

## JOURNAL OF THE SENATE

## Fifty-eighth Legislative Assembly

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Bismarck, March 17, 2003

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

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

The roll was called and all members were present except Senators Bercier and Lyson.

A quorum was declared by the President.

## MOTION

**SEN. CHRISTMANN MOVED** that the Senate resolve itself into a Memorial Service, which motion prevailed.

## SENATE MEMORIAL SERVICE

## Memorial Service Committee

Senator Dick Dever, Chair  
 Senator John M. Andrist  
 Senator Linda Christenson

## Invocation

Reverend Lester Wolfgram  
 Shepherd of the Valley Lutheran Church, Bismarck

## Musical Selection

Senator Robert Erbele  
 "The Lord's Prayer"  
 Accompanied by Senator Carolyn Nelson

## Introduction of Guests

## First and Second Reading of the Memorial Resolution

## Musical Selection

Tom Jundt, Assistant Committee Clerk  
 "How Great Thou Art"  
 Accompanied by Vicki Martel

## Memorial Address

Former Senator Rod St. Aubyn

## Musical Selection

Job Christenson  
 "Danny Boy"  
 Accompanied by Senator Carolyn Nelson

## Benediction

Reverend Lester Wolfgram

## DECEASED MEMBERS

**Ralph J. Erickstad**, Died July 12, 2001  
 Served in the 35th through the 37th Legislative Assemblies  
 District 21

**Walter R. Fiedler**, Died March 7, 2002  
 Seated on February 25, 1955, to serve out the remainder of the  
 34th Legislative Assembly and  
 Served in the 35th through the 37th Legislative Assemblies  
 District 46

**John Kusler**, Died September 16, 2002  
 Served in the 32nd through the 35th Legislative Assemblies  
 District 48

**John F. Maher**, Died September 15, 2001  
Served in the 44th and 45th Legislative Assemblies  
District 39

**J. H. Mahoney**, Died September 19, 2002  
Served in the 38th and 39th Legislative Assemblies  
District 21

**Dave M. Robinson**, Died September 15, 2001  
Served in the 38th and 39th Legislative Assemblies  
District 46  
Served in the 40th through the 42nd Legislative Assemblies  
District 8

**Clarence G. Schultz**, Died October 17, 2002  
Served in the 40th through the 44th Legislative Assemblies  
District 14

**Robert L. Stroup**, Died October 30, 2001  
Served in the 40th through the 44th Legislative Assemblies  
District 33

**F. Kent Vosper**, Died February 21, 2003  
Served in the 44th through the 52nd Legislative Assemblies  
District 11

#### MOTION

**SEN. CHRISTMANN MOVED** that the Senate be on the Ninth order of business for the First Reading of SMR 8001, which motion prevailed.

#### FIRST READING OF SENATE MEMORIAL RESOLUTION

Memorial Resolutions Committee introduced:

**SMR 8001:** A memorial resolution for deceased members of the Senate of North Dakota.  
Was read the first time.

#### MOTION

**SEN. DEVER MOVED** that the rules be suspended, that SMR 8001 not be printed, not be referred to committee, but be read in its entirety, be printed in the Journal, and be placed on the calendar for immediate second reading and final passage, which motion prevailed.

Memorial Resolutions Committee introduced:

#### SENATE MEMORIAL RESOLUTION NO. 8001

A memorial resolution for deceased members of the Senate of North Dakota.

**WHEREAS**, God has summoned to eternal rest our former colleagues:

Ralph J. Erickstad, who served in the 35th through the 37th Legislative Assemblies, from District 21, died July 12, 2001;

Walter R. Fiedler, who was seated on February 25, 1955, to serve out the remainder of the 34th Legislative Assembly and who continued to serve in the 35th through the 37th Legislative Assemblies, from District 46, died March 7, 2002;

John Kusler, who served in the 32nd through the 35th Legislative Assemblies, from District 48, died September 16, 2002;

John F. Maher, who served in the 44th and 45th Legislative Assemblies, from District 39, died September 15, 2001;

J. H. Mahoney, who served in the 38th and 39th Legislative Assemblies, from District 21, died September 19, 2002;

Dave M. Robinson, who served in the 38th and 39th Legislative Assemblies, from District 46, and in the 40th through the 42nd Legislative Assemblies, from District 8, died September 15, 2001;

Clarence G. Schultz, who served in the 40th through the 44th Legislative Assemblies, from District 14, died October 17, 2002;

Robert L. Stroup, who served in the 40th through the 44th Legislative Assemblies, from District 33, died October 30, 2001;

F. Kent Vosper, who served in the 44th through the 52nd Legislative Assemblies, from District 11, died February 21, 2003; and

**WHEREAS**, we now pause to mourn the passing of our former Senate colleagues and to honor their memories; and

**WHEREAS**, these legislators rendered outstanding service to the people of the state by their contributions to public service;

**NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA:**

That we express our sorrow on their passing and our appreciation, on behalf of the people of North Dakota, of the loyal and devoted service of our former colleagues; and

**BE IT FURTHER RESOLVED**, that for the perpetuation of their memory this token of respect and sympathy by their successors in trust be printed in the Journal of the Senate and that the Secretary of State present enrolled copies of this resolution to the surviving families of these deceased senators.

**SECOND READING OF SENATE MEMORIAL RESOLUTION**

**SMR 8001:** A memorial resolution for deceased members of the Senate of North Dakota.

The question being on the final adoption of the resolution, which has been read.

SMR 8001 was declared adopted on a voice vote.

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**MOTION**

**SEN. DEVER MOVED** that the Memorial Address by Former Senator Rod St. Aubyn and the Invocation and Benediction by Reverend Lester Wolfgram be printed in the Journal, which motion prevailed.

**INVOCATION BY REVEREND LESTER WOLFGRAM**

In the Name of the Father and of the Son and of the Holy Spirit. Gracious God, Loving Father. All good gifts come from You. Today we give thanks to You for people like St. Patrick who boldly proclaimed the Good News about Jesus and His Love. We are grateful that You sent Your Son to serve us sinners by giving His life on the cross in order that we may have forgiveness and eternal life. We pray for your care and blessing upon this gathering as we remember those who have served in the North Dakota State Senate who have died during the past two years. Thank You for giving them to us. We are grateful for the service they rendered to our state and their local communities during their respective terms. We pray your special care for the families of these former State Senators whom we commemorate this day. Grant to them Your perfect peace. Be present with us now as we celebrate and remember the lives of these fallen comrades. In Jesus' name we pray. Amen.

**MEMORIAL ADDRESS BY FORMER SENATOR ROD ST. AUBYN**

Mister President, members of the Senate, Senate staff, family members and friends of the Senators we are remembering and honoring here today:

I want to first thank you for the honor of speaking to you today. Today's ceremony is meant to honor those former Senators who served admirably in what I think is one of the most important duties we can fulfill - that of public service.

I didn't know all of those we are remembering today, but I know that they all served with distinction. To the family members and friends of Ralph Erikstad, Walter Fiedler, John Kusler, John Maher, J. H. Mahoney, Dave Robinson, Clarence Schultz, Robert Stroup, and Kent Vosper, we offer our condolences and thanks. To the family members, I want to thank you also for the sacrifices you all made. Whether it was assisting in the campaigns, answering phone calls from angry constituents, or holding the family together during the often long legislative sessions, believe me, those we are remembering and honoring today could not have been successful without your help.

As legislators, we get so wrapped up with the intense legislative session, that we often forget about those most important around us - our families. I recall one story which proves this point. Often times after my legislative week, after watching some of my children's weekend sports

events, I would go back to my office and work, trying to get caught up. It was not unusual for me to work close to midnight or even later on those Saturday evenings. One particular weekend, I crawled into bed, finding my wife still awake. She usually goes to bed earlier than I do, so it somewhat surprised me to find her still awake. She informed me that my parents had called. Her tone sounded serious, so my first reaction was something awful had happened. I asked why they had called. Her simple response was "to wish us a happy Anniversary." She took it probably better than I. I can proudly say that I have never forgotten my anniversary since. Luckily, my wife and I still laugh about that moment, but I think it illustrates the point that I am trying to make. The success of those we are honoring today was dependent upon the love and support of their family and friends.

I recall the instant acceptance from the Senate members when I left the North Dakota House and was elected to the Senate. I had the honor of serving on the Senate Appropriations Committee. At our first Appropriations Committee meeting, Senator Nething appointed me the "official keeper of the refrigerator." What this meant was that I was responsible for collecting assessments from the committee members and keeping the refrigerator stocked with necessary goodies. I had no idea what was expected of me and what the veteran members would desire stocked for their breaks. Senator Evan Lips came over to me, put his arm around me, and told me to wait around after that day's session. He then took me to a local grocery store, clued me in on my new duties, and we purchased the first refrigerator stock. That act of kindness showed me what type of friends we have in the Senate and why we all offer our prayers and support for Senator Lips and his family as he battles his illness.

Legislative issues can become quite contentious. Both sides of the aisle may have differing philosophical views and these are often debated vigorously. That is what makes our system work. During the next few weeks, I offer one bit of advice - don't make things personal and don't take things personal. One thing I realized long ago, after you adjourn Sine Die, your colleagues continue to be another part of your family. Friends I have made in the legislature from both parties will be my friends for life. I recall a few years back when my daughter was in a serious car accident adjacent to her high school in May of her senior year. As we waited with her in the intensive care unit, the love and support our family received from members of the Senate will never be forgotten. I think that is the moment when my wife realized why I was so close to my Senate colleagues. I still consider you part of my family. I know many of you have experienced similar incidents as well where your Senate family was there for you in trying times.

Thanks to the current Senators for your sacrifice by serving the people of North Dakota.

For those we are remembering today, it is more than just a ceremony to honor former Senators. It is a ceremony to honor one of our own. Even though God has taken them from their earthly home, there is one thing that can never be taken from them - that being part of the Senate family. Please accept this memorial tribute as an expression of appreciation from the citizens of this great State of North Dakota and from your Senate family.

And I want to thank you again for the privilege of being part of this special service. Thank you and may God bless you all.

#### **BENEDICTION BY REVEREND LESTER WOLFGRAM**

Lord of life. We thank You for Your presence with us during this service of remembrance. We are grateful for the opportunity to honor this unique group of individuals. Thank You for the sacrifices that they made in order to serve our great state of North Dakota. As the present Senators continue to serve in this Legislative Session, we ask that Your good and gracious will would be accomplished through these men and women. Grant to them wisdom and direction as they consider the best interest of our citizens and seek to carry out Your will. Help them to honor You and respect one another as they debate the important matters before them. We pray Your care for our President and for those in positions of authority who make decisions that impact our nation and our world. During this Lenten season, help us to take stock of our lives, recognizing our sin, and keeping our eyes on Jesus, the Lamb of God who takes away the sins of the world. Go with us now and grant us Your peace.

The Lord Bless and keep you. The Lord make His face shine on you and be gracious to you. The Lord look upon you with favor and give you peace.

#### **MOTION**

**SEN. CHRISTMANN MOVED** that the Memorial Service be dissolved, which motion prevailed.

#### **MOTION**

**SEN. CHRISTMANN MOVED** that the Senate stand in recess until 2:15 p.m., which motion prevailed.

**THE SENATE RECONVENED** pursuant to recess taken, with President Dalrymple presiding.

#### REQUEST

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

#### REMARKS OF SENATOR WARDNER Dickinson High School State Class 'A' Boys Basketball Championship

On Saturday, March 15, 2003, the Dickinson High School Boys Basketball Team won the State Class 'A' Boys Basketball Tournament with a 42 - 32 victory over Williston High School. Dickinson had been rated number one in the state by the press power poll the second half of the season and were favored to win. However, the Midgets have been there before, rated number one and favored, but had never won a state title. Dickinson High School graduated its first graduate in 1894 and has never tasted the thrill of victory in a State Boys Basketball Championship game. But, in 2003 it was different. Coach Dean Winczewski, the Midget Coaching Staff, the Midget Team and the loyal Dickinson High School fans won the first State Class 'A' Boys Basketball Championship in the history of the school. At last the monkey is off our back!

The Midgets won the tournament by playing tough defense, rebounding and scoring clutch baskets. They displayed a "never give up" attitude and came from behind to win in the semifinal game, which makes the community proud to be represented by those student-athletes and coaches.

Coach Dean Winczewski was awarded the "North Dakota Class 'A' Boys Coach of the Year" award by the other Class 'A' coaches.

Congratulations to Dickinson High School, Coach Dean Winczewski, and the Dickinson High School Boys Basketball Team on winning the 2003 State Class 'A' Boys Basketball Championship.

#### REQUEST

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

#### REMARKS OF SENATOR COOK Mandan High School State Class 'A' Girls Basketball Championship

Mr. President: This past Saturday evening, two very fine girls high school basketball teams squared off for the right to be crowned the 2003 North Dakota State Class 'A' Girls High School Basketball Champions. In one corner stood the mighty Spartans from Fargo North; the decided favorite by all the basketball experts, a team with a 50 game winning streak and the defending State Champions. In the other corner were the Mandan Braves, a team without a standout star and the undeniable underdog.

But, Mr. President, champions are not crowned in the media or by the experts. Champions are crowned in the arena, and on this particular Saturday evening, the Mandan Braves were not to be denied. Going deep into their lineup, the Mandan Braves implemented a mind rattling full court press. Their defense cooled the hot shooting hands of Fargo North. When the final buzzer sounded, it was the Mandan Braves and their "never say die" attitude that prevailed.

Mr. President, may we all congratulate Coach Greg Amundson and the Mandan Braves on their excellent season and well deserved State Championship.

#### CONSIDERATION OF AMENDMENTS

**HB 1037, as engrossed: SEN. FAIRFIELD (Human Services Committee) MOVED** that the amendments on SJ pages 774-775 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

#### CONSIDERATION OF AMENDMENTS

**HB 1388, as engrossed: SEN. TRENBEATH (Judiciary Committee) MOVED** that the amendments on SJ pages 776-778 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

#### MOTION

**SEN. CHRISTMANN MOVED** that after action taken on the Sixth order, HB 1438 be placed on the Fourteenth order, as amended, for immediate second reading and final passage, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HB 1438, as engrossed: SEN. J. LEE (Human Services Committee) MOVED** that the amendments on SJ pages 778-780 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**SECOND READING OF HOUSE BILL**

**HB 1438:** A BILL for an Act to create and enact a new subsection to section 25-01.3-01 and a new section to chapter 44-04 of the North Dakota Century Code, relating to definitions and duties to protect information; to amend and reenact section 23-01.3-02, subsection 1 of section 23-07-01.1, sections 23-07-02.1 and 23-07-02.2, subsections 6, 7, and 8 of section 23-07.5-01, section 23-07.5-02, subsection 1 of section 23-07.5-04, sections 23-07.5-06, 23-07.5-07, and 23-07.5-08, subsection 3 of section 23-07.7-02, sections 23-12-14, 23-16-09, 25-01.3-10, and 25-16-07, subsection 9 of section 26.1-04-03, section 28-01-46.1, subsections 6 and 9 of section 37-18-11, subsection 4 of section 43-15-01, subdivision n of subsection 1 of section 43-15-10, section 43-47-09, subsection 1 of section 44-04-18.1, and section 50-19-10 of the North Dakota Century Code, relating to the use and disclosure of health information, and persons to be tested and the timing of testing for the human immunodeficiency virus; to repeal sections 23-01.3-03, 23-07.5-03, and 23-07.5-05 of the North Dakota Century Code, relating to the disclosure of health information; to provide an effective date; 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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**ABSENT AND NOT VOTING:** Bercier

Engrossed HB 1438, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

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**SECOND READING OF SENATE CONCURRENT RESOLUTION**

**SCR 4037:** A concurrent resolution expressing the Legislative Assembly's support for construction of the North Central Rural Water Consortium Project and the South Central Regional Water District Project.

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

SCR 4037 was declared adopted, and the title was agreed to on a voice vote.

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**SECOND READING OF HOUSE BILL**

**HB 1252:** A BILL for an Act to create and enact a new section to chapter 54-59 of the North Dakota Century Code, relating to security background checks of certain employees of the information technology department.

**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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**ABSENT AND NOT VOTING:** Bercier

Engrossed HB 1252, as amended, passed and the title was agreed to.

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### SECOND READING OF HOUSE BILL

**HB 1397:** A BILL for an Act to create and enact a new section to chapter 15.1-35 of the North Dakota Century Code, relating to contracts for the preparation and provision of meals.

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

**YEAS:** Andrist; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mutch; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Flakoll; Mathern; Nelson

**ABSENT AND NOT VOTING:** Bercier

Reengrossed HB 1397, as amended, passed and the title was agreed to.

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### SECOND READING OF HOUSE BILL

**HB 1066:** A BILL for an Act to provide for the continuation of an agricultural pesticide and pesticide container disposal program; and to provide an expiration date.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**ABSENT AND NOT VOTING:** Bercier

HB 1066, as amended, passed and the title was agreed to.

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### SECOND READING OF HOUSE BILL

**HB 1067:** A BILL for an Act to amend and reenact section 53-01-18 of the North Dakota Century Code, relating to exempt boxing exhibitions.

#### 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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**ABSENT AND NOT VOTING:** Bercier

HB 1067 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1096:** A BILL for an Act to create and enact a new subdivision to subsection 31 of section 52-01-01 and a new subdivision to subsection 2 of section 52-04-07 of the North Dakota Century Code, relating to the definition of wages and to payment of unemployment compensation benefits; to amend and reenact section 52-01-02, subdivision b of subsection 2 of section 52-04-07, sections 52-04-09 and 52-04-10, subsection 8 of section 52-06-02, and subdivision d of subsection 2 of section 52-06-04 of the North Dakota Century Code, relating to unemployment compensation records and payment of and eligibility for unemployment compensation benefits; 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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**ABSENT AND NOT VOTING:** Bercier

Engrossed HB 1096 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1119:** A BILL for an Act to create and enact a new chapter to title 15 of the North Dakota Century Code, relating to establishing the Indian cultural education trust; and to provide a continuing appropriation.

**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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**ABSENT AND NOT VOTING:** Bercier

HB 1119 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1129:** A BILL for an Act to amend and reenact sections 4-27-06, 4-30-36, 4-30-36.2, and 4-30-36.4 of the North Dakota Century Code, relating to milk assessments and dairy regulations.

**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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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



**ABSENT AND NOT VOTING:** Bercier

Engrossed HB 1129 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1136:** A BILL for an Act to amend and reenact subsection 1 of section 43-23.3-03, subsection 1 of section 43-23.3-08, sections 43-23.3-10, 43-23.3-12, and 43-23.3-19, and subsection 1 of section 43-23.3-22 of the North Dakota Century Code, relating to licensing of real estate appraisers.

**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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**ABSENT AND NOT VOTING:** Bercier

HB 1136 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1167:** A BILL for an Act to amend and reenact sections 4-05.1-04, 26.1-21-22, 43-25-13, and 43-32-11, subsection 4 of section 54-06-04, and section 54-54-09 of the North Dakota Century Code, relating to reports by agricultural research or research extension centers, the state bonding fund, the board of massage therapists, the board of psychologist examiners, the council on the arts, and other entities submitted to the governor or secretary of state.

**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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**ABSENT AND NOT VOTING:** Bercier

HB 1167 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1192:** A BILL for an Act to amend and reenact subsection 2 of section 36-21.1-09 of the North Dakota Century Code, relating to the valuation of live animal raffle prizes; and to declare an emergency.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Heitkamp; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Mutch; Nelson; Nething; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour;

Stenehjerm; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**ABSENT AND NOT VOTING:** Bercier

Engrossed HB 1192 passed, the title was agreed to, and the emergency clause was declared carried.

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### SECOND READING OF HOUSE BILL

**HB 1382:** A BILL for an Act to amend and reenact section 34-14-02 of the North Dakota Century Code, relating to direct deposit of wages.

### 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 24 YEAS, 22 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Brown; Espegard; Fischer; Flakoll; Grindberg; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, J.; Lyson; Mutch; Nichols; Seymour; Tallackson; Taylor; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Bowman; Christenson; Christmann; Cook; Dever; Erbele; Every; Fairfield; Freborg; Heitkamp; Krauter; Lee, G.; Lindaas; Mathern; Nelson; Nething; O'Connell; Polovitz; Robinson; Schobinger; Stenehjerm; Syverson

**ABSENT AND NOT VOTING:** Bercier

HB 1382 passed and the title was agreed to.

\*\*\*\*\*

### COMMUNICATION FROM GOVERNOR JOHN HOEVEN

This is to inform you that on March 17, 2003, I have signed the following: SB 2093, SB 2145, SB 2179, SB 2206, and SB 2286.

### COMMUNICATION FROM GOVERNOR JOHN HOEVEN

This is to inform you that on March 17, 2003, I have signed the following: SB 2040, SB 2066, SB 2079, SB 2094, SB 2114, SB 2120, SB 2121, SB 2122, SB 2123, SB 2136, SB 2142, SB 2158, SB 2159, SB 2205, and SB 2289.

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

**MR. SPEAKER:** The Senate has concurred in the House amendments and subsequently passed: SB 2084, SB 2156, and SB 2238.

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

**MR. SPEAKER:** The Senate has passed unchanged: HB 1095, HB 1113, HB 1117, HB 1214, HB 1224, HB 1334, HB 1383, HB 1444, HB 1480, HCR 3069.

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

**MR. SPEAKER:** The Senate has passed, the emergency clause carried, unchanged: HB 1163.

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

**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1362.

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

**MR. SPEAKER:** The Senate has failed to pass: HB 1049, HB 1114, HB 1120, HB 1176.

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

**MR. PRESIDENT:** The Speaker has signed and your signature is respectfully requested on: HB 1046, HB 1100, HB 1143.

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

**MR. PRESIDENT:** The House has amended and subsequently passed: SB 2195, SB 2268.

### HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2195

Page 6, line 14, replace "president" with "majority leader"

Page 6, line 26, replace "in the board. The commissioner" with "and"

Page 6, line 27, after "remove" insert "any" and replace "members" with "member representing one of the three participating member insurance companies"

Page 14, line 7, remove the overstrike over "2:"

Page 17, line 17, replace the first underscored comma with "and" and remove ", and commissioner"

Renumber accordingly

#### HOUSE AMENDMENTS TO SENATE BILL NO. 2268

Page 1, line 11, replace "bar" with "product"

Renumber accordingly

#### MOTION

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

#### MOTION

**SEN. CHRISTMANN MOVED** that the Senate be on the Fourth, Fifth, Seventh, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Tuesday, March 18, 2003, which motion prevailed.

#### REPORT OF STANDING COMMITTEE

**HB 1052, as amended, Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1052, as amended, was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1056, as engrossed: Political Subdivisions Committee (Sen. Cook, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1056 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1062: Transportation Committee (Sen. Trenbeath, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1062 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1101, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1101 was rereferred to the **Appropriations Committee**.

#### REPORT OF STANDING COMMITTEE

**HB 1112, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed HB 1112, as amended, was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1195: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1195 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1197, as engrossed: Agriculture Committee (Sen. Flakoll, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1197 was placed on the Sixth order on the calendar.

Page 1, line 3, after "60-02.1-30" insert ", 60-02.1-34"

Page 2, after line 8, insert:

**"SECTION 3. AMENDMENT.** Section 60-02.1-34 of the North Dakota Century Code is amended and reenacted as follows:

**60-02.1-34. Commission to marshal trust assets.** Upon its appointment, the commission shall marshal all of the trust fund assets. The commission may maintain suits in the name of the state of North Dakota for the benefit of all noncredit-sale claimants against the licensee's bonds, insurers of grain, any person who may have converted any grain, and any person who may have received preferential treatment by being paid by the insolvent licensee after the first default."

Page 4, line 16, replace "fifty" with "eighty"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1215, as engrossed: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1215 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1243, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1243, as amended, was placed on the Sixth order on the calendar.

In addition to the amendments adopted by the Senate as printed on pages 711 and 712 of the Senate Journal, Engrossed House Bill No. 1243 is further amended as follows:

Page 1, line 9, after the semicolon insert "to provide for reimbursement of lottery expenses;"

Page 15, after line 21, insert:

**"SECTION 8. ATTORNEY GENERAL REIMBURSEMENT - STARTUP EXPENSES.** During the biennium beginning July 1, 2003, and ending June 30, 2005, the attorney general's operating fund must be reimbursed from lottery gross profits, in an amount not to exceed \$85,000, for expenses associated with the startup of the lottery which were incurred before July 1, 2003."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1246, as engrossed: Political Subdivisions Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1246 was placed on the Sixth order on the calendar.

Page 2, line 18, after "of" insert "county"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1277: Transportation Committee (Sen. Trenbeath, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1277 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1305, as engrossed: Political Subdivisions Committee (Sen. Cook, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1305 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1321, as engrossed: Agriculture Committee (Sen. Flakoll, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1321 was placed on the Sixth order on the calendar.

Page 1, line 2, after "guarantees" insert "; and to provide an expiration date"

Page 1, after line 14, insert:

**"SECTION 2. EXPIRATION DATE.** This Act is effective through July 31, 2007, and after that date is ineffective."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1358, as engrossed: Natural Resources Committee (Sen. Fischer, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1358 was placed on the Sixth order on the calendar.**

Page 1, line 1, after "reenact" insert "subsection 27 of section 20.1-02-05," and after "20.1-03-07" insert a comma

Page 1, after line 6, insert:

**"SECTION 1. AMENDMENT.** Subsection 27 of section 20.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

27. Issue, as a means of rewarding dedication to teaching firearm hunter safety, complimentary lifetime resident certificates provided under subsection ~~53~~ 52 of section 20.1-03-12 and combination licenses provided under section 20.1-03-11.1 to resident certified hunter education volunteer instructors. Eligible persons must have served as a lead or assistant certified hunter education volunteer instructor in this state for a minimum of one course in each of thirty years. The license is known as the "lifetime combination license" and must be signed by the director and the person receiving the license. The license must be revoked by the director if the licenseholder is convicted of a felony or found to have violated any provision of this title."

Page 4, line 11, overstrike "For a license to erect, have, and maintain on the ice in this state a fishhouse used"

Page 4, overstrike lines 12 and 13

Page 4, line 14, overstrike "24."

Page 4, line 15, overstrike "25." and insert immediately thereafter "24."

Page 4, line 17, overstrike "26." and insert immediately thereafter "25."

Page 4, line 19, overstrike "27." and insert immediately thereafter "26."

Page 4, line 21, overstrike "28." and insert immediately thereafter "27."

Page 4, line 22, overstrike "29." and insert immediately thereafter "28."

Page 4, line 23, overstrike "30." and insert immediately thereafter "29."

Page 4, line 24, overstrike "31." and insert immediately thereafter "30."

Page 4, line 25, overstrike "32." and insert immediately thereafter "31."

Page 4, line 26, overstrike "33." and insert immediately thereafter "32."

Page 5, line 3, overstrike "34." and insert immediately thereafter "33."

Page 5, line 5, overstrike "35." and insert immediately thereafter "34."

Page 5, line 6, overstrike "36." and insert immediately thereafter "35."

Page 5, line 7, overstrike "37." and insert immediately thereafter "36."

Page 5, line 8, overstrike "38." and insert immediately thereafter "37."

Page 5, line 9, overstrike "39." and insert immediately thereafter "38."

Page 5, line 10, overstrike "40." and insert immediately thereafter "39."

Page 5, line 11, overstrike "41." and insert immediately thereafter "40."

Page 5, line 12, overstrike "42." and insert immediately thereafter "41."

Page 5, line 14, overstrike "43." and insert immediately thereafter "42."

Page 5, line 15, overstrike "44." and insert immediately thereafter "43."

Page 5, line 16, overstrike "45." and insert immediately thereafter "44."

Page 5, line 17, overstrike "46." and insert immediately thereafter "45."

Page 5, line 18, overstrike "47." and insert immediately thereafter "46."

Page 5, line 19, overstrike "48." and insert immediately thereafter "47."

Page 5, line 22, overstrike "49." and insert immediately thereafter "48."

Page 5, line 24, overstrike "50." and insert immediately thereafter "49."

Page 5, line 25, overstrike "51." and insert immediately thereafter "50."

Page 5, line 26, overstrike "52." and insert immediately thereafter "51."

Page 5, line 27, overstrike "53." and insert immediately thereafter "52."

Page 6, line 19, replace "thirty-two" with "thirty-five"

Page 8, line 5, overstrike "For a license to erect, have, and maintain on the ice in this state a fishhouse used"

Page 8, overstrike lines 6 and 7

Page 8, line 8, overstrike "24."

Page 8, line 9, overstrike "25." and insert immediately thereafter "24."

Page 8, line 11, overstrike "26." and insert immediately thereafter "25."

Page 8, line 13, overstrike "27." and insert immediately thereafter "26."

Page 8, line 15, overstrike "28." and insert immediately thereafter "27."

Page 8, line 16, overstrike "29." and insert immediately thereafter "28."

Page 8, line 17, overstrike "30." and insert immediately thereafter "29."

Page 8, line 18, overstrike "31." and insert immediately thereafter "30."

Page 8, line 19, overstrike "32." and insert immediately thereafter "31."

Page 8, line 20, overstrike "33." and insert immediately thereafter "32."

Page 8, line 27, overstrike "34." and insert immediately thereafter "33."

Page 8, line 29, overstrike "35." and insert immediately thereafter "34."

Page 8, line 30, overstrike "36." and insert immediately thereafter "35."

Page 8, line 31, overstrike "37." and insert immediately thereafter "36."

Page 9, line 1, overstrike "38." and insert immediately thereafter "37."

Page 9, line 2, overstrike "39." and insert immediately thereafter "38."

Page 9, line 3, overstrike "40." and insert immediately thereafter "39."

Page 9, line 4, overstrike "41." and insert immediately thereafter "40." and replace "thirty-two" with "thirty-five"

Page 9, line 5, overstrike "42." and insert immediately thereafter "41."

Page 9, line 7, overstrike "43." and insert immediately thereafter "42."

Page 9, line 8, overstrike "44." and insert immediately thereafter "43."

Page 9, line 9, overstrike "45." and insert immediately thereafter "44."

Page 9, line 10, overstrike "46." and insert immediately thereafter "45."

Page 9, line 11, overstrike "47." and insert immediately thereafter "46."

Page 9, line 12, overstrike "48." and insert immediately thereafter "47."

Page 9, line 15, overstrike "49." and insert immediately thereafter "48."

Page 9, line 17, overstrike "50." and insert immediately thereafter "49."

Page 9, line 18, overstrike "51." and insert immediately thereafter "50."

Page 9, line 19, overstrike "52." and insert immediately thereafter "51."

Page 9, line 20, overstrike "53." and insert immediately thereafter "52."

Page 10, line 12, replace "6" with "7"

Page 10, line 16, replace "4" with "5"

Renumber accordingly

#### **REPORT OF STANDING COMMITTEE**

**HB 1411, as engrossed: Political Subdivisions Committee (Sen. Cook, Chairman)** recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1411 was placed on the Fourteenth order on the calendar.

#### **REPORT OF STANDING COMMITTEE**

**HCR 3073: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3073 was placed on the Fourteenth order on the calendar.

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

**WILLIAM R. HORTON, Secretary**

