

JOURNAL OF THE SENATE

Sixtieth Legislative Assembly

* * * * *

Bismarck, March 14, 2007

The Senate convened at 1:00 p.m., with President Pro Tem J. Lee presiding.

The prayer was offered by Pastor Myron Grueneich, Dakota Baptist Convention, Bismarck.

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

A quorum was declared by the President Pro Tem.

REPORT OF PROCEDURAL COMMITTEE

MR. PRESIDENT: Your procedural Committee on Committees (Sen. Stenehjem, Chairman) recommends that Sen. Wardner replace Sen. Urlacher on the Select Committee to approve the nominees to the North Dakota Gaming Commission.

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

MOTION

SEN. CHRISTMANN MOVED that HB 1258 be moved to the top of the Sixth order, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1258: SEN. ANDRIST (Transportation Committee) MOVED that the amendments on SJ page 803 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1044, as engrossed: SEN. TRIPLETT (Finance and Taxation Committee) MOVED that the amendments on SJ page 798 be adopted and then be **REREFERRED** to the Appropriations Committee with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1197, as reengrossed: SEN. LYSON (Judiciary Committee) MOVED that the amendments on SJ page 801 be adopted and then be **REREFERRED** to the Appropriations Committee with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1126, as engrossed: SEN. MARCELLAIS (Judiciary Committee) MOVED that the amendments on SJ pages 798-800 be adopted and then be **REREFERRED** to the Appropriations Committee with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1219, as engrossed: SEN. LYSON (Judiciary Committee) MOVED that the amendments on SJ page 802 be adopted and then be **REREFERRED** to the Appropriations Committee with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1322, as engrossed: SEN. NETHING (Judiciary Committee) MOVED that the amendments on SJ page 805 be adopted and then be **REREFERRED** to the Appropriations Committee with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1348, as engrossed: SEN. ANDERSON (Finance and Taxation Committee) MOVED that the amendments on SJ page 806 be adopted and then be **REREFERRED** to the Appropriations Committee with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1147, as engrossed: SEN. FIEBIGER (Judiciary Committee) MOVED that the amendments on SJ page 800 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1160, as engrossed: SEN. OEHLKE (Finance and Taxation Committee) MOVED that the amendments on SJ pages 800-801 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1216: SEN. LYSON (Judiciary Committee) MOVED that the amendments on SJ pages 801-802 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1241, as engrossed: SEN. FIEBIGER (Judiciary Committee) MOVED that the amendments on SJ pages 802-803 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1249, as engrossed: SEN. FLAKOLL (Education Committee) MOVED that the amendments on SJ page 803 be adopted and then be placed on the Fourteenth order with **DO NOT PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1317, as engrossed: SEN. TOLLEFSON (Finance and Taxation Committee) MOVED that the amendments on SJ pages 803-805 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1507, as engrossed: SEN. OLAFSON (Judiciary Committee) MOVED that the amendments on SJ page 809 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CHANGE OF CHAIR

PRESIDENT PRO TEM J. LEE YIELDED the chair to Acting President Pro Tem Nething.

CONSIDERATION OF AMENDMENTS

HB 1432, as engrossed: SEN. DEVER (Human Services Committee) MOVED that the amendments on SJ pages 806-807 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1136, as engrossed: SEN. WARNER (Human Services Committee) MOVED that the amendments on SJ page 800 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1433, as engrossed: SEN. DEVER (Human Services Committee) MOVED that the amendments on SJ pages 807-808 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1435, as reengrossed: SEN. ERBELE (Human Services Committee) MOVED that the amendments on SJ pages 808-809 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1404, as engrossed: SEN. DEVER (Human Services Committee) MOVED that the amendments on SJ page 806 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1246: SEN. J. LEE (Human Services Committee) MOVED that the amendments on SJ page 803 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1431: A BILL for an Act to amend and reenact section 19-02.1-14.1 of the North Dakota Century Code, relating to restricting pharmacists from dispensing substitute epilepsy drugs.

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 5 YEAS, 39 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Bakke; Behm; Heitkamp; Nelson; Warner

NAYS: Anderson; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Tollefson; Triplett; Wanzek; Wardner

ABSENT AND NOT VOTING: Andrist; Taylor; Urlacher

Engrossed HB 1431 lost.

CHANGE OF CHAIR

ACTING PRESIDENT PRO TEM NETHING YIELDED the chair to President Pro Tem J. Lee.

SECOND READING OF HOUSE BILL

HB 1396: A BILL for an Act to amend and reenact subsection 2 of section 20.1-13.1-10, subsection 4 of section 20.1-15-11, subsection 4 of section 39-20-07, and subsection 2 of section 39-24.1-08 of the North Dakota Century Code, relating to determination of alcohol concentration by breath testing.

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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Tollefson; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Andrist; Taylor; Urlacher

HB 1396 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1458: A BILL for an Act to establish a hydrogen goal; to create and enact a new subsection to section 54-60-03 of the North Dakota Century Code, relating to the duties of the commissioner of commerce; to provide for a report to the legislative council; and to provide an appropriation.

REQUEST

SEN. GRINDBERG REQUESTED that the Senate divide HB 1458 as follows, which request was granted on a voice vote.

DIVISION A: Sections 1 and 3 of the bill.

DIVISION B: Section 2 of the bill.

REQUEST

SEN. GRINDBERG REQUESTED a recorded roll call vote on Divisions A and B of HB 1458, which request was granted.

ROLL CALL

The question being on the final adoption of Division A of HB 1458, the roll was called and there were 16 YEAS, 28 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Fiebiger; Fischer; Flakoll; Grindberg; Heitkamp; Lee, J.; Marcellais; Mathern; Nelson; O'Connell; Olafson; Pomeroy; Potter; Wanzek; Wardner; Warner

NAYS: Anderson; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Freborg; Hacker; Heckaman; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lindaas; Lyson; Nething; Oehlke; Robinson; Seymour; Stenehjem; Tallackson; Tollefson; Triplett

ABSENT AND NOT VOTING: Andrist; Taylor; Urlacher

Division A of HB 1458 lost.

ROLL CALL

The question being on the final adoption of Division B of HB 1458, the roll was called and there were 3 YEAS, 41 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Mathern; Pomeroy; Seymour

NAYS: Anderson; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Nelson; Nething; O'Connell; Oehlke; Olafson; Potter; Robinson; Stenehjem; Tallackson; Tollefson; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Andrist; Taylor; Urlacher

Division B of HB 1458 lost.

Divisions A and B of HB 1458 failed. Therefore, pursuant to Senate Rule 319(4), there being no divisions approved, HB 1458 lost.

SECOND READING OF HOUSE BILL

HB 1486: A BILL for an Act to amend and reenact subsection 5 of section 54-52.1-03 of the North Dakota Century Code, relating to participation by members of the legislative assembly in the uniform group insurance program.

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 0 YEAS, 44 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

NAYS: Anderson; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Tollefson; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Andrist; Taylor; Urlacher

Engrossed HB 1486 lost.

MOTION

SEN. CHRISTMANN MOVED that HB 1049 be moved to the bottom of the Fourteenth order, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1081: A BILL for an Act to amend and reenact section 15.1-07-20 of the North Dakota Century Code, relating to requirements for drivers of schoolbuses and school vehicles.

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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Tollefson; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Andrist; Taylor; Urlacher

HB 1081 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1072: A BILL for an Act to create and enact a new section to chapter 57-06 of the North Dakota Century Code, relating to taxable valuation of centrally assessed wind turbine electric generators; to amend and reenact subsection 4 of section 57-02-27, subsection 27 of section 57-02-08, and subsection 4 of section 57-06-02 of the North Dakota Century Code, relating to valuation of centrally assessed property, property exempt from taxation, and the definition of a power company; and to repeal section 57-02-27.3 of the North Dakota Century Code, relating to centrally assessed wind turbine electric generators.

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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Tollefson; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Andrist; Taylor; Urlacher

HB 1072 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1158: A BILL for an Act to amend and reenact subsection 3 of section 39-06-17 of the North Dakota Century Code, relating to a restricted permit to operate an automobile.

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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Tollefson; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Andrist; Taylor; Urlacher

HB 1158 passed and the title was agreed to.

MOTION

SEN. CHRISTMANN MOVED that HB 1229 be moved to the bottom of the Fourteenth order, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1101: A BILL for an Act to amend and reenact section 46-02-20 of the North Dakota Century Code, relating to services provided by in-plant print shops.

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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern;

Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjelm; Tallackson; Tollefson; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Andrist; Taylor; Urlacher

HB 1101 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1270: A BILL for an Act to amend and reenact section 15.1-06-04 of the North Dakota Century Code, relating to professional development days for teachers.

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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjelm; Tallackson; Tollefson; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Andrist; Taylor; Urlacher

Engrossed HB 1270, as amended, passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1282: A BILL for an Act to amend and reenact section 61-16.1-40.1 of the North Dakota Century Code, relating to approval of assessments for maintenance of federally constructed flood control or soil conservation service projects.

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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjelm; Tallackson; Tollefson; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Andrist; Taylor; Urlacher

Engrossed HB 1282, as amended, passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1303: A BILL for an Act to create and enact subsections 9 and 10 to section 57-02-27.2 of the North Dakota Century Code, relating to use of modifiers and soil surveys in agricultural property assessment; to amend and reenact subsections 7 and 8 of section 57-02-27.2 of the North Dakota Century Code, relating to use of soil surveys, modifiers, and actual use of agricultural property for property tax assessment purposes; and to provide an effective date.

MOTION

SEN. TRIPLETT MOVED that Engrossed HB 1303 be further amended as follows, which motion prevailed on a voice vote.

That the proposed amendments to engrossed House Bill No. 1303 as printed on pages 778 and 779 of the Senate Journal be amended as follows:

Page 779 of the Senate Journal, line 10, replace "2008" with "2009"

Renumber accordingly

ROLL CALL

The question being on the final passage of the further amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 42 YEAS, 2 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Nelson; Nething; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Tollefson; Triplett; Wanzek; Wardner; Warner

NAYS: Marcellais; O'Connell

ABSENT AND NOT VOTING: Andrist; Taylor; Urlacher

Engrossed HB 1303, as further amended, passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1324: A BILL for an Act to create and enact a new section to chapter 53-06.2 of the North Dakota Century Code, relating to the breed registry of the North Dakota racing commission; and to amend and reenact subsection 6 of section 53-06.2-11 of the North Dakota Century Code, relating to the purse, breeders', and racing promotion funds of the racing commission.

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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Tollefson; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Andrist; Taylor; Urlacher

Engrossed HB 1324 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1346: A BILL for an Act to create and enact a new section to chapter 5-02 of the North Dakota Century Code, relating to the sale of wine with a meal.

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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Tollefson; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Andrist; Taylor; Urlacher

Engrossed HB 1346 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1357: A BILL for an Act to amend and reenact section 12.1-27.2-04.1 of the North Dakota Century Code, relating to the penalty for possession of materials that include sexual conduct by a minor; and to provide a penalty.

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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Tollefson; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Andrist; Taylor; Urlacher

HB 1357 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1358: A BILL for an Act to create and enact section 12.1-31-03.1 of the North Dakota Century Code, relating to limitation of sales of cigarettes or other tobacco products through vending machines; to amend and reenact section 12.1-31-03 of the North Dakota Century Code, relating to sales to and use by minors of tobacco products; and to provide a penalty.

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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Tollefson; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Andrist; Taylor; Urlacher

Reengrossed HB 1358 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1371: A BILL for an Act to amend and reenact section 11-11.1-02 of the North Dakota Century Code, relating to per diem compensation for members of job development authority boards of directors.

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 21 YEAS, 23 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Bakke; Behm; Bowman; Fiebiger; Hacker; Heckaman; Heitkamp; Horne; Krauter; Lindaas; Marcellais; Mathern; Nelson; O'Connell; Pomeroy; Potter; Robinson; Seymour; Triplett; Wardner; Warner

NAYS: Anderson; Christmann; Cook; Dever; Erbele; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Klein; Krebsbach; Lee, G.; Lee, J.; Lyson; Nething; Oehlke; Olafson; Stenehjem; Tallackson; Tollefson; Wanzek

ABSENT AND NOT VOTING: Andrist; Taylor; Urlacher

HB 1371, as amended, lost.

SECOND READING OF HOUSE BILL

HB 1378: A BILL for an Act to create and enact a new subsection to section 16.1-04-02 of the North Dakota Century Code, relating to polling places; and to provide a penalty.

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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Bakke; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Hacker; Heckaman; Heitkamp; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Tallackson; Tollefson; Triplett; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Andrist; Taylor; Urlacher

HB 1378 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1456: A BILL for an Act to provide for a legislative council study of wind farm siting.

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 26 YEAS, 17 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

YEAS: Anderson; Bakke; Behm; Fiebiger; Flakoll; Freborg; Heckaman; Heitkamp; Horne; Klein; Lee, G.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; O'Connell; Pomeroy; Potter; Robinson; Seymour; Tollefson; Triplett; Wanzek; Warner

NAYS: Bowman; Christmann; Cook; Dever; Erbele; Fischer; Grindberg; Hacker; Holmberg; Kilzer; Krebsbach; Lee, J.; Oehlke; Olafson; Stenehjem; Tallackson; Wardner

ABSENT AND NOT VOTING: Andrist; Krauter; Taylor; Urlacher

Engrossed HB 1456, as amended, passed and the title was agreed to.

REQUEST

SEN. LINDAAS REQUESTED that his remarks be printed in the Journal, which request was granted.

REMARKS OF SENATOR LINDAAS

Madam President and members of the Assembly: What an exciting week for North Dakota, the community of Mayville, and the students of Mayville State University. I wish to congratulate the Mayville State Comet Men's Basketball Team, their coach Craig Smith, and his staff for their accomplishments this week in the National at Lake of the Ozarks, Missouri.

The Comet Men's Basketball Team takes home the 2nd place trophy from the National NAIA Division II Men's Basketball Tournament. This is a major achievement. There are 155 teams in the NAIA Division II men's basketball; from this 32 teams compete to earn a place in the national tournament; of those, only two teams play the championship game. Mayville State University made it to the championship game and it is a remarkable accomplishment. The Mayville State Comet Men's Basketball Team is the first North Dakota University System men's basketball team to earn a championship berth in the NAIA National Tournament.

In addition to this accomplishment, Head Coach Craig Smith received the NAIA Division II Men's Basketball Coach of the Year Award. Three Mayville State University players were named to the ten member NAIA Division II 2007 All Tournament Team. They are Monty Rogers, Ron Howard, and Matt Stenehjem. Monty Rogers was named a NAIA Division II Basketball First Team All American.

Last, but certainly not least, Mayville State University won the Dr. James Naismith-Emil Liston Sportsmanship Award for 2007. This award is presented to recognize team conduct during the tournament as well as fan support and conduct.

To all these players, coaches, and fans, we extend our heartfelt congratulations and thank you for honoring this state and community in this way. Thank you, Madam President.

COMMUNICATION FROM GOVERNOR JOHN HOEVEN

This is to inform you that on March 13, 2007, I have signed the following: SB 2038, SB 2044, SB 2052, SB 2294, and SB 2354.

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

MR. SPEAKER: The Senate has passed unchanged: HB 1055, HB 1059, HB 1063, HB 1082, HB 1181, HB 1231, HB 1355, HB 1386, HB 1393, HB 1414, HB 1506.

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

MR. SPEAKER: The Senate has passed, the emergency clause carried, unchanged: HB 1369.

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

MR. SPEAKER: The Senate has amended and subsequently passed: HB 1089, HB 1166, HB 1278, HB 1315, HB 1334.

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

MR. SPEAKER: The Senate has failed to pass: HB 1110, HB 1200.

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

MR. PRESIDENT: The House has passed unchanged: SB 2056, SB 2118, SB 2123, SB 2139, SB 2259, SB 2287, SB 2296, SB 2364.

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

MR. PRESIDENT: The House has passed, the emergency clause carried, unchanged: SB 2113, SB 2228, SB 2388.

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

MR. PRESIDENT: The House has amended and subsequently passed: SB 2047, SB 2062, SB 2072, SB 2125, SB 2241, SB 2274, SB 2284, SB 2402.

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2047

Page 1, line 7, replace "A" with "Except for an employee employed by an institution under the control of the state board of higher education or the North Dakota university system board office who is eligible for membership in the teachers' insurance and annuity association of America-college retirement equities fund (TIAA-CREF), a"

Renumber accordingly

HOUSE AMENDMENTS TO SENATE BILL NO. 2062

Page 1, line 2, remove "criminal history background checks for"

Page 1, line 6, replace "person may employ individuals" with "proprietary employer is a person who employs an individual"

Page 1, remove lines 9 through 14

Page 1, line 15, remove "2." and remove "also"

Page 1, line 19, replace "a." with "1."

Page 1, line 20, replace "b." with "2."

Renumber accordingly

HOUSE AMENDMENTS TO REENGROSSED SENATE BILL NO. 2072

Page 1, line 2, replace "section" with "sections" and after "65-05-19" insert "and 65-05.1-06.1"

Page 1, line 3, remove "and"

Page 1, line 4, after "death" insert ", and rehabilitation awards; and to provide for application"

Page 2, line 3, remove "a."

Page 2, remove lines 7 through 10

Page 2, after line 22, insert:

"SECTION 4. AMENDMENT. Section 65-05.1-06.1 of the North Dakota Century Code is amended and reenacted as follows:

65-05.1-06.1. Rehabilitation award.

1. Within sixty days of receiving the final vocational consultant's report, the organization shall issue ~~an administrative order under chapter 28-32 a~~ notice of decision detailing the employee's entitlement to disability and vocational rehabilitation services.
2. If the appropriate priority option is ~~short term or long term training retraining~~, the vocational rehabilitation award must be within the following terms:
 - a. For the employee's lost time, and in lieu of further disability benefits, the organization shall award a rehabilitation allowance. The rehabilitation allowance must be limited to the amount and purpose specified in the award, and must be equal to the disability and dependent benefits the employee was receiving, or was entitled to receive, prior to the award.
 - b. The rehabilitation allowance must include an additional twenty-five percent when it is necessary for the employee to maintain two households, when it is necessary for the employee to maintain two households and the employee elects to commute to and from school on a daily basis rather than maintain a second household and the distance from the employee's residence to the school or training institution is at least thirty miles, or when the employee meets other criteria established by the organization by rule.
 - c. The rehabilitation allowance must be limited to one hundred four weeks except in cases of catastrophic injury, in which case additional rehabilitation benefits may be awarded in the discretion of the organization. Catastrophic injury includes:
 - (1) Paraplegia; quadriplegia; severe closed head injury; total blindness in both eyes; or amputation of an arm proximal to the wrist or a leg proximal to the ankle, caused by the compensable injury, which renders an employee permanently and totally disabled without further vocational retraining assistance; or
 - (2) Those employees the organization so designates, in its sole discretion, provided that the organization finds the employee to be permanently and totally disabled without further vocational retraining assistance. There is no appeal from an organization decision to designate, or fail to designate, an employee as catastrophically injured under this subsection.
 - d. The rehabilitation award must include the cost of books, tuition, fees, and equipment, tools, or supplies required by the educational institution. The award may not exceed the cost of attending a public college or university in the state in which the employee resides, provided an equivalent program exists in the public college or university.
 - e. If the employee successfully concludes the rehabilitation program, the organization may make, in its sole discretion, additional awards for actual relocation expenses to move the household to the locale where the claimant has actually located work.
 - f. If the employee successfully concludes the rehabilitation program, the organization may make, in its sole discretion, an additional award, not to exceed two months' disability benefit, to assist the employee with work search.
 - g. If the employee successfully concludes the rehabilitation program, the employee is not eligible for further vocational retraining or total disability benefits unless the employee establishes a significant change in medical condition attributable to the work injury which precludes the employee from performing the work for which the employee was trained, or any other work for which the employee is

suited. The organization may waive this section in cases of catastrophic injury defined by subdivision c.

- h. If the employee successfully concludes the rehabilitation program, the employee remains eligible to receive partial disability benefits, as follows:
- (1) Beginning the date at which the employee completes retraining, until the employee acquires and performs substantial gainful employment, the partial disability benefit is sixty-six and two-thirds percent of the difference between the injured employee's average weekly wages before the injury, and the employee's wage-earning capacity after retraining, as measured by the average wage in the employee's occupation, according to criteria established by job service North Dakota in its statewide labor market survey, or such other criteria the organization, in its sole discretion, deems appropriate. The average weekly wage must be determined on the date the employee completes retraining. The benefit continues until the employee acquires substantial gainful employment.
 - (2) Beginning the date at which the employee acquires substantial gainful employment, the partial disability benefit is sixty-six and two-thirds percent of the difference between the injured employee's weekly wages before the injury, and the employee's wage-earning capacity after retraining, as determined under paragraph 1, or the employee's actual postinjury wage earnings, whichever is higher.
 - (3) The partial disability benefit payable under paragraphs 1 and 2 may not exceed the limitation on partial disability benefits contained in section 65-05-10.
 - (4) The partial disability benefits paid under paragraphs 1 and 2 may not together exceed one year's duration.
 - (5) For purposes of paragraphs 1 and 2, "substantial gainful employment" means full-time bona fide work, for a remuneration, other than make-work. "Full-time work" means employment for twenty-eight or more hours per week, on average.
 - (6) The organization may waive the one-year limit on the duration of partial disability benefits, in cases of catastrophic injury under subdivision c.
3. If the appropriate priority option is return to the same or modified position, or to a related position, the organization shall determine whether the employee is eligible to receive partial disability benefits pursuant to section 65-05-10. In addition, the organization, when appropriate, shall make an additional award for actual relocation expenses to move the household to the locale where the claimant has actually located work.

SECTION 5. APPLICATION. The rate in subsection 10 of section 65-05-08 contained in section 2 of this Act applies to each eligible employee on or after the effective date of this Act. Section 3 of this Act applies to deaths occurring on or after the effective date of this Act. Section 4 of this Act applies retroactively to all claims filed on or after January 1, 2006."

Renumber accordingly

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2125

Page 4, line 4, remove ", which may not exceed federal education"

Page 4, line 5, remove "requirement standards,"

Page 4, line 8, remove ", which may not exceed federal education requirement standards,"

Renumber accordingly

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2241

Page 1, line 8, replace "The" with "Except when the offense is a misdemeanor offense under section 12.1-17-01, 12.1-17-01.1, 12.1-17-05, or 12.1-17-07.1, or chapter 14-07.1, the"

Page 1, line 10, after "offense" insert ", the misdemeanor or infraction is the defendant's first offense."

Renumber accordingly

HOUSE AMENDMENTS TO SENATE BILL NO. 2274

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 32-09.1-07, 32-09.1-09, 32-09.1-14, and 32-09.1-15 of the North Dakota Century Code, relating to garnishment proceedings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 32-09.1-07 of the North Dakota Century Code is amended and reenacted as follows:

32-09.1-07. Form of summons and notice.

1. The garnishee summons must state that:
 - a. That the garnishee shall serve upon the plaintiff or the plaintiff's attorney within twenty days after service of the garnishee summons a:
 - (1) A written disclosure, under oath, of indebtedness to the defendant; and answers
 - (2) Answers, under oath, to all written interrogatories that are served with the garnishee summons. ~~The plaintiff may not require disclosure of indebtedness or property of the defendant in the garnishee's possession or under the garnishee's control to the extent that the indebtedness or property exceeds one hundred ten percent of the amount of the judgment which remains unpaid.~~
 - b. The garnishee summons must include the full name of the defendant and, the defendant's place of residence, the date of the entry of judgment against the defendant, the total amount of the judgment which remains unpaid, and the retention amount of. The retention amount is the sum of the amount of the judgment which remains unpaid, one hundred twenty-five dollars, and an amount equal to nine months of interest on the amount of the judgment which remains unpaid. ~~The garnishee summons must also state that~~
 - c. That the garnishee shall retain property, earnings, or money in the garnishee's possession pursuant to this chapter until the plaintiff causes a writ of execution to be served upon the garnishee or until the defendant authorizes release to the plaintiff and must state that.
 - d. That after the expiration of the period of time specified in section 32-09.1-20, the garnishee shall release all retained property, earnings, and money to the defendant and is discharged and relieved of all liability on the garnishee summons. ~~The garnishee summons must state that no~~
 - e. That an employer may not discharge any an employee because the employee's property, earnings, or money are subject to garnishment. ~~The garnishee summons must state that~~
 - f. That any assignment of wages made by the defendant or indebtedness to the garnishee incurred within ten days before the receipt of notice of the first garnishment on the underlying debt is void. ~~The garnishee summons must state the date of the entry of judgment against the defendant. The garnishee summons must state that~~

- g. That the defendant ~~shall~~ must provide to the garnishee within ten days after receipt of the garnishee summons a verified list of the dependent family members who reside with the defendant and their social security numbers, if any, to have the maximum amount subject to garnishment reduced under subsection 2 of section 32-09.1-03. ~~The garnishee summons must state that~~
- h. That failure of the defendant to provide a verified list to the garnishee within ten days after receipt of the garnishee summons is conclusive with respect to whether the defendant claims no family members.
2. Under subdivision a of subsection 1, the plaintiff may not require the garnishee to disclose indebtedness or property of the defendant in the garnishee's possession or under the garnishee's control to the extent that the indebtedness or property exceeds the retention amount.
3. The garnishee summons and notice to defendant must be substantially in the following form:
- | | | |
|---|--|---|
| State of North Dakota)
) ss.
County of _____) | In _____ Court

_____ | _____

_____ |
| Plaintiff | | Garnishee Summons and
Notice to Defendant |
| against | | |
| _____ | | |
| Defendant | | |
| and | | |
| _____ | | |
| Garnishee | | |

The State of North Dakota to the above-named Garnishee:

You shall serve upon the plaintiff or the plaintiff's attorney, within twenty days after service of this summons upon you, a written disclosure, under oath, setting forth the amount of any debt you may owe to the defendant, _____ (give full name and residence of defendant) and a description of any property, money, or effects owned by the defendant which are in your possession. Your disclosure need not exceed \$_____. (~~Enter 110 percent of the plaintiff's judgment which remains unpaid~~ retention amount.) The date of entry of the judgment against the defendant was _____ (enter date of entry of plaintiff's judgment) and the amount of the judgment that remains unpaid is \$_____.

The defendant shall provide you with a verified list of the names of dependent family members who reside with the defendant and their social security numbers if the defendant desires to have the garnishment amount reduced under subsection 2 of section 32-09.1-03. Failure of the defendant to provide the list to you is conclusive to establish that the defendant claims no dependent family members reside with the defendant.

Failure to disclose and withhold may make you liable to the plaintiff for the sum of \$_____. (~~Enter the lesser of the plaintiff's judgment against the defendant or 110 percent of the~~ retention amount that remains unpaid.)

You shall retain the defendant's nonexempt property, money, earnings, and effects in your possession until a writ of execution is served upon you, until the defendant authorizes release to the plaintiff, or until the expiration of 360 days from the date of service of this summons upon you. If no writ of execution has been served upon you or no agreement has been made for payment within 360 days, the garnishment ends and any property or funds held by you must be returned to the defendant if the defendant is otherwise entitled to their possession.

Any assignment of wages by the defendant or indebtedness to you incurred by the defendant within ten days before the receipt of the first garnishment on a debt is void and should be disregarded.

You may not discharge the defendant because the defendant's earnings are subject to garnishment.

Dated _____, ____.

By: _____
NOTICE TO DEFENDANT

To: _____

The garnishee summons, garnishment disclosure form, and written interrogatories (strike out if not applicable), that are served upon you, were also served upon _____, the garnishee.

(Attorneys for Plaintiff)

(Address)

(Telephone)

SECTION 2. AMENDMENT. Section 32-09.1-09 of the North Dakota Century Code is amended and reenacted as follows:

32-09.1-09. Disclosure.

1. Within the time as limited in the garnishee summons, the garnishee shall serve upon the plaintiff or the plaintiff's attorney written answers, under oath, to the questions in the garnishment disclosure form and to any written interrogatories that are served upon the garnishee. The amount of the garnishee's disclosure need not exceed ~~one hundred ten percent of the amount of the plaintiff's judgment which remains unpaid, after subtracting the total of setoffs, defenses, exemptions, ownerships, or other interests the retention amount.~~ The written answers may be served personally or by mail. If disclosure is by a corporation or limited liability company, it must be verified by ~~some~~ an officer, a manager, or an agent having knowledge of the facts.

2. Disclosure must state:

4- a. The amount of disposable earnings earned or to be earned within the defendant's pay periods which may be subject to garnishment and all of the garnishee's indebtedness to the defendant.

2- b. Whether the garnishee held, at the time, the title or possession of or any interest in any personal property or any instruments or papers relating to any property belonging to the defendant or in which the defendant is interested. If the garnishee admits any interest or any doubt respecting the interest, the garnishee shall set forth a description of the property and the facts concerning the property and the title, interest, or claim of the defendant in or to the property.

3- c. If the garnishee claims any setoff or defense or claim or lien to disposable earnings, indebtedness, or property, the garnishee shall disclose the amount and the facts.

4- d. Whether the defendant claims any exemption from execution or any other objection, known to the garnishee or the defendant, against the right of the plaintiff to apply upon demand the debt or property disclosed.

5- e. If other persons make claims to any disposable earnings, debt, or property of the defendant, the garnishee shall disclose the names and addresses of the other claimants and, so far as known, the nature of their claims.

3. A garnishment disclosure form must be served upon the garnishee. The disclosure must be substantially in the following form, subject to subsection 3 of section 32-09.1-03:

State of North Dakota) In _____ Court
) ss.
County of _____) _____

Plaintiff
vs.

Defendant

and

Garnishment Disclosure

Garnishee

I am the _____ of the garnishee and duly authorized to disclose for the garnishee.

On _____, _____, the time of service of garnishee summons on the garnishee, there was due and owing the defendant from the garnishee the following:

1. **Earnings.** For the purposes of garnishment, "earnings" means compensation payable for personal service whether called wages, salary, commission, bonus, or otherwise, and includes periodic payments under a pension or retirement program. "Earnings" does not include social security benefits or veterans' disability pension benefits, except when the benefits are subject to garnishment to enforce any order for the support of a dependent child. "Earnings" includes military retirement pay. "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld. If the garnishee summons was served upon you at a time when earnings from a prior completed pay period were owing but not paid, complete the following disclosure for earnings from both the past pay period and the current pay period.
2. Money. Any amounts due and owing to defendant from the garnishee, except for earnings. (amount and facts)
3. Property. Any personal property, instruments, or papers belonging to the defendant and in the possession of the garnishee. (description, estimated value, and facts)
4. Adverse interest and setoff. Any setoff, defense, lien, or claim by the garnishee or other persons by reason of ownership or interest in the defendant's property. You must state the name and address and the nature of that person's claim if known. (Any assignment of wages made by the defendant or any indebtedness to a garnishee within ten days before the receipt of the first garnishment on a debt is void and should be disregarded.)
- ~~3.~~ 5. Dependent. Any family member of the defendant who is residing in the defendant's residence. (If properly claimed within ten days after receipt of the garnishee summons.)
4. Worksheet
6. Earnings worksheet:
 - a. Total earnings in pay period _____
 - b. Federal tax _____
 - c. State tax _____
 - d. FICA (social security/medicare) _____
 - e. Total deductions (lines b+c+d) _____
 - f. Disposable earnings (line a less line e) _____
 - g. Twenty-five percent of line f _____
 - h. Minimum wage exemption
(minimum wage times forty hours times
number of weeks in pay period) _____

- i. Line f less line h _____
- j. Line g or line i (whichever is less) _____
- k. Dependent exemption (twenty dollars
per dependent per week, if claimed) _____
- l. Adverse interest or setoff _____
- m. Total of lines k and l _____
- n. Line j less line m (the amount of earnings
subject to garnishment) _____

~~Line n is the amount subject to garnishment (not to exceed 110 percent of the amount of the judgment which remains unpaid).~~

7. Total of property, earnings, and money. The garnishee shall add the total of property, earnings, and money and if this sum is ten dollars or more, the garnishee shall retain this amount, not to exceed the retention amount identified by the plaintiff in the garnishee summons.

Signature _____
Garnishee or Authorized Representative
of Garnishee

Title

Subscribed and sworn to before me on _____, _____.

Notary Public

SECTION 3. AMENDMENT. Section 32-09.1-14 of the North Dakota Century Code is amended and reenacted as follows:

32-09.1-14. Default. If any garnishee who is duly summoned willfully fails to serve disclosure as required in this chapter, the court, upon proof by affidavit of the creditor, may render judgment against the garnishee for an amount not exceeding the lesser of the plaintiff's judgment against the defendant or one hundred ten percent of the amount which remains unpaid, whichever is the smaller the retention amount as defined under section 32-09.1-07. The creditor shall serve the garnishee with a copy of the affidavit and a notice of intent to take default judgment. The court upon good cause shown may remove the default and permit the garnishee to disclose on terms as may be just.

SECTION 4. AMENDMENT. Section 32-09.1-15 of the North Dakota Century Code is amended and reenacted as follows:

32-09.1-15. Judgment against garnishee. Judgment against a garnishee ~~shall~~ must be rendered, if at all, for the amount due the defendant, or so much thereof as may be necessary to satisfy the plaintiff's judgment against the defendant, with costs taxed and allowed in the proceeding against the garnishee but not to exceed ~~one hundred ten percent of the amount which remains unpaid~~ the retention amount defined under section 32-09.1-07. The judgment ~~shall~~ must discharge the garnishee from all claims of all the parties named in the process to the property, earnings, or money paid, delivered, or accounted for by the garnishee by force of the judgment. When ~~any~~ a person is charged as garnishee by reason of any property in possession other than an indebtedness payable in money, that person shall deliver the property, or so much ~~thereof of the property~~ thereof as may be necessary, to the officer holding execution, and the property ~~shall~~ must be sold and the proceeds accounted for in the same manner as if ~~it the property~~ the property had been taken on execution against the defendant. The garnishee ~~shall~~ may not be compelled to deliver any specific articles at any time or place other than as stipulated in the contract with the defendant."

Renumber accordingly

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2284

Page 1, remove line 2

Page 1, line 3, remove "bodily injury recovery; and"

Page 1, remove lines 5 through 20

Renumber accordingly

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2402

Page 2, line 26, after the underscored period insert "A substitute designee may be appointed by the executive director of the Indian affairs commission or a tribal chairman in the event of the death, incapacity, resignation, or refusal to serve of the initial designee."

Renumber accordingly

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 2109, SB 2266.

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2109

Page 1, line 1, after "to" insert "create and enact a new section to chapter 23-16 of the North Dakota Century Code, relating to a moratorium exemption; to"

Page 1, line 4, after the semicolon insert "to provide for a legislative council study;"

Page 1, line 8, remove the overstrike over "~~during the~~"

Page 1, line 9, remove the overstrike over "~~period between August 1,~~", after "2005" insert "2007", remove the overstrike over "~~, and July 31,~~", after "2007" insert "2009", and remove the overstrike over the fourth overstruck comma

Page 1, line 11, overstrike "the state department of health and"

Page 1, line 20, remove "state department of health and the" and replace "grant" with "grants"

Page 2, line 3, remove the overstrike over "~~during the period between August 1,~~", after "2005" insert "2007", and remove the overstrike over "~~, and~~"

Page 2, line 4, remove the overstrike over "~~July 31,~~" and after "2007" insert "2009"

Page 2, after line 7, insert:

"SECTION 3. AMENDMENT. A new section to chapter 23-16 of the North Dakota Century Code is created and enacted as follows:

Moratorium exemption. The department of human services shall exempt any entity from the moratorium under section 23-16-01.1 if that entity demonstrates to the department an access critical area in which the skilled nursing bed population is less than sixty beds per one thousand elderly individuals. An exemption granted under this section may not become effective until March 1, 2009.

SECTION 4. LEGISLATIVE COUNCIL STUDY - LONG-TERM CARE. The legislative council shall study the state's long-term care system including geographical boundaries for determining capacity, capacity, access, workforce, reimbursement, and payment incentives. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly."

Renumber accordingly

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2266

Page 1, line 3, remove "to provide an effective date;"

Page 1, remove line 18

Renumber accordingly

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 2195.

HOUSE AMENDMENTS TO SENATE BILL NO. 2195

Page 1, line 2, after "solicitations" insert "; and to declare an emergency"

Page 2, line 7, replace "PSC" with "PCS"

Page 3, after line 10, insert:

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

Renumber accordingly

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

MR. PRESIDENT: The House has amended and subsequently failed: SB 2264.

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

MR. PRESIDENT: The House has failed to pass: SB 2110, SB 2261, SB 2286, SB 2342, SB 2348.

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

MR. SPEAKER: Your signature is respectfully requested on: SB 2067, SB 2101, SB 2105, SB 2153, SB 2171, SB 2182, SB 2188, SB 2192, SB 2219, SB 2265, SB 2295, SB 2318, SB 2343.

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

MR. PRESIDENT: The Speaker has signed: SB 2067, SB 2101, SB 2105, SB 2153, SB 2171, SB 2182, SB 2188, SB 2192, SB 2219, SB 2265, SB 2295, SB 2318, SB 2343.

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

MR. PRESIDENT: The Speaker has signed: HB 1061, HB 1094, HB 1137, HB 1140, HB 1156, HB 1199, HB 1517.

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

MR. PRESIDENT: Your signature is respectfully requested on: HB 1013, HB 1024, HB 1067, HB 1078, HB 1090, HB 1121, HB 1161, HB 1162, HB 1183, HB 1225, HB 1381, HB 1398, HB 1425, HCR 3007, HCR 3035, HCR 3042.

MOTION

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

MOTION

SEN. CHRISTMANN MOVED that the Senate be on the Fourth, Fifth, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 12:30 p.m., Wednesday, March 14, 2007, which motion prevailed.

REPORT OF STANDING COMMITTEE

HB 1051, as reengrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1051 was placed on the Sixth order on the calendar.

Page 1, line 9, after the semicolon insert "to provide an appropriation;"

Page 5, line 21, replace "three and one-half" with "five"

Page 6, line 7, replace "three and one-half" with "five"

Page 6, after line 22, insert:

"d. Unlimited mill levy authority provided by statute and not requiring approval of electors."

Page 6, line 31, replace "three and one-half" with "five"

Page 8, line 13, remove "owned and occupied by an individual as that individual's"

Page 8, line 14, remove "homestead"

Page 8, line 16, remove ", if the individual primarily responsible for"

Page 8, remove lines 17 through 19

Page 8, line 20, remove "person's homestead"

Page 8, line 22, remove "if the mobile home is owned and"

Page 8, line 23, remove "occupied by an individual as that individual's homestead"

Page 8, line 25, remove "if the individual primarily"

Page 8, remove lines 26 through 28

Page 8, line 29, remove "individual's homestead"

Page 11, replace lines 23 through 31 with:

"SECTION 9. AMENDMENT. Subsection 1 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

1. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust. A taxpayer computing the tax under this section is only eligible for those adjustments or credits that are specifically provided for in this section. Provided, that for purposes of this section, any person required to file a state income tax return under this chapter, but who has not computed a federal taxable income figure, shall compute a federal taxable income figure using a pro forma return in order to determine a federal taxable income figure to be used as a starting point in computing state income tax under this section. The tax for individuals is equal to North Dakota taxable income multiplied by the rates in the applicable rate schedule in subdivisions a through d corresponding to an individual's filing status used for federal income tax purposes. For an estate or trust, the schedule in subdivision e must be used for purposes of this subsection.

- a. Single, other than head of household or surviving spouse.

If North Dakota taxable income is:	The tax is equal to:
Not over \$27,050 <u>\$31,850</u>	2.10%
Over \$27,050 <u>\$31,850</u> but not over \$65,550 <u>\$77,100</u>	\$568.05 <u>\$668.85</u> plus 3.92% of amount over \$27,050 <u>\$31,850</u>
Over \$65,550 <u>\$77,100</u> but not over \$136,750 <u>\$160,850</u>	\$2,077.25 <u>\$2,442.65</u> plus 4.34% of amount over \$65,550 <u>\$77,100</u>
Over \$136,750 <u>\$160,850</u> but not over \$297,350 <u>\$349,700</u>	\$5,467.33 <u>\$6,077.40</u> plus 5.04% of amount over \$136,750 <u>\$160,850</u>
Over \$297,350 <u>\$349,700</u>	\$13,261.57 <u>\$15,595.44</u> plus 5.54% of amount over \$297,350 <u>\$349,700</u>

- b. Married filing jointly and surviving spouse.

If North Dakota taxable income is:	The tax is equal to:
Not over \$45,200 <u>\$63,700</u>	2.10%
Over \$45,200 <u>\$63,700</u> but not over \$109,250 <u>\$128,500</u>	\$949.20 <u>\$1,337.70</u> plus 3.92% of amount over \$45,200 <u>\$63,700</u>
Over \$109,250 <u>\$128,500</u> but not over \$166,500 <u>\$195,850</u>	\$3,459.96 <u>\$3,877.86</u> plus 4.34% of amount over \$109,250 <u>\$128,500</u>
Over \$166,500 <u>\$195,850</u> but not over \$297,350 <u>\$349,700</u>	\$5,944.64 <u>\$6,800.85</u> plus 5.04% of amount over \$166,500 <u>\$195,850</u>
Over \$297,350 <u>\$349,700</u>	\$12,539.45 <u>\$14,554.89</u> plus 5.54% of amount over \$297,350 <u>\$349,700</u>

- c. Married filing separately.

If North Dakota taxable income is:	The tax is equal to:
Not over \$22,600 <u>\$31,850</u>	2.10%
Over \$22,600 <u>\$31,850</u> but not over \$54,625 <u>\$64,250</u>	\$474.60 <u>\$668.85</u> plus 3.92% of amount over \$22,600 <u>\$31,850</u>
Over \$54,625 <u>\$64,250</u> but not over \$83,250 <u>\$97,925</u>	\$1,729.98 <u>\$1,938.93</u> plus 4.34% of amount over \$54,625 <u>\$64,250</u>
Over \$83,250 <u>\$97,925</u> but not over	\$2,972.34 <u>\$3,400.43</u> plus 5.04% of amount

~~\$148,675~~ ~~\$174,850~~
Over ~~\$148,675~~ \$174,850

over ~~\$83,250~~ \$97,925
~~\$6,269.73~~ \$7,277.45 plus 5.54% of amount
over ~~\$148,675~~ \$174,850

d. Head of household.

If North Dakota taxable income is:
Not over ~~\$36,250~~ \$42,650
Over ~~\$36,250~~ \$42,650 but not over
~~\$93,650~~ \$110,100
Over ~~\$93,650~~ \$110,100 but not over
~~\$151,650~~ \$178,350
Over ~~\$151,650~~ \$178,350 but not
over ~~\$297,350~~ \$349,700
Over ~~\$297,350~~ \$349,700

The tax is equal to:
2.10%
~~\$761.25~~ \$895.65 plus 3.92% of amount
over ~~\$36,250~~ \$42,650
~~\$3,011.33~~ \$3,539.69 plus 4.34% of amount
over ~~\$93,650~~ \$110,100
~~\$5,528.53~~ \$6,501.74 plus 5.04% of amount
over ~~\$151,650~~ \$178,350
~~\$12,871.84~~ \$15,137.78 plus 5.54% of amount
over ~~\$297,350~~ \$349,700

e. Estates and trusts.

If North Dakota taxable income is:
Not over ~~\$1,800~~ \$2,150
Over ~~\$1,800~~ \$2,150 but not over
~~\$4,250~~ \$5,000
Over ~~\$4,250~~ \$5,000 but not over
~~\$6,500~~ \$7,650
Over ~~\$6,500~~ \$7,650 but not over
~~\$8,900~~ \$10,450
Over ~~\$8,900~~ \$10,450

The tax is equal to:
2.10%
~~\$37.80~~ \$45.15 plus 3.92% of amount
over ~~\$1,800~~ \$2,150
~~\$133.84~~ \$156.87 plus 4.34% of amount
over ~~\$4,250~~ \$5,000
~~\$231.49~~ \$271.88 plus 5.04% of amount
over ~~\$6,500~~ \$7,650
~~\$352.45~~ \$413.00 plus 5.54% of amount
over ~~\$8,900~~ \$10,450

f. For an individual who is not a resident of this state for the entire year, or for a nonresident estate or trust, the tax is equal to the tax otherwise computed under this subsection multiplied by a fraction in which:

- (1) The numerator is the federal adjusted gross income allocable and apportionable to this state; and
- (2) The denominator is the federal adjusted gross income from all sources reduced by the net income from the amounts specified in subdivisions a and b of subsection 2.

In the case of married individuals filing a joint return, if one spouse is a resident of this state for the entire year and the other spouse is a nonresident for part or all of the tax year, the tax on the joint return must be computed under this subdivision.

g. For taxable years beginning after December 31, ~~2004~~ 2007, the tax commissioner shall prescribe new rate schedules that apply in lieu of the schedules set forth in subdivisions a through e. The new schedules must be determined by increasing the minimum and maximum dollar amounts for each income bracket for which a tax is imposed by the cost-of-living adjustment for the taxable year as determined by the secretary of the United States treasury for purposes of section 1(f) of the United States Internal Revenue Code of 1954, as amended. For this purpose, the rate applicable to each income bracket may not be changed, and the manner of applying the cost-of-living adjustment must be the same as that used for adjusting the income brackets for federal income tax purposes."

Page 12, remove lines 1 through 31

Page 13, remove lines 1 through 30

Page 14, remove lines 1 through 23

Page 15, line 11, replace "up to one" with "the amount necessary to provide property tax relief payments to county treasurers under section 57-20-07.2"

Page 15, remove line 12

Page 15, line 13, remove "as may be necessary," and after "appropriated" insert "during each biennium"

Page 15, line 14, replace ", for the purpose of providing property tax relief payments to counties in accordance" with "."

SECTION 11. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$3,800,000, or so much of the sum as may be necessary, to the state tax commissioner for the purpose of paying the state reimbursement for the homestead tax credit as provided in section 1 of this Act, for the biennium beginning July 1, 2007, and ending June 30, 2009."

Page 15, remove line 15

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1169: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** (3 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1169 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1233, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1233 was placed on the Sixth order on the calendar.

Page 2, line 30, remove "the tax credit transferor to"

Page 3, line 2, remove "at retail"

Page 3, line 5, after "agreement" insert "or tax credit purchase agreement"

Page 3, line 23, remove "If the tax"

Page 3, remove line 24

Page 3, line 25, replace "power" with "The"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1331, as engrossed: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **DO PASS** (4 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1331 was placed on the Fourteenth order on the calendar.

REPORT OF STANDING COMMITTEE

HCR 3012: Education Committee (Sen. Freborg, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, ABSENT AND NOT VOTING). HCR 3012 was placed on the Fourteenth order on the calendar.

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

William R. Horton, Secretary