

JOURNAL OF THE SENATE

Fifty-second Legislative Assembly

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Bismarck, January 29, 1991

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

The prayer was offered by Father Robert Feeney, St. Joseph Catholic Church, Mandan.

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

A quorum was declared by the President.

MESSAGE to the HOUSE from the SENATE (Marion Houn, Secretary)

MR. SPEAKER: The Senate has passed and your favorable consideration is requested on: SB 2013, SB 2060, SB 2076, SB 2115, SB 2143, SB 2179, SB 2181, SB 2194, SB 2219, SB 2223, SB 2241, SB 2261, SB 2268, SB 2274, SB 2286, SB 2291, SB 2292, SB 2295, SB 2298, SB 2322.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)

MR. PRESIDENT: The House has passed and your favorable consideration is requested on: HB 1012, HB 1049, HB 1083, HB 1117, HB 1131, HB 1160, HB 1242, HB 1268, HB 1277, HB 1282, HB 1293, HB 1307, HB 1312, HB 1316, HB 1317, HCR 3028.

REPORTS OF STANDING COMMITTEES

SB 2366: Committee on Finance and Taxation (Sen. Dotzenrod, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2366 was placed on the Eleventh order on the calendar.

SB 2372: Committee on Judiciary (Sen. Maxson, Chairman) recommends DO PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2372 was placed on the Eleventh order on the calendar.

SB 2474: Committee on Education (Sen. Heinrich, Chairman) recommends DO NOT PASS (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2474 was placed on the Eleventh order on the calendar.

MOTION

SEN. WOGSLAND MOVED that HB 1046 be moved to the top of the Sixth order, which motion prevailed.

CONSIDERATION OF AMENDMENTS

HB 1046: SEN. KELLER (Committee on State and Federal Government) MOVED that the amendments on SJ pages 231-233 be adopted.

REQUEST

SEN. MOORE REQUESTED that the Senate divide the amendments to HB 1046, which request was granted.

DIVISION I - includes all the amendments except the emergency clause.

DIVISION II - includes only the emergency clause.

The question being on the adoption of Division I of the proposed amendments to HB 1046.

Division I of the proposed amendments to HB 1046 passed on a voice vote.

Then the question was on the adoption of Division II of the proposed amendments to HB 1046.

Division II of the proposed amendments to HB 1046 passed on a voice vote.

MOTIONS

SEN. WOGSLAND MOVED that the rules be suspended and that HB 1046 be deemed properly engrossed and placed on the Fourteenth order, as amended, for second reading and final passage, which motion prevailed.

SEN. WOGSLAND MOVED that HB 1046 be placed at the top of the calendar, which motion prevailed.

SEN. ROBINSON MOVED that Engrossed HB 1046 be further amended as follows:

Page 1, line 1, after the first "to" insert "the establishment of a North Dakota rural area development corporation to administer a rural development revolving loan fund and to provide for"

Page 1, line 3, remove "and" and after "penalty" insert "; and to provide a contingent appropriation"

Page 1, after line 4, insert:

"SECTION 1. Definitions. As used in sections 1 through 3 of this Act, unless the context otherwise requires:

- 1. "Board of directors" means the board of directors of the equity development corporation as established under chapter 10-30.3.
- 2. "Corporation" means the equity development corporation established under chapter 10-30.3.
- 3. "Primary sector business" means an individual, corporation, partnership, or association which through a process employing knowledge and labor adds value to a product or service produced for resale.
- 4. "Region" means the area delineated by executive order of the governor under section 54-40.1-02.
- 5. "Rural area" means any area in the state that is not within five miles [8.05 kilometers] of any city with a population of more than eight thousand.

SECTION 2. Economic development commission to act in advisory capacity. The economic development commission shall act in an advisory capacity to the board of directors of the equity development corporation for purposes of this Act, and shall:

- 1. Advise the board of directors regarding the regional rural revolving loan fund established by section 3 of this Act;
- 2. Establish guidelines for fund matching requirements, eligibility criteria, financing terms and conditions, solicitation and review of applications for assistance, and determination of projects to be funded under section 3 of this Act;
- 3. Develop priorities for projects and activities relating to the development of rural areas; and
- 4. Coordinate the rural area development plans and programs of the various regions of the state and encourage the collocation of assistance programs for rural areas in each region.

SECTION 3. Regional rural development revolving loan fund - Appropriation. There is established in the Bank of North Dakota a regional rural development revolving loan fund to be administered by the board of directors. All moneys transferred to the regional rural

development revolving loan fund, interest on moneys in the fund, and payments to the fund of principal and interest on loans made by the fund are hereby appropriated to the corporation for the purpose of providing technical assistance, research and development assistance, and loans or equity or debt financing on a matching basis to new or expanding primary sector businesses in rural areas. The funds available under this section must be allocated equally for the benefit of each region."

Page 2, after line 12, insert:

"SECTION 6. APPROPRIATION. There is hereby appropriated, subject to the availability of state general fund revenues as provided in section 7 of this Act, out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$9,500,000 which shall be transferred by the state treasurer to the regional rural development revolving loan fund to carry out the purposes of sections 1 through 3 of this Act, for the biennium beginning July 1, 1991, and ending June 30, 1993.

SECTION 7. CONTINGENT APPROPRIATION. The amount appropriated in section 6 of this Act may be made available only upon determination by the director of the office of management and budget that estimated general fund revenues for the biennium ending June 30, 1993, are greater than estimated at the close of the fifty-second legislative assembly and are available only to the extent the estimated revenues exceed original estimates by at least \$11,000,000, with only the amount in excess of \$11,000,000, up to a total of \$9,500,000, available for the purpose of sections 1 through 3 this Act. The director of the office of management and budget shall, before July 1, 1992, make a revised estimate of general fund revenues for the biennium ending June 30, 1993, shall report the amount of revenues the director expects in excess of estimates, and shall inform the equity development corporation of the appropriation available to it for the remainder of the biennium under sections 1 through 3 of this Act."

Renumber accordingly

REQUEST

SEN. O'CONNELL REQUESTED a recorded roll call vote on the motion to adopt the proposed amendments to Engrossed HB 1046, which request was granted.

ROLL CALL

The question being on the motion to adopt the proposed amendments to HB 1046, the roll was called and there were 34 YEAS, 18 NAYS, 1 ABSENT AND NOT VOTING.

YEAS: Bowman; DeKrey; Dotzenrod; Evanson; Freborg; Graba; Hanson, E.; Hanson, O.; Heigaard; Holmberg; Ingstad; Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas; Lindgren; Marks; Mathern; Meyer; Mushik; Nalawaja; O'Connell; Redlin; Robinson; Schoenwald; Stenehjem; Tomac; Traynor; Vosper; Wogsland

NAYS: David; Goetz; Heinrich; Lips; Maxson; Moore; Mutch; Naaden; Nelson; Nething; Peterson; Satrom; Solberg; Streibel; Tallackson; Tennefos; Thane; Yockim

ABSENT AND NOT VOTING: Jerome

The proposed amendments to Engrossed HB 1046 were adopted.

MOTIONS

SEN. WOGSLAND MOVED that HB 1046 not be rereferred to the Committee on Appropriations, which motion prevailed.

SEN. WOGSLAND MOVED that the Senate vote on HB 1046 no later than 2:15 p.m., which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1046: A BILL for an Act to provide for the establishment of a North Dakota rural area development corporation to administer a rural development revolving loan fund; to create and enact a new section to chapter 12.1-30 and a new section to chapter 34-06 of the North Dakota Century Code, relating to business leases or agreements and an employee day of rest; to amend and reenact sections 12.1-30-01 and 12.1-30-02 of the North Dakota Century Code, relating to the conduct of business on Sundays; to provide a penalty; to provide a contingent appropriation; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 33 YEAS, 19 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Bowman; Dotzenrod; Evanson; Goetz; Graba; Heinrich; Holmberg; Ingstad; Keller; Kelly; Kelsch; Krebsbach; Langley; Lindgren; Lips; Marks; Maxson; Meyer; Mushik; Nalewaja; Nething; O'Connell; Peterson; Robinson; Sotrom; Schoenwald; Stenehjem; Tennefos; Thane; Tomac; Traynor; Wogslund; Yockim

NAYS: David; DeKrey; Freborg; Hanson, E.; Hanson, O.; Heigaard; Kinnoin; Krauter; Lindaas; Mathern; Moore; Mutch; Naaden; Nelson; Redlin; Solberg; Streibel; Tallackson; Vosper

ABSENT AND NOT VOTING: Jerome

HB 1046 passed, the title was agreed to, but the emergency clause lost.

CONSIDERATION OF AMENDMENTS

SB 2262: SEN. MAXSON (Committee on Judiciary) MOVED that the amendments on SJ page 220 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

SB 2034: SEN. HEINRICH (Committee on Education) MOVED that the amendments on SJ pages 226-228 be adopted and then be REFERRED to the Committee on Appropriations with DO PASS, which motion prevailed.

SB 2090: SEN. MATHERN (Committee on Human Services and Veterans Affairs) MOVED that the amendments on SJ pages 228-229 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

SB 2207: SEN. GRABA (Committee on Political Subdivisions) MOVED that the amendments on SJ page 229 be adopted and then be placed on the Eleventh order with DO NOT PASS, which motion prevailed.

SB 2226: SEN. GRABA (Committee on Political Subdivisions) MOVED that the amendments on SJ page 229 be adopted and then be placed on the Eleventh order with DO NOT PASS, which motion prevailed.

SB 2242: SEN. GRABA (Committee on Political Subdivisions) MOVED that the amendments on SJ page 229 be adopted with DO PASS, which motion prevailed.

MOTION

SEN. NALEWAJA MOVED that the rules be suspended and that SB 2242 be deemed properly engrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

SECOND READING OF SENATE BILL

SB 2242: A BILL for an Act to create and enact a new subsection to section 54-44.2-02 of the North Dakota Century Code, relating to the duties of the information services division.

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

YEAS: Bowman; David; DeKrey; Dotzenrod; Evanson; Freborg; Goetz; Graba; Hanson, E.; Hanson, O.; Heinrich; Holmberg; Ingstad; Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Meyer; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin; Robinson; Schoenwald; Solberg; Stenehjem; Streibel; Tennefos; Thane; Tomac; Traynor; Vosper; Wogsland; Yockim

ABSENT AND NOT VOTING: Heigaard; Jerome; Satrom; Tallackson

SB 2242 passed and the title was agreed to.

CONSIDERATION OF AMENDMENTS

SB 2313: SEN. SCHOENWALD (Committee on Transportation) MOVED that the amendments on SJ page 230 be adopted and then be placed on the Eleventh order WITHOUT RECOMMENDATION, which motion lost on a verification vote.

SB 2317: SEN. SCHOENWALD (Committee on Transportation) MOVED that the amendments on SJ page 230 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

SCR 4003: SEN. KELLER (Committee on State and Federal Government) MOVED that the amendments on SJ page 230 be adopted and then be placed on the Eleventh order with DO PASS, which motion prevailed.

MOTION

SEN. WOGSLAND MOVED that SB 2085 be moved to the bottom of the Eleventh order, which motion prevailed.

SECOND READING OF SENATE BILLS

SB 2031: A BILL for an Act to create and enact a new section to chapter 26.1-08, a new section to chapter 50-10, a new section to chapter 50-24.1, a new section to chapter 54-52.1, and a new section to chapter 65-05 of the North Dakota Century Code, relating to reimbursement for organ and tissue transplants under comprehensive health association plans, programs for aid to crippled children, programs for medical assistance, public employees retirement system insurance programs, and the workers' compensation fund; and to amend and reenact sections 23-01-02 and 23-01-03 of the North Dakota Century Code, relating to the members of special committees of the health council, and the powers and duties of the state health council.

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 36 YEAS, 16 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Dotzenrod; Evanson; Freborg; Goetz; Graba; Heigaard; Heinrich; Holmberg; Ingstad; Keller; Kelly; Kelsh; Krauter; Krebsbach; Langley; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Meyer; Mushik; Nalewaja; O'Connell; Redlin; Robinson; Satrom; Schoenwald; Stenehjem; Tallackson; Tennefos; Thane; Tomac; Wogsland; Yockim

NAYS: Bowman; David; DeKrey; Hanson, E.; Hanson, O.; Kinnoin; Moore; Mutch; Naaden; Nelson; Nething; Peterson; Solberg; Streibel; Traynor; Vosper

ABSENT AND NOT VOTING: Jerome

SB 2031 passed and the title was agreed to.

SB 2111: A BILL for an Act to create and enact a new subdivision to subsection 1 of section 19-03.1-36 of the North Dakota Century Code, relating to the forfeiture of real property used to commit or facilitate a violation of the controlled substance laws.

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 52 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Bowman; David; DeKrey; Dotzenrod; Evanson; Freborg; Goetz; Graba; Hanson, E.; Hanson, O.; Heigaard; Heinrich; Holmberg; Ingstad; Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Meyer; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin; Robinson; Satrom; Schoenwald; Solberg; Stenehjem; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Vosper; Wogsland; Yockim

ABSENT AND NOT VOTING: Jerome

SB 2111 passed and the title was agreed to.

SB 2167: A BILL for an Act to amend and reenact subsection 5 of section 65-11-04 of the North Dakota Century Code, relating to the duty of the safety engineer to study accidents; and to repeal sections 65-11-02, 65-11-03, and 65-11-06 of the North Dakota Century Code, relating to the qualifications, salary, and removal of the safety engineer.

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 52 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Bowman; David; DeKrey; Dotzenrod; Evanson; Freborg; Goetz; Graba; Hanson, E.; Hanson, O.; Heigaard; Heinrich; Holmberg; Ingstad; Keller; Kelly; Kelsh; Kinnoin; Krauter; Krebsbach; Langley; Lindaas; Lindgren; Lips; Marks; Mathern; Maxson; Meyer; Moore; Mushik; Mutch; Naaden; Nalewaja; Nelson; Nething; O'Connell; Peterson; Redlin; Robinson; Satrom; Schoenwald; Solberg; Stenehjem; Streibel; Tallackson; Tennefos; Thane; Tomac; Traynor; Vosper; Wogsland; Yockim

ABSENT AND NOT VOTING: Jerome

SB 2167 passed and the title was agreed to.

SB 2174: A BILL for an Act to amend and reenact section 5-02-04, subsection 2 of section 43-31-14, section 53-04-02, and section 57-36-02 of the North Dakota Century Code, relating to license reinstatement fees for state beer or liquor licenses, detection of deception examiner licenses, amusement game or device licenses, and tobacco distributor and dealer's licenses.

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 24 YEAS, 28 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Graba; Hanson, E.; Heigaard; Heinrich; Ingstad; Keller; Kelly; Kelsh; Krebsbach; Langley; Lindaas; Lips; Mathern; Maxson; Mushik; O'Connell; Redlin; Robinson; Satrom; Schoenwald; Tallackson; Thane; Traynor; Wogsland

NAYS: Bowman; David; DeKrey; Dotzenrod; Evanson; Freborg; Goetz; Hanson, O.; Holmberg; Kinnoin; Krauter; Lindgren; Marks; Meyer; Moore; Mutch; Naaden; Nalewaja; Nelson; Nething; Peterson; Solberg; Stenehjem; Streibel; Tennefos; Tomac; Vosper; Yockim

ABSENT AND NOT VOTING: Jerome

SB 2174 lost.

MOTIONS

SEN. WOGSLAND MOVED that SB 2252, which is on the Eleventh order, be rereferred to the Committee on Education, which motion prevailed. Pursuant to Sen. Wogsland's motion, SB 2252 was rereferred.

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

SEN. WOGSLAND MOVED that the Senate be on the Fifth order of business, and at the conclusion of the Fifth order, the Senate be on the Twelfth order of business, and at the conclusion of the Twelfth order, the Senate be on the Thirteenth order of business, and at the conclusion of the Thirteenth order, the Senate stand adjourned until 1:00 p.m., Wednesday, January 30, 1991, which motion prevailed.

REPORTS OF STANDING COMMITTEES

SB 2010: Committee on Appropriations (Sen. Tallackson, Chairman) recommends DO PASS (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2010 was placed on the Eleventh order on the calendar.

SB 2112: Committee on Appropriations (Sen. Tallackson, Chairman) recommends DO PASS (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). SB 2112 was placed on the Eleventh order on the calendar.

SB 2113, as engrossed: Committee on Appropriations (Sen. Tallackson, Chairman) recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2113 was placed on the Eleventh order on the calendar.

SB 2116: Committee on Appropriations (Sen. Tallackson, Chairman) recommends DO PASS (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2116 was placed on the Eleventh order on the calendar.

SB 2118: Committee on Human Services and Veterans Affairs (Sen. Mathern, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). The proposed amendment was placed on the Sixth order on the calendar.

Page 2, line 5, remove "unreasonably"

Page 2, after line 10, insert:

"d. That the benefits of the treatment outweigh the known risks to the patient.

The court shall inquire whether the patient has had a sufficient opportunity to adequately prepare to meet the issue of involuntary treatment with prescribed medication and, at the request of the patient, may continue the involuntary treatment hearing for a period not exceeding seven days or may appoint an independent expert examiner as provided in subsection 4."

Page 2, line 25, replace "make responsible treatment decisions" with "consent"

Page 3, line 11, after "reports" insert "and a review of the patient's progress"

Re-number accordingly

SB 2121: Committee on Human Services and Veterans Affairs (Sen. Mathern, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). The proposed amendment was placed on the Sixth order on the calendar.

Page 3, line 16, replace "However" with "Except as provided in subsection 4"

Page 4, after line 8, insert:

"4. Parents of a handicapped patient, twenty-one years of age or under, are not required to file, assist in filing, agree to filing, or assign an insurance claim when filing the claim would pose a realistic threat that the parents would suffer a financial loss not incurred by similarly situated parents of nonhandicapped children. Financial losses do not include incidental costs such as the time needed to file or assist in filing an insurance claim or the postage needed to mail the claim. Financial losses include:

- a. A decrease in available lifetime coverage or any other benefit under an insurance policy.
- b. An increase in premiums or the discontinuation of a policy.
- c. An out-of-pocket expense such as the payment of a deductible amount incurred in filing a claim unless the developmental center pays or waives the an out-of-pocket expense."

Page 5, line 25, after the underscored period insert "A waiver, once granted, with respect to a patient under age eighteen, extinguishes any debt that would otherwise be owed by the patient, the patient's parents, or the patient's estate with respect to care and treatment furnished during times the waiver is effective."

Re-number accordingly

SB 2127: Committee on Appropriations (Sen. Tallackson, Chairman) recommends DO PASS (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2127 was placed on the Eleventh order on the calendar.

SB 2131: Committee on Appropriations (Sen. Tallackson, Chairman) recommends DO PASS (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). SB 2131 was placed on the Eleventh order on the calendar.

SB 2148: Committee on Agriculture (Sen. Kelsh, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO NOT PASS (4 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). The proposed amendment was placed on the Sixth order on the calendar.

Page 1, line 21, replace "each" with "a"

Page 1, line 22, replace "to" with "at", after "the" insert "request of the", and remove "after each sale"

Re-number accordingly

SB 2158: Committee on Human Services and Veterans Affairs (Sen. Mathern, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). The proposed amendment was placed on the Sixth order on the calendar.

Page 1, line 2, replace "hospital" with "facility"

Page 1, line 14, replace "an institution" with "a medical facility"

Page 1, line 17, replace "an institution" with "a medical facility"

Page 1, line 18, replace "institution" with "medical facility"

Page 2, line 8, replace "institution" with "medical facility"

Page 2, line 10, replace "institution" with "medical facility"

Page 2, line 11, replace "institution" with "medical facility"

ReNUMBER accordingly

SB 2175: Committee on Agriculture (Sen. Kelsh, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (4 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). The proposed amendment was placed on the Sixth order on the calendar.

Page 1, line 10, replace "fifty" with "thirty"

Page 1, line 18, replace "fifty" with "ten"

Page 1, line 22, remove the overstrike over "~~five~~" and remove "twenty-five"

ReNUMBER accordingly

SB 2214: Committee on Judiciary (Sen. Maxson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). The proposed amendment was placed on the Sixth order on the calendar.

Page 5, line 6, remove ", other than a joint tenant,"

Page 5, line 18, replace "thirty" with "sixty"

ReNUMBER accordingly

SB 2227: Committee on Agriculture (Sen. Kelsh, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). The proposed amendment was placed on the Sixth order on the calendar.

Page 1, line 1, after "reenact" insert "section 4-35-05,"

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Section 4-35-05 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-35-05. Definitions. As used in this chapter:

1. "Animal" means all vertebrate and invertebrate species, including, but not limited to, man and other mammals, birds, fish, and shellfish.
2. "Antidote" means a practical treatment in case of poisoning and includes first aid treatment.
- 2.1. "Applicator" means any person who applies a pesticide to land.
3. "Beneficial insects" means those insects which, during their life cycle, are effective pollinators of plants, are parasites, or predators of pests.

4. a. "Certified applicator" means any individual who is certified under this chapter as authorized to use any restricted use pesticide covered by the applicator's certification.
- b. "Private applicator" means a certified applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by the applicator or the applicator's employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.
- c. "Commercial applicator" means a certified applicator, whether or not the applicator is a private applicator with respect to some uses, who uses any pesticide which is classified for restricted use for any purpose or on any property other than as provided for by subdivision b.
5. "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant, with or without causing abscission.
6. "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissue.
7. "Device" means any instrument or contrivance, other than a firearm, which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life, other than man and other than bacteria, virus, or other micro-organism on or in living man or other living animals, but not including equipment used for the application of pesticides when sold separately therefrom.
8. "Distribute" means to offer for sale, hold for sale, sell, barter, or supply pesticides in this state.
9. "Environment" includes water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these.
10. "Equipment" means any type of ground, water, or aerial equipment or contrivance using motorized, mechanical, or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating, or stored on or in such land, but shall not include any pressurized hand-sized household apparatus used to apply any pesticide, or any equipment or contrivance of which the person who is applying the pesticide is the source of power or energy in making such pesticide application.
11. "Fungus" means any non-chlorophyll-bearing thallophytes, i.e., any non-chlorophyll-bearing plant of a lower order than mosses and liverworts as, for example, rust, smut, mildew, mold, yeast, and bacteria, except those on or in living man or other living animals, and except those on or in processed food, beverages, or pharmaceuticals.
12. "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class of insecta, comprising six-legged, usually winged forms, and to other allied classes of arthropods whose members are wingless and usually have more than six legs.

13. "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.
14. "Labeling" means the label and all other written, printed, or graphic matter:
 - a. Accompanying the pesticide or device; and
 - b. To which reference is made on the label or in literature accompanying or referring to the pesticide, except when accurate nonmisleading references are made to current official publications of the board; the United States environmental protection agency; the United States departments of agriculture and interior; the United States department of health and human services; state agricultural colleges; and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.
15. "Land" means all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances, and machinery, appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.
16. "Mixture" means a diluted pesticide combination.
17. "Nematode" means invertebrate animals of the phylum nemathelminthes, and class nematoda, i.e., unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts, may also be called nemas or eelworms.
- ~~17-~~ 18. "Person" means any individual, partnership, association, fiduciary, corporation, or any organized group of persons, whether or not incorporated.
- ~~18-~~ 19. "Pest" means:
 - a. Any insect, snail, slug, rodent, nematode, fungus, weed; or
 - b. Any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism, except viruses, bacteria, or other micro-organisms on or in living man or other living animals which are annoying or otherwise injurious or harmful to agriculture, health, and the environment.
- ~~19-~~ 20. "Pesticide" means:
 - a. Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; and
 - b. Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.
- ~~20-~~ 21. "Pesticide dealer" means any person who distributes restricted use pesticides.
- ~~21-~~ 22. "Plant regulator" means any substance or mixture of substances intended, through physiological action, to accelerate or retard the rate of growth or rate of maturation, or to otherwise alter the behavior of plants or the produce thereof, but does not include substances to the extent that they are intended as plant nutrients, trace

elements, nutritional chemicals, plant inoculants, and soil amendments.

- ~~22-~~ 23. "Protect health and the environment" means protection against any unreasonable adverse effects on public health and the environment.
- ~~23-~~ 24. "Public operator" means a certified applicator who applies restricted use pesticides as an employee of a state agency, municipal corporation, public utility, or other governmental agency.
- ~~24-~~ 25. "Restricted use pesticide" means any pesticide formulation which is classified for restricted use by the board.
26. "Rinsate" means a diluted mixture of pesticide obtained from triple rinsing pesticide containers or from rinsing the inside and outside of spray equipment.
- ~~25-~~ 27. "Snails or slugs" include all harmful mollusks.
- ~~26-~~ 28. "Tank mix" means any pesticidal formulation used alone or in combination with another pesticide and mixed with a liquid carrier prior to application.
- ~~27-~~ 29. "Unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.
- ~~28-~~ 30. "Weed" means any plant which grows where not wanted.
- ~~29-~~ 31. "Wildlife" means all living things that are neither human, domesticated, nor, as defined in this chapter, pests, including, but not limited to, mammals, birds, and aquatic life."

Page 1, remove line 15

Page 1, line 16, remove "commercial", overstrike "applications", overstrike "of", overstrike "pesticides.", and after the period insert "of sales of restricted use and special exemption pesticides."

Page 1, line 17, replace "may" with "shall" and after "private" insert "and commercial"

Page 2, line 25, after the second "of" insert "tank mix"

Renumber accordingly

SB 2234: Committee on Judiciary (Sen. Maxson, Chairman) recommends DO PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2234 was placed on the Eleventh order on the calendar.

SB 2239: Committee on Human Services and Veterans Affairs (Sen. Mathern, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). The proposed amendment was placed on the Sixth order on the calendar.

Page 1, line 16, replace "initiate" with "propose" and after "assist" insert ", at the request of any tribe affected by such an agreement,"

Page 2, line 1, remove the overstrike over "the"

Page 2, line 2, remove the overstrike over "official newspaper of"

- Page 2, line 3, after the first period insert "The notice must also be published in any newspaper of general circulation for the benefit of the members of any tribe affected by the agreement. The notice must also be posted plainly at the tribal office of any tribe affected by the agreement and in the county courthouse of any county affected by the agreement."
- Page 2, line 4, remove the overstrike over "~~any~~"
- Page 2, line 5, remove the overstrike over "~~resident~~" and remove "twenty residents"
- Page 2, line 6, overstrike "first"
- Page 2, line 7, remove "Section 46-06-09 does not apply to notices published pursuant to"
- Page 2, remove line 8
- Page 2, line 13, remove the overstrike over "~~prior to the submission of the agreement to the governor.~~"
- Page 2, line 16, remove the overstrike over "~~the official~~" and remove "a"
- Page 2, line 17, after the period insert "The notice of the public hearing must also be published in any newspaper of general circulation published for the benefit of the members of any tribe affected by the agreement. The notice must also be posted plainly at the tribal office of any tribe affected by the agreement and in the county courthouse of any county affected by the agreement."
- Page 2, line 20, remove "Section 46-06-09 does not apply to"
- Page 2, remove line 21
- Page 3, line 19, after "governor" insert "and following approval of the agreement by the tribe or tribes affected by the agreement" and remove the overstrike over "~~and prior to commencement of its performance~~"
- Page 3, remove the overstrike over line 25
- Page 4, line 1, after "subdivision" insert "or any tribe"
- Page 4, line 2, remove "advisory" and overstrike "review and determine" and insert immediately thereafter "make findings concerning"
- Page 4, line 4, overstrike "determine" and insert immediately thereafter "may make findings as to"
- Page 4, line 6, overstrike "determinations" and insert immediately thereafter "findings" and remove "advisory"
- Page 4, line 9, remove "advisory", after "a" insert "written", and overstrike "determinations" and insert immediately thereafter "findings"
- Page 4, line 10, remove the overstrike over "~~and shall submit copies of the report to the~~"
- Page 4, line 11, after "~~governor~~" insert "affected political subdivision or public agency, the governor, and the affected tribes. The findings of the Indian affairs commission made under this section are for informational purposes only. In any administrative hearing or legal proceeding in which the performance of any party to the agreement is at issue, the findings may not be introduced as evidence, or relied upon, or cited as controlling by any party, court, or reviewing agency, nor may any presumption be drawn from the findings for the benefit of any party" and remove "Section 46-06-09 does not apply to"

Page 4, remove line 12

Page 4, line 27, remove ", except that an agreement may provide for sharing or"

Page 4, line 28, remove "administering the functions assigned to any of the parties"

Re-number accordingly

SB 2243: Committee on Judiciary (Sen. Maxson, Chairman) recommends DO NOT PASS (7 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2243 was placed on the Eleventh order on the calendar.

SB 2257: Committee on Judiciary (Sen. Maxson, Chairman) recommends DO PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2257 was placed on the Eleventh order on the calendar.

SB 2282: Committee on Agriculture (Sen. Kelsh, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Committee on Appropriations (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). The proposed amendment was placed on the Sixth order on the calendar.

Page 1, line 3, replace "a continuing" with "an"

Page 3, remove lines 27 through 29

Page 4, remove lines 1 through 3

Page 4, line 7, replace "and prevention or" with "and education."

Page 4, remove lines 8 and 9

Page 4, line 21, replace "through a" with a period

Page 4, remove lines 22 and 23

Page 5, line 6, replace "percent of the value of a" with "cent per"

Page 6, line 2, replace "sixty" with "ninety"

Page 6, line 4, replace "sixty" with "ninety"

Page 7, line 10, replace "shall" with "may"

Page 7, after line 18, insert:

"SECTION 16. APPROPRIATION. There is hereby appropriated from the corn fund the sum of \$400,000, or so much thereof as may be necessary, to the North Dakota corn utilization council for the purpose of carrying out this Act for the biennium beginning July 1, 1991, and ending June 30, 1993."

Re-number accordingly

SB 2288: Committee on Judiciary (Sen. Maxson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). The proposed amendment was placed on the Sixth order on the calendar.

Page 2, line 18, after "prepayment" insert "or to a buying club that has been in continuous operation for a period of five years either in its own name or as a successor to an existing buying club and that has not been in violation of any consumer laws of any jurisdiction in which it operates"

Renumber accordingly

- SB 2297: Committee on Judiciary (Sen. Maxson, Chairman) recommends DO NOT PASS (6 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2297 was placed on the Eleventh order on the calendar.
- SB 2330: Committee on Finance and Taxation (Sen. Dotzenrod, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2330 was placed on the Eleventh order on the calendar.
- SB 2367: Committee on Judiciary (Sen. Maxson, Chairman) recommends DO PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2367 was placed on the Eleventh order on the calendar.
- SB 2368: Committee on Judiciary (Sen. Maxson, Chairman) recommends DO PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2368 was placed on the Eleventh order on the calendar.
- SB 2369: Committee on Judiciary (Sen. Maxson, Chairman) recommends DO PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2369 was placed on the Eleventh order on the calendar.
- SB 2380: Committee on Judiciary (Sen. Maxson, Chairman) recommends DO PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2380 was placed on the Eleventh order on the calendar.
- SB 2385: Committee on Judiciary (Sen. Maxson, Chairman) recommends DO PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2385 was placed on the Eleventh order on the calendar.
- SB 2389: Committee on Judiciary (Sen. Maxson, Chairman) recommends DO PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2389 was placed on the Eleventh order on the calendar.
- SB 2398: Committee on Industry, Business and Labor (Sen. Langley, Chairman) recommends DO NOT PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2398 was placed on the Eleventh order on the calendar.
- SB 2404: Committee on Judiciary (Sen. Maxson, Chairman) recommends DO NOT PASS (7 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2404 was placed on the Eleventh order on the calendar.
- SB 2414: Committee on Industry, Business and Labor (Sen. Langley, Chairman) recommends DO PASS (6 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2414 was placed on the Eleventh order on the calendar.
- SB 2427: Committee on Judiciary (Sen. Maxson, Chairman) recommends DO NOT PASS (6 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2427 was placed on the Eleventh order on the calendar.
- SB 2454: Committee on Judiciary (Sen. Maxson, Chairman) recommends DO PASS (5 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2454 was placed on the Eleventh order on the calendar.
- SB 2468: Committee on Industry, Business and Labor (Sen. Langley, Chairman) recommends DO PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2468 was placed on the Eleventh order on the calendar.
- SB 2491: Committee on Agriculture (Sen. Kelsh, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2491 was placed on the Eleventh order on the calendar.
- SCR 4021: Committee on Judiciary (Sen. Maxson, Chairman) recommends DO PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4021 was placed on the Eleventh order on the calendar.

HB 1057, as engrossed: Committee on Judiciary (Sen. Maxson, Chairman) recommends DO PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1057 was placed on the Fourteenth order on the calendar.

HB 1097: Committee on Judiciary (Sen. Maxson, Chairman) recommends DO PASS (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1097 was placed on the Fourteenth order on the calendar.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)

MR. PRESIDENT: The House has concurred in the Senate amendments to HCR 3025 and subsequently passed the same.

MESSAGE to the SENATE from the HOUSE (Roy Gilbreath, Chief Clerk)

MR. PRESIDENT: The Speaker has signed and your signature is respectfully requested: HCR 3025.

FIRST READING OF HOUSE BILLS

HB 1012: A BILL for an Act making an appropriation for defraying the expenses of the milk stabilization board.

Was read the first time and referred to the Committee on Appropriations.

HB 1049: A BILL for an Act to create and enact a new section to chapter 57-02 of the North Dakota Century Code, relating to payment of a license fee in lieu of property taxes on leasehold interests and improvements on state-owned property when used for tourism or concession purposes; and to provide an effective date.

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

HB 1083: A BILL for an Act to amend and reenact section 40-08-03 of the North Dakota Century Code, relating to the number of aldermen on a city council.

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

HB 1117: A BILL for an Act to amend and reenact subsection 4 of section 57-43.1-01, sections 57-43.1-03 and 57-43.1-06, subsection 3 of section 57-43.1-14, subsection 2 of section 57-43.1-17, section 57-43.1-27, subsection 6 of section 57-43.2-01, sections 57-43.2-05 and 57-43.2-07, subsection 2 of section 57-43.2-14, and section 57-43.2-25 of the North Dakota Century Code, relating to the definition of importer for use, the refund of special fuel or motor fuel tax, motor fuel dealer's bond, the collection of motor fuel tax, the sale of motor vehicle fuel to retail outlets, and the special fuel wholesaler's or dealer's license and bond.

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

HB 1131: A BILL for an Act to amend and reenact section 23-27-04.2 of the North Dakota Century Code, relating to state financial assistance to licensed ambulance services.

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

HB 1160: A BILL for an Act to amend and reenact section 50-01-10 of the North Dakota Century Code, relating to the removal of members of county social service boards.

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

HB 1242: A BILL for an Act to create and enact chapter 26.1-06.1, sections 26.1-10-03.1 and 26.1-10-10.1, chapters 26.1-26.2, 26.1-26.3, 26.1-31.1, and 26.1-31.2 of the North Dakota Century Code, relating to rehabilitation and liquidation of insurance companies, insurance broker-controlled property and casualty insurance companies, managing general agents, reinsurance intermediaries, and credit for reinsurance; to amend and reenact subsections 2 and 4 of section 26.1-10-02,

subsections 4 and 5 of section 26.1-10-03, sections 26.1-10-04, 26.1-10-05, and 26.1-10-11, relating to insurance holding company systems; and to repeal sections 26.1-07-08, 26.1-07-09, 26.1-07-10, 26.1-07-11, 26.1-07-12, 26.1-07-13, 26.1-07-14, 26.1-07-15, 26.1-07-16, 26.1-07-17, 26.1-07-18, 26.1-07-19, and 26.1-07-20, relating to rehabilitation and liquidation of insurance companies.

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

HB 1268: A BILL for an Act to amend and reenact section 54-10-14 of the North Dakota Century Code, relating to political subdivision audits.

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

HB 1277: A BILL for an Act to repeal sections 50-24.3-04 and 50-24.3-05 of the North Dakota Century Code, relating to preadmission assessment of persons prior to admission to a skilled nursing facility, intermediate care facility, or a hospital swing-bed facility.

Was read the first time and referred to the Committee on Human Services and Veterans Affairs.

HB 1282: A BILL for an Act to amend and reenact section 15-41-26 of the North Dakota Century Code, relating to the waiver of conditions for accreditation.

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

HB 1293: A BILL for an Act to amend and reenact subsection 1 of section 15-10-18.2 of the North Dakota Century Code, relating to the definition of dependents of certain veterans for purposes of receiving free tuition.

Was read the first time and referred to the Committee on Human Services and Veterans Affairs.

HB 1307: A BILL for an Act to amend and reenact section 55-01-01 of the North Dakota Century Code, relating to the state historical board.

Was read the first time and referred to the Committee on State and Federal Government.

HB 1312: A BILL for an Act to amend and reenact section 23-01-04.2 of the North Dakota Century Code, relating to the regulation of vaccine charges by the department of health and consolidated laboratories.

Was read the first time and referred to the Committee on Human Services and Veterans Affairs.

HB 1316: A BILL for an Act to amend and reenact section 15-39.1-05 of the North Dakota Century Code, relating to the appointment of members of the board of trustees of the teachers' fund for retirement; and to provide for application of this Act.

Was read the first time and referred to the Committee on State and Federal Government.

HB 1317: A BILL for an Act to amend and reenact sections 51-18-02 and 51-18-04 of the North Dakota Century Code, relating to the time period for cancellation of a home solicitation sale agreement by a person sixty-five years of age or older.

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

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

MARION HOUN, Secretary