information generated from exploration to be available to the office of the state geologist.

**SECTION 3. AMENDMENT.** Section 38-12.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**38-12.1-02. Declaration of policy.**

It is hereby declared to be in the public interest to have persons engaged in coal or commercial leonardite exploration or evaluation report their findings to the office of the state geologist so that data on the location, quantity, and quality of coal or commercial leonardite, and the characteristics of associated material, will be

available to assist the state in determining what the attitude of the state should be regarding future development of coal or commercial leonardite resources.

**SECTION 4. AMENDMENT.** Section 38-12.1-03 of the North Dakota Century Code is amended and reenacted as follows:

**38-12.1-03. Definitions.**

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

1. "Coal" means a dark-colored, compact, and earthy organic rock with less than forty percent inorganic components, based on dry material, formed by the accumulation and decomposition of plant material. The term includes lignite in both oxidized and nonoxidized forms, whether or not the material is enriched in radioactive materials. The term does not include commercial leonardite.
2. "Coal exploration" means:
  - a. The use of any technique which when applied to the surface of the land will aid in the discovery or evaluation of coal or commercial leonardite or aid in determining the quantity and quality of coal or commercial leonardite present. It includes drilling or digging, excavating, core sample drilling and collection, diamond drilling, trenching, or any other type of penetration of the surface of the earth; or
  - b. Environmental data gathering activities conducted for the purpose of establishing the conditions of an area prior to applying for a permit under chapter 38-14.1. The provisions of sections 38-12.1-04 and 38-12.1-05 are not applicable to such environmental data gathering activities unless the natural land surface will be substantially disturbed or such activities are located on lands designated unsuitable for mining under section 38-14.1-05.
3. "Commercial leonardite" means a dark-colored, soft, earthy rock formed from the oxidation of lignite coal, and is produced from a mine that has as its only function for supply for purposes other than gasification or combustion to generate electricity.
4. "Commission" means the industrial commission of the state of North Dakota.
- 4-5. "Permit area" means a county.
- 5-6. "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; the masculine gender, in referring to a person, includes the feminine and the neuter genders.
- 6-7. "Road" means a surface or right of way for purposes of travel by land vehicles used in coal or commercial leonardite exploration. A road consists of the entire area of the right of way, including the roadbed, shoulders, parking and side areas, approaches, structures, ditches, and surface.

**SECTION 5. AMENDMENT.** Section 38-12.1-04 of the North Dakota Century Code is amended and reenacted as follows:

**38-12.1-04. Jurisdiction of commission.**

The commission has jurisdiction and authority over all persons and property, both public and private, necessary to effectively enforce the provisions of this

chapter. The director of mineral resources shall act as a supervisor charged with the duty of enforcing the regulations and orders of the commission applicable to the provisions of this chapter. The commission has authority to make such investigations as it deems proper to determine whether facts exist which justify action by the commission. The commission acting through the director of mineral resources has the authority:

1. To require:
  - a. The furnishing of a reasonable bond with good and sufficient surety, conditioned upon the full compliance with the provisions of this chapter, and the rules and orders of the commission prescribed to govern the exploration for coal or commercial leonardite on state and private lands and roads used in coal or commercial leonardite exploration within the state of North Dakota. The person required to furnish the bond may elect to deposit a collateral bond, self-bond, cash, or any alternative form of security approved by the commission, or combination thereof, by which a permittee assures faithful performance of all requirements of this chapter and the rules and orders of the industrial commission.
  - b. The delivery, free of charge, to the state geologist of the basic data collected during the course of the exploration within a reasonable time as may be prescribed by the state geologist. The data so submitted is confidential and available only to the office of the state geologist for official purposes for a period of two years, and such period of confidentiality must, upon application, be extended for one-year periods by the state geologist, for a total period not to exceed ten years unless it is demonstrated that such period should be further extended in order to prevent possible resulting harm to the person, or the person's successors and assigns, who delivered such basic data to the state geologist. The basic data must include, if specifically requested by the state geologist and if the information has been developed by or for a person conducting the exploration:
    - (1) Sample cuts.
    - (2) Drillers' logs, sample logs, radioactivity logs, resistivity logs, or other types of electrical or mechanical logs.
    - (3) Elevation and location information on the data collection points.
    - (4) Other pertinent information as may be required by the state geologist.
2. To require the plugging, covering, or reburial in an appropriate manner so as to protect environmental quality, general health and safety, and economic values of all holes, pits, or trenches excavated during the course of coal or commercial leonardite exploration.
3. To promulgate and enforce rules, regulations, and orders to effectuate the provisions, purpose, and intent of this chapter.
4. To inspect all drilling or exploration sites. For the purposes of this subsection, the director of mineral resources or the director's representative shall have access to all drilling or exploration installations regulated by this chapter for the purpose of inspection and sampling and shall have the authority to require the operators' aid if the director finds it necessary and requests it.
5. Notwithstanding any of the other provisions of this section, the commission acting through the director of mineral resources shall require that any lands substantially disturbed in coal or commercial leonardite exploration, including excavations, roads, and drill holes, and the removal of necessary facilities and equipment be reclaimed in accordance with



the applicable performance standards of section 38-14.1-24. Reclamation must be accomplished to protect environmental quality, general health and safety, and economic values.

**SECTION 6. AMENDMENT.** Section 38-12.1-05 of the North Dakota Century Code is amended and reenacted as follows:

**38-12.1-05. Notice and drilling permit required - Exceptions - Limits on coal or commercial leonardite removal.**

1. It is unlawful to commence operations for drilling for the exploration for coal or commercial leonardite without first obtaining a permit from the director of mineral resources, under such rules and regulations as may be prescribed by the commission, and paying to the commission a fee of one hundred dollars for each such permit area. The permit application must include a description of the exploration area and the period of proposed exploration. The permit must be granted within thirty days after a proper application has been submitted.
2. This permit may not be required:
  - a. In an area where a permit to conduct surface coal mining operations is in effect pursuant to chapter 38-14.1;
  - b. For holes drilled to guide excavating equipment in an operating mine;
  - c. In areas where a drill hole is required by any other state agency; or
  - d. For environmental data gathering activities that do not substantially disturb the land, unless the environmental data gathering activities are located on land designated unsuitable for mining under section 38-14.1-05.
3. No person may remove more than two hundred fifty tons [226.80 metric tons] of coal or commercial leonardite pursuant to an exploration permit without first obtaining a permit from the public service commission.

**SECTION 7. AMENDMENT.** Section 38-14.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**38-14.1-02. Definitions.**

Wherever used or referred to in this chapter, unless a different meaning clearly appears from the context:

1. "Alluvial valley floors" means the unconsolidated stream-laid deposits holding streams where water availability is sufficient for subirrigation or flood irrigation agricultural activities but does not include upland areas which are generally overlain by a thin veneer of colluvial deposits composed chiefly of sediment from sheet erosion, deposits by unconcentrated runoff or slope wash, together with talus, other mass movement accumulation, and windblown deposits.
2. "Approximate original contour" means that surface configuration achieved by backfilling and grading an area affected by surface coal mining operations so that the reclaimed area closely resembles the general surface configuration of the land prior to being affected by surface coal mining operations and blends into and complements the surrounding undisturbed land.
3. "Coal" means a dark-colored compact and earthy organic rock with less than forty percent inorganic components, based on dry material, formed by the accumulation and decomposition of plant material. The term includes consolidated lignitic coal, in both oxidized and nonoxidized

- forms, having less than eight thousand three hundred British thermal units per pound [453.59 grams], moist and mineral matter free, whether or not the material is enriched in radioactive materials. The term does not include commercial leonardite.
4. "Commercial leonardite" means a dark-colored, soft, earthy organic rock formed from the oxidation of lignite coal, and is produced from a mine that has as its only function for supply for purposes other than gasification or combustion to generate electricity.
5. "Commission" means the public service commission, or such other department, bureau, or commission as may lawfully succeed to the powers and duties of that commission. The commission is the state regulatory authority for all purposes relating to the Surface Mining Control and Reclamation Act of 1977 [Pub. L. 95-87; 91 Stat. 445; 30 U.S.C. 1201 et seq.].
- ~~5-6.~~ "Extended mining plan" means a written statement setting forth the matters specified in section 38-14.1-15 and covering the estimated life of the surface coal mining operation.
- ~~6-7.~~ "Final cut" means the last pit created in a surface mining pit sequence.
- ~~7-8.~~ "Highwall" and "endwall" mean those sides of the pit adjacent to unmined land.
- ~~8-9.~~ "Imminent danger to the health and safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this chapter in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before such condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose the person's self to the danger during the time necessary for abatement.
- ~~9-10.~~ "Operator" means any individual, person, partnership, firm, association, society, joint stock company, company, cooperative, corporation, limited liability company, or other business organization, or any department, agency, or instrumentality of the state, local, or federal government, or any governmental subdivision thereof including any publicly owned utility or publicly owned corporation of the state, local, or federal government, engaged in or controlling a surface coal mining operation. Operator does not include those who remove or intend to remove two hundred fifty tons [226.80 metric tons] or less of coal or commercial leonardite from the earth by coal or commercial leonardite mining within twelve consecutive calendar months in any one location or who remove any coal or commercial leonardite pursuant to reclamation operations under chapter 38-14.2.
- ~~10-11.~~ "Other minerals" means clay, stone, sand, gravel, metalliferous and nonmetalliferous ores, and any other solid material or substances of commercial value occurring within five hundred feet [152.4 meters] or less of the land surface and which are excavated in solid form from natural deposits on or in the earth, exclusive of coal or commercial leonardite and those minerals which occur naturally in liquid or gaseous form.
- ~~11-12.~~ "Other suitable strata" means those portions of the overburden determined by the commission to be suitable for meeting the requirements of subsections 2 and 17 of section 38-14.1-24 and based on data submitted by the permit applicant.

- ~~12-13.~~ "Overburden" means all of the earth and other materials, with the exception of suitable plant growth material, which lie above natural deposits of coal or commercial leonardite and also means such earth and other materials, with the exception of suitable plant growth material, disturbed from their natural state by surface coal or commercial leonardite mining operations.
- ~~12-1-14.~~ "Performance bond" means a surety bond, collateral bond, self-bond, deposit, a bond issued under the state surface mining and reclamation bond fund, any alternative form of security approved by the commission, or combination thereof, by which a permittee assures faithful performance of all requirements of this chapter.
- ~~13-15.~~ "Permit" means a permit to conduct surface coal mining and reclamation operations issued by the commission.
- ~~14-16.~~ "Permit applicant" means a person or operator applying for a permit.
- ~~15-17.~~ "Permit area" means the area of land approved by the commission for surface coal mining operations which shall be readily identifiable by appropriate markers on the site.
- ~~16-18.~~ "Permit renewal" means the extension of the permit term for areas within the boundaries of the initial or existing permit, upon the expiration of the initial or existing permit term.
- ~~17-19.~~ "Permit revision" means the modification of permit provisions during the term of the permit and includes changes in the mining and reclamation plans, incidental boundary extensions, and the transfer, assignment, or sale of rights granted under the permit.
- ~~18-20.~~ "Permit term" means a period of time beginning with the date upon which a permit is given for surface coal mining and reclamation operations under the provisions of this chapter, and ending with the expiration of the next succeeding five years plus any renewal of the permit granted under this chapter.
- ~~19-21.~~ "Permittee" means a person or operator holding a permit.
- ~~20-22.~~ "Person" means an individual, partnership, firm, association, society, joint stock company, company, cooperative, corporation, limited liability company, or other business organization.
- ~~21-23.~~ "Pit" means a tract of land, from which overburden, ~~or coal, or~~ commercial leonardite, or ~~both,~~ any combination of overburden, coal, or commercial leonardite has been or is being removed for the purpose of surface coal mining operations.
- ~~22-24.~~ "Prime farmland" means lands as prescribed by commission regulation that have the soil characteristics and moisture supply needed to produce sustained high yields of adapted crops economically when treated and managed, including management of water, according to modern farming methods. Furthermore, such lands historically have been used for intensive agricultural purposes and are large enough in size to constitute a viable economic unit.
- ~~23-25.~~ "Prime soils" means those soils that have the required soil characteristics (including slope and moisture supply) needed to produce sustained high yields of adapted crops, as determined by the state conservationist of the United States department of agriculture soil conservation service.
- ~~24-26.~~ "Reclaimed" or "reclaim" means conditioning areas affected by surface coal mining operations to make them capable of supporting the uses which they were capable of supporting prior to any mining, or higher or better uses, pursuant to subsection 2 of section 38-14.1-24.

- ~~25-27.~~ "Reclamation plan" means a plan submitted by an applicant for a permit which sets forth a plan for reclamation of the proposed surface coal mining operations pursuant to subsection 2 of section 38-14.1-14.
- ~~26-28.~~ "Refuse" means all waste material directly connected with the production of coal or commercial leonardite mined by surface coal mining operations.
- ~~27-29.~~ "Soil amendments" means those materials added by the operator to the replaced overburden or suitable plant growth material, or both, to improve the physical or chemical condition of the soil in its relation to plant growth capability.
- ~~28-30.~~ "Soil classifier" means a professional soil classifier as defined in subsection 4 of section 43-36-01.
- ~~29-31.~~ "Soil survey" means the identification and location of all suitable plant growth material within the proposed permit area and an accompanying report that describes, classifies, and interprets for use such materials.
- ~~30-32.~~ "State program" means the program established by the state of North Dakota in accordance with the requirements of section 503 of the federal Surface Mining Control and Reclamation Act of 1977 [Pub. L. 95-87; 91 Stat. 470; 30 U.S.C. 1253] to regulate surface coal mining and reclamation operations on lands within the state of North Dakota.
- ~~31-33.~~ "Suitable plant growth material" means that soil material (normally the A, B, and portions of the C horizons) located within the proposed permit area which, based upon a soil survey, is found by the commission to be the most acceptable as a medium for plant growth when respread on the surface of regraded areas.
- ~~32-34.~~ "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incidental to the reclamation of such operations after July 1, 1979.
- ~~33-35.~~ "Surface coal mining operations" means:
- a. Activities affecting the surface of lands in connection with a surface coal or commercial leonardite mine. Such activities include extraction of coal or commercial leonardite from coal or commercial leonardite refuse piles, excavation for the purpose of obtaining coal or commercial leonardite, including such common methods as contour, strip, auger, box cut, open pit, and area mining, the uses of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, and loading of coal or commercial leonardite at or near the minesite, except that such activities do not include coal or commercial leonardite exploration subject to chapter 38-12.1, or the extraction of coal or commercial leonardite incidental to reclamation operations under chapter 38-14.2; and
  - b. The areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all adjacent lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities.

- ~~34-36.~~ "Unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of the permittee's permit or any requirement of this chapter due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit or this chapter due to indifference, lack of diligence, or lack of reasonable care.

**SECTION 8. AMENDMENT.** Subsection 3 of section 38-14.1-05 of the North Dakota Century Code is amended and reenacted as follows:

3. Prior to designating any land area as unsuitable for surface coal mining operations, the commission shall prepare a detailed statement on:
  - a. The potential coal or commercial leonardite resources of the area;
  - b. The demand for coal or commercial leonardite resources; and
  - c. The impact of such designation on the environment, the economy, and the supply of coal or commercial leonardite.

**SECTION 9. AMENDMENT.** Subsection 3 of section 38-14.1-13 of the North Dakota Century Code is amended and reenacted as follows:

3. Upon request by the permit applicant, the commission, in its discretion, may designate specific information included in the plans required by subdivisions c and d of subsection 1 as exempt from disclosure under section 44-04-18, provided such specific information pertains only to the analysis of the chemical and physical properties of the coal or commercial leonardite (excepting information regarding such mineral or elemental contents which is potentially toxic in the environment). Each request must be accompanied by a statement specifying the need for nondisclosure, which statement must be considered part of the permit application to be filed for public inspection as specified in subsection 2. The confidential information is exempt for a period not to exceed ten years subsequent to the date on which the request for nondisclosure was filed, unless it is demonstrated by the permit applicant that such period should be further extended in order to prevent possible resulting harm to the permit applicant, or the applicant's successors and assigns.

**SECTION 10. AMENDMENT.** Subdivisions r and s of subsection 1 of section 38-14.1-14 of the North Dakota Century Code are amended and reenacted as follows:

- r. Cross sections, maps or plans of the land to be affected, including the actual area to be mined, prepared by or under the direction of and certified by a registered professional engineer, a registered land surveyor, or a qualified professional geologist with assistance from experts in related fields, showing pertinent elevation and location of test borings or core samplings and depicting all of the following information:
  - (1) The nature and depth of the various strata of overburden.
  - (2) The location of subsurface water, if encountered, and its quality.
  - (3) The nature and thickness of any coal, commercial leonardite, or rider seam above the coal or commercial leonardite seam to be mined.
  - (4) The nature of the stratum immediately beneath the coal or commercial leonardite seam to be mined.

- (5) All mineral crop lines and the strike and dip of the coal or commercial leonardite to be mined, within the area of land to be affected.
  - (6) Existing or previous surface mining limits.
  - (7) The location and extent of known workings of any underground mines, including mine openings to the surface.
  - (8) The location of aquifers.
  - (9) The estimated elevation of the water table.
  - (10) The location of spoil, waste, or refuse areas, suitable plant growth material stockpiling areas and, if necessary, stockpiling areas for other suitable strata.
  - (11) The location of all impoundments for waste or erosion control.
  - (12) Any settling or water treatment facility.
  - (13) Constructed or natural drainways and the location of any discharges to any surface body of water on the area of land to be affected or adjacent thereto.
  - (14) Profiles at appropriate cross sections of the anticipated final surface configuration that will be achieved pursuant to the applicant's proposed reclamation plan.
- s. A statement by the applicant of the result of test borings or core samplings from the permit area, including logs of the drill holes, the thickness of the coal or commercial leonardite seam found, an analysis of the chemical properties of such coal or commercial leonardite, the sulfur content of any coal or commercial leonardite seam, chemical analysis of potentially toxic forming sections of the overburden, and chemical analysis of the stratum lying immediately underneath the coal or commercial leonardite to be mined. The provisions of this subdivision may be waived by the commission with respect to the specific application by a written determination that such requirements are unnecessary.

**SECTION 11. AMENDMENT.** Subdivision c of subsection 2 of section 38-14.1-14 of the North Dakota Century Code is amended and reenacted as follows:

- c. The consideration which has been given to maximize the utilization and conservation of the coal or commercial leonardite being recovered so that re-affecting the land in the future can be minimized.

**SECTION 12. AMENDMENT.** Paragraph 2 of subdivision e of subsection 3 of section 38-14.1-21 of the North Dakota Century Code is amended and reenacted as follows:

- (2) Not materially damage the quantity or quality of water in surface or underground water systems that supply these alluvial valley floors. This subdivision does not affect those surface coal mining operations which on July 1, 1979, produce coal or commercial leonardite in commercial quantities and are located within or adjacent to alluvial valley floors or have obtained specific permit approval by the commission to conduct surface coal mining operations within said alluvial valley floors.

**SECTION 13. AMENDMENT.** Subdivision b of subsection 4 of section 38-14.1-21 of the North Dakota Century Code is amended and reenacted as follows:

- b. The commission finds that the proposed surface coal mining operation will constitute a hazard to a dwelling house, public building, school, church, cemetery, commercial or institutional building, public road, stream, lake, or other public or private property other than property subject to a coal or commercial leonardite lease.

**SECTION 14. AMENDMENT.** Subsections 1 and 1.1 of section 38-14.1-24 of the North Dakota Century Code are amended and reenacted as follows:

1. Conduct surface coal mining operations so as to maximize the utilization and conservation of the coal or commercial leonardite being recovered so that re-affecting the land in the future through surface coal mining can be minimized.
- 1.1. Conduct any auger mining associated with surface coal mining operations in a manner that will maximize recoverability of coal or leonardite and other mineral reserves remaining after mining activities and reclamation operations are completed, and seal or fill all auger holes as necessary to ensure long-term stability of the area and minimize any adverse impact to the environment or hazard to public health or safety. The commission may prohibit auger mining if necessary to maximize the utilization, recoverability, or conservation of coal or commercial leonardite resources, to ensure long-term stability, or to protect against any adverse impact to the environment or hazard to public health or safety.

**SECTION 15. AMENDMENT.** Subdivision b of subsection 3 of section 38-14.1-24 of the North Dakota Century Code is amended and reenacted as follows:

- b. The permittee, at a minimum, shall backfill, grade, and compact (where advisable) using all available overburden and other spoil and waste materials to attain the lowest practicable grade (not to exceed the angle of repose), to provide adequate drainage, and to contain all toxic materials in order to achieve an ecologically sound land use compatible with the surrounding region, in those instances where:
  - (1) Surface coal mining operations are carried out over a substantial period of time at the same location where the operation transects the coal or commercial leonardite deposit;
  - (2) The thickness of the coal or commercial leonardite deposits relative to the volume of overburden is large; and
  - (3) The permittee demonstrates that the overburden and other spoil and waste materials at a particular point in the permit area or otherwise available from the entire permit area are insufficient, giving due consideration to volumetric expansion, to restore the approximate original contour.

**SECTION 16. AMENDMENT.** Subsections 5, 10, and 18 of section 38-14.1-24 of the North Dakota Century Code are amended and reenacted as follows:

5. Remove, segregate, and respread suitable plant growth material as required by the commission within the permit area. The commission may require the permittee to segregate suitable plant growth material in two or more soil layers. The commission shall determine the soil layer or layers to be removed based upon the quality and quantity of suitable plant growth material inventoried by the soil survey required in subdivision t of subsection 1 of section 38-14.1-14. Based on the soil survey, the commission shall also determine whether other suitable strata are necessary to meet revegetation requirements. If other strata can be shown to be suitable and necessary to meet revegetation requirements, the commission may require the permittee to determine the areal extent of other suitable strata within the proposed permit area, and to remove, segregate, protect, and respread such material. If the suitable plant

growth material or other suitable strata cannot be replaced on an approved graded area within a time short enough to avoid deterioration of such material, the permittee shall stockpile and stabilize such materials by establishing a successful cover of quick-growing plants or by other means thereafter so that the suitable plant growth material or other suitable strata will be protected from wind and water erosion and will remain free from any contamination by toxic material. In the interest of achieving the maximum reclamation provided for in this chapter, the permittee may, or at the discretion of the commission shall, utilize such soil amendments as described in ~~subsection 27~~ of section 38-14.1-02.

10. Remove or bury all debris and other similar material resulting from the operation and bury all mine wastes ~~and~~ coal, ~~and~~ commercial leonardite processing wastes unless the commission approves the surface disposal of such wastes. If the commission approves the surface disposal of such wastes, the permittee shall stabilize all waste piles in designated areas through construction in compacted layers, including the use of incombustible and impervious materials if necessary, to assure that the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated according to the provisions of this chapter.
18. Assume the responsibility for successful revegetation, as required by subsection 17, for a period of ten full years after the last year of augmented seeding, fertilizing, irrigation, or other work, provided that, when the commission approves a long-term intensive agricultural postmining land use, the ten-year period of responsibility for revegetation commences at the date of initial planting. However, for previously mined areas that are affected by re-mining, the operator's responsibility for successful revegetation will extend for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, and other work in order to assure compliance with the applicable standards. For the purposes of this subsection, "previously mined areas" are lands that were affected by coal ~~or~~ commercial leonardite mining activities prior to January 1, 1970, and "augmented seeding, fertilizing, irrigation, or other work" does not include normal conservation practices recognized locally as good management for the postmining land use.

**SECTION 17. AMENDMENT.** Section 38-14.1-25 of the North Dakota Century Code is amended and reenacted as follows:

**38-14.1-25. Prohibited mining practices.**

1. ~~No~~A permittee may not use any coal ~~or~~ commercial leonardite mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid or solid wastes either temporarily or permanently as dams or embankments unless approved by the commission, after consultation with the state engineer.
2. ~~No~~A permittee may not locate any part of the surface coal mining and reclamation operations or deposit overburden, debris, or waste materials outside the permit area for which bond has been posted, except as provided in subsection 24 of section 38-14.1-03.
3. ~~No~~A permittee may not deposit overburden, debris, or waste materials in such a way that normal erosion or slides brought about by natural causes will permit the same to go beyond or outside the permit area for which bond has been posted.

**SECTION 18. AMENDMENT.** Subdivision b of subsection 1 of section 38-14.1-27 of the North Dakota Century Code is amended and reenacted as follows:

- b. For those surface coal mining and reclamation operations which remove or disturb strata that serve as aquifers which significantly ensure the hydrologic balance of water use either on or off the



mining site, the commission, in consultation with other appropriate state agencies, shall specify those:

- (1) Monitoring sites to record the quantity and quality of surface drainage above and below the minesite as well as in the potential zone of influence.
- (2) Monitoring sites to record level, amount, and samples of ground water and aquifers potentially affected by the mining and also directly below the lowermost (deepest) coal or commercial leonardite seam to be mined.
- (3) Records of well logs and borehole data to be maintained.
- (4) Monitoring sites to record precipitation.

The monitoring data collection and analysis required by this section must be conducted according to standards and procedures set forth by the commission in consultation with other appropriate state agencies in order to assure their reliability and validity.

**SECTION 19. AMENDMENT.** Subsections 1, 3, and 4 of section 38-14.1-37 of the North Dakota Century Code are amended and reenacted as follows:

1. The provisions of this chapter do not apply to any of the following activities:
  - a. Extraction of coal or commercial leonardite by a landowner for the landowner's own noncommercial use from land owned or leased by the landowner.
  - b. Extraction of coal or commercial leonardite as an incidental part of federal, state, or local government-financed highway or other construction under regulations established by the commission.
3. The commission may provide or assume the cost of training coal or commercial leonardite operators who meet the qualifications in subsection 2 concerning the preparation of permit applications and compliance with the regulatory program.
4. An operator who has received assistance under subsection 2 or 3 shall reimburse the commission for the cost of the services rendered if the commission finds that the operator's actual and attributed annual production of coal or commercial leonardite for all locations exceeds three hundred thousand tons [272155.41 metric tons] during the twelve months immediately following the date the operator is issued a surface coal mining and reclamation permit.

**SECTION 20. AMENDMENT.** Section 38-15-01 of the North Dakota Century Code is amended and reenacted as follows:

**38-15-01. Policy.**

It is hereby declared to be in the public interest to foster, encourage, and promote the development, production, and utilization of all natural resources of coal, commercial leonardite, oil, gas, and subsurface minerals in a manner as will prevent waste and allow a greater ultimate recovery of the natural resources, and to protect the rights of all owners so that the greatest possible economic recovery of natural resources be obtained in the state, to the end that landowners, royalty owners, producers, and the general public realize and enjoy the greatest possible good from these vital natural resources.

**SECTION 21. AMENDMENT.** Section 38-15-02 of the North Dakota Century Code is amended and reenacted as follows:

**38-15-02. Definitions.**

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

1. "Coal" means all kinds of coal, and includes what is known as lignite coal, unless a contrary intention plainly appears.
2. "Commercial leonardite" means a dark-colored, soft, earthy rock formed from the oxidation of lignite coal, and is produced from a mine that has as its only function for supply for purposes other than gasification or combustion to generate electricity.
3. "Commission" means the industrial commission.
- ~~3-4.~~ "Conflicting interests" means those interests of producers which are in conflict, so that full production and utilization by one producer is prohibited or impeded by the interests of another producer of a separate natural resource.
- ~~4-5.~~ "Gas" means all natural gas and other fluid hydrocarbons not hereinbelow defined as oil.
- ~~5-6.~~ "Natural resources" means coal, oil, gas, and subsurface minerals as defined herein.
- ~~6-7.~~ "Oil" means crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the wellhead in liquid form, and the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas other than gas produced in association with oil and commonly known as casinghead gas.
- ~~7-8.~~ "Owner" means the person who has the right to produce natural resources either for that person or others.
- ~~8-9.~~ "Person" means 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, instrumentality, or political subdivision of the state. The masculine gender, in referring to a person, includes the feminine and the neuter genders.
- ~~9-10.~~ "Producer" means the owner of a well or wells, or mine or mines, capable of producing coal, commercial leonardite, oil, gas, or subsurface minerals.
- ~~10-11.~~ "Subsurface minerals" means all naturally occurring elements and their compounds, volcanic ash, precious metals, carbonates, and natural mineral salts of boron, bromine, calcium, fluorine, iodine, lithium, magnesium, phosphorus, potassium, sodium, thorium, uranium, and sulfur, and their compounds but does not include sand and gravel and rocks crushed for sand and gravel.
- ~~11-12.~~ "Waste" means the inefficient utilization of reserves of oil, gas, subsurface minerals, ~~or coal,~~ or commercial leonardite, as the case may be.

**SECTION 22. AMENDMENT.** Section 38-18-05 of the North Dakota Century Code is amended and reenacted as follows:

**38-18-05. Definitions.**

In this chapter, unless the context or subject matter otherwise requires:

1. "Agricultural production" means the production of any growing grass or crop attached to the surface of the land, whether or not the grass or crop

is to be sold commercially, and the production of any farm animals, including farmed elk, whether or not the animals are to be sold commercially.

2. "Disturbed" means any alteration of the topsoil of the land whether the alteration is for the purpose of exploring for coal or commercial leonardite, or for the purpose of carrying out an actual mining operation.
3. "Mineral developer" means the person who acquires at least seventy-five percent of the mineral rights or a lease of at least seventy-five percent of the mineral rights for the purpose of extracting or using the mineral for nonagricultural purposes.
4. "Mineral estate" means an estate in or ownership of all or part of the minerals under a specified tract of land.
5. "Mineral lease" means any lease which purports to convey the minerals or rights relating to the minerals under a specified tract of land separate from the surface, and any other type of lease which gives or conveys rights to minerals.
6. "Mineral owner" means any person or persons who presently own the mineral estate, their successors, assigns, or predecessors in title, under a specified tract of land by means of a mineral deed, or by an exception or reservation in the deed, grant, or conveyance of the surface, or by any other means whatsoever.
7. "Minerals" means coal or commercial leonardite.
8. "Mining operation" means any type of activity, the aim of which is to discover the presence of minerals, or to remove the minerals so discovered from their original position on or in the land by any means whatsoever.
9. "Surface estate" means an estate in or ownership of the surface of a particular tract of land.
10. "Surface owner" means the person or persons who presently have valid title to the surface of the land, their successors, assigns, or predecessors in title, regardless of whether or not a portion of the land surface is occupied for a residence.

**SECTION 23. AMENDMENT.** Section 38-18-07 of the North Dakota Century Code is amended and reenacted as follows:

**38-18-07. Surface damage and disruption payments.**

1. Unless the mineral lease, surface lease, or consent statement executed by the surface owner provides for payments to the surface owner, the mineral developer shall annually pay to the surface owner a sum of money equal to the amount of damages sustained by the surface owner for loss of agricultural production caused by mining activity, provided that it can be shown that the land disturbed or to be disturbed has regularly been used for agricultural production. The amount of damages may be determined by any formula mutually agreeable between the surface owner and the mineral developer. The payments contemplated by this section only cover land actually mined, disturbed, or to be mined during the year or years during which agricultural production was actually interrupted and which land has not been restored to the level of agricultural productivity required by the plan submitted pursuant to chapter 38-14.1. The payments to be made hereunder must be made before December thirty-first of that calendar year in which the loss occurred.

2. Unless waived by the owner of a farm building, if the coal or commercial leonardite removal area of a surface mining operation comes within five hundred feet [152.4 meters] of any farm building, the mineral developer shall pay to the owner of the farm building either the fair market value of the farm building or the entire cost of removing the farm building to a location where the coal or commercial leonardite removal area of the mining operation will not come within five hundred feet [152.4 meters] of such building or buildings. The payments contemplated hereunder are in addition to any payments required by the terms of any mineral lease, unless the surface owner is a party to the lease and the lease provides for damages as contemplated in this subsection in an amount not less than the amount which would be recoverable under this section.
3. The rights granted to the surface owner by this section are hereby declared to be absolute and unwaivable, except as provided in subsection 2. Any instrument which purports to waive rights granted by this section is null and void and of no legal effect.

**SECTION 24.** Section 57-61-01.9 of the North Dakota Century Code is created and enacted as follows:

**57-61-01.9. Severance tax on commercial leonardite in lieu of sales and use taxes.**

A tax of thirty-seven and one-half cents per ton of two thousand pounds [907.18 kilograms] is imposed on all commercial leonardite severed for sale or for industrial purposes within this state. A mine operator shall remit the tax for each month within twenty-five days after the end of each month to the state tax commissioner. The mine operator shall submit the tax with any report or any form required by the state tax commissioner.

**SECTION 25. APPLICATION.** Notwithstanding any provision of this Act, the rates or application of severance and conversion taxation of coal or leonardite are not amended except as provided in section 24."

Renumber accordingly

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

**Buell J. Reich, Chief Clerk**