

JOURNAL OF THE SENATE

Forty-eighth Legislative Assembly

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SIXTY-FOURTH DAY

Bismarck, April 7, 1983
The Senate convened at 8:00 a.m., with President Sands presiding.

The prayer was offered by Rev. Richard Morrow, Church of God of Prophecy, Bismarck.

Our Father, which art in heaven, hallowed be Thy name. Thy kingdom come. Thy will be done in earth, as it is in heaven. Give us this day our daily bread and forgive us our debts, as we forgive our debtors. And lead us not into temptation, but deliver us from evil, for Thine is the kingdom, and the power, and the glory, forever.

Our most righteous heavenly Father, we humbly come before Thee in behalf of the leaders of our governing body, that they may work together as a unified body and for the good of the people of North Dakota. Help them to be ever mindful of Thy holy truths. For we know Thou art our present help in time of trouble. Let them be guided by Thy infallible words of wisdom. We ask these things in the loving name of Jesus Christ. Amen.

ROLL CALL

The roll was called and all members were present, except Senators Lee, Leibhan, and D. Meyer.

A quorum was declared by the President.

REVISION AND CORRECTION OF THE JOURNAL

MR. PRESIDENT: Your Committee on Revision and Correction of the Journal has carefully examined the Journal of the Sixty-third day and finds the same to be correct.

SEN. TWETEN, Chairman

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

MOTION

SEN. PETERSON MOVED that Senator Leibhan be replaced by Senator Bakewell on the conference committee on SB 2277, which motion prevailed.

FIRST READING OF HOUSE CONCURRENT RESOLUTIONS

HCR 3094: A concurrent resolution directing the Legislative Council to study the feasibility and desirability of

establishing a fund for loans to farmers funded privately by earnings from mineral royalties.

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

HCR 3095: A concurrent resolution directing the Legislative Council to study secured transaction laws as they relate to the sales and purchases by merchants and buyers of secured farm products in an effort to establish a legal relationship between merchants and buyers of farm products and lending institutions with security interests in those farm products which is equitable to all parties.

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

MOTION

SEN. NOTHING MOVED that the Senate stand in recess until 9:30 a.m., which motion prevailed.

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

SIGNING OF BILLS AND RESOLUTIONS

THE SECRETARY ANNOUNCED that the President signed the following:

SCR 4056, SCR 4057

LEO LEIDHOLM, Secretary

THE SECRETARY ANNOUNCED that the President signed the following:

HB 1017, HB 1367, HB 1627

LEO LEIDHOLM, Secretary

MESSAGES TO THE HOUSE

SENATE CHAMBER

MADAM SPEAKER: I have the honor to transmit herewith the following which the President has signed and your signature is respectfully requested:

SCR 4056, SCR 4057

Very respectfully,
LEO LEIDHOLM, Secretary

SENATE CHAMBER

MADAM SPEAKER: I have the honor to return herewith the following which the President has signed:

HB 1017, HB 1367, HB 1627

Very respectfully,
LEO LEIDHOLM, Secretary

SENATE CHAMBER

MADAM SPEAKER: I have the honor to inform you that the President has appointed Senator Bakewell to replace Senator Leibhan on the Senate Conference Committee on SB 2277.

Very respectfully,
LEO LEIDHOLM, Secretary

SENATE CHAMBER

MADAM SPEAKER: I have the honor to return herewith the following on which the Senate has adopted the conference committee reports and subsequently passed the same:

HB 1044, HB 1049, HB 1130, HB 1151, HB 1165, HB 1203,
HB 1208, HB 1296, HB 1336, HB 1370, HB 1387, HB 1400,
HB 1421, HB 1516, HB 1583, HB 1647, HB 1661, HB 1688,
HCR 3038

Very respectfully,
LEO LEIDHOLM, Secretary

MOTION

SEN. NETHING MOVED that the Senate stand in recess until 10:58 a.m., which motion prevailed.

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

FIRST READING OF A HOUSE BILL

HB 1732: A BILL for an Act to amend and reenact sections 57-35-04, 57-35.1-01, and 57-35.2-02 of the North Dakota Century Code, relating to tax on banks and trust companies, and building and loan associations; to provide an effective date; and to declare an emergency.

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

MESSAGES TO THE HOUSE

SENATE CHAMBER

MADAM SPEAKER: I have the honor to transmit herewith the following on which the Senate has adopted the conference committee reports and subsequently passed the same:

SB 2047, SB 2049, SB 2066, SB 2104, SB 2108, SB 2122,
SB 2170, SB 2199, SB 2245, SB 2322, SB 2327, SB 2350,
SB 2358, SB 2408, SB 2446, SB 2473, SB 2491

Very respectfully,
LEO LEIDHOLM, Secretary

SENATE CHAMBER

MADAM SPEAKER: I have the honor to transmit herewith the following which the Senate has passed and your favorable consideration is requested on:

SCR 4061

Very respectfully,
LEO LEIDHOLM, Secretary

SENATE CHAMBER

MADAM SPEAKER: I have the honor to return herewith the following which the Senate has passed unchanged:

HCR 3096

Very respectfully,
LEO LEIDHOLM, Secretary

MESSAGE FROM THE HOUSE
HOUSE CHAMBER

MR. PRESIDENT: I have the honor to return herewith the following which the Speaker has signed:

SCR 4056, SCR 4057

Very respectfully,
CHARLES FLEMING, Chief Clerk

MOTION

SEN. NETHING MOVED that the Senate stand in recess until 1:00 p.m., which motion prevailed.

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

REPORT OF PROCEDURAL COMMITTEE

MR. PRESIDENT: Your Committee on Enrollment and Engrossment respectfully report that the following bills were delivered to the Secretary of State for his filing at the hour of 12:58 p.m. April 7, 1983:

SCR 4056, SCR 4057

SEN. FRITZELL, Chairman

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

MESSAGES FROM THE HOUSE
HOUSE CHAMBER

MR. PRESIDENT: I have the honor to transmit herewith the following on which the House has adopted the conference committee report and subsequently passed the same:

HB 1420

Very respectfully,
CHARLES FLEMING, Chief Clerk

HOUSE CHAMBER

MR. PRESIDENT: I have the honor to return herewith the following which the House has passed unchanged:

SB 2500, SCR 4058

Very respectfully,
CHARLES FLEMING, Chief Clerk

HOUSE CHAMBER

MR. PRESIDENT: I have the honor to transmit herewith the following which the House has passed and your favorable consideration is requested on:

HCR 3097

Very respectfully,
CHARLES FLEMING, Chief Clerk

HOUSE CHAMBER

MR. PRESIDENT: I have the honor to inform you that the House has concurred in the Senate amendments to HB 1473, HCR 3028, and HCR 3029 and subsequently passed the same.

Very respectfully,
CHARLES FLEMING, Chief Clerk

HOUSE CHAMBER

MR. PRESIDENT: I have the honor to return herewith the following (the amendments to this bill have been laid on the table):

SB 2309

Very respectfully,
CHARLES FLEMING, Chief Clerk

HOUSE CHAMBER

MR. PRESIDENT: I have the honor to return herewith SB 2026 which the House has amended as follows:

HOUSE AMENDMENTS TO SB 2026

On page 1 of the reengrossed bill, line 8, delete the words "general fund" and insert in lieu thereof the words "state fire and tornado fund"

On page 1 of the reengrossed bill, line 9, delete the numerals "2,000,000" and insert in lieu thereof the numerals "4,811,500"

On page 1 of the reengrossed bill, line 10, delete the words "and \$2,811,500, or so much thereof as may be"

On page 1 of the reengrossed bill, delete line 11

On page 1 of the reengrossed bill, line 12, delete the word "treasury,"

And renumber the lines accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment provides that the entire appropriation of \$4,811,500 for making payments of insurance premiums to fire departments is made from the state fire and tornado fund.

Very respectfully,
CHARLES FLEMING, Chief Clerk

HOUSE CHAMBER

MR. PRESIDENT: I have the honor to inform you that the House does not concur in the Senate amendments to HB 1001 and HB 1539, and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

HB 1001: Reps. Mertens, Boyle, Hausauer

HB 1539: Reps. Hjelle, Richard, R. Anderson

Very respectfully,
CHARLES FLEMING, Chief Clerk

REPORTS OF CONFERENCE COMMITTEES

MR. PRESIDENT: Your Conference Committee to which was referred SB 2092 has had the same under consideration and recommends that the HOUSE RECEDE from its amendments as found on page 1800 of the Senate Journal and that SB 2092 be amended as follows:

On page 1 of the reengrossed bill, line 5, delete the word
"a"

On page 1 of the reengrossed bill, line 6, delete the words
"designated fund in the Bank of North Dakota" and
insert in lieu thereof the words "an interest bearing
fund in the state treasury"

On page 1 of the reengrossed bill, line 8, after the word
"penitentiary" and before the period insert the words
"; and providing an appropriation"

On page 1 of the reengrossed bill, line 21, after the word
"transaction" insert the words "must allow for the
submission of bids pursuant to a notice published in
at least one official county newspaper; except that
the sale, exchange, or transaction"

On page 2 of the reengrossed bill, line 1, after the word
"All" insert the word "legal"

On page 2 of the reengrossed bill, line 2, after the word
"approved" insert the words "as to form and legality"

On page 2 of the reengrossed bill, line 9, delete the words
"Bank of North Dakota" and insert in lieu thereof the
words "state treasury"

On page 2 of the reengrossed bill, line 11, after the word
"land" insert the words "and facilities"

On page 2 of the reengrossed bill, line 13, after the word "penitentiary" and before the period insert the words "and for penitentiary renovation"

On page 2 of the reengrossed bill, after line 13, insert the following new section:

"SECTION 2. APPROPRIATION. There is hereby appropriated out of any moneys in the state penitentiary land fund, not otherwise appropriated, the sum of \$11,000,000, or so much thereof as may be necessary, to the director of institutions who is hereby instructed to use the money only for the purpose of purchasing enough replacement land with facilities for the use of the state penitentiary which will require the employment of as many or more inmates as are now employed in the penitentiary farming and ranching operation, and only thereafter may use any remaining funds for the renovation of penitentiary facilities. This provision is for the biennium beginning July 1, 1983, and ending June 30, 1985."

And renumber the lines, sections, and pages accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

The amendment to reengrossed Senate Bill No. 2092 requires any sale, exchange, or transaction involving Penitentiary lands to allow for submission of public bids.

The bill provides for the sale of Penitentiary land. The proceeds of any sales shall be used to purchase additional farm and ranch property for the Penitentiary and for Penitentiary renovation. It is intended the future Legislative Assemblies will reimburse the State Penitentiary land fund for any moneys used for Penitentiary renovation.

For the Senate: Sens. Thane, Naaden, Stromme

For the House: Reps. Mushik, Mertens, Peterson

SB 2092 was placed on the Seventh order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Conference Committee to which was referred SB 2173 has had the same under consideration and recommends that the HOUSE RECEDE from its amendments as found on page 1766 of the Senate Journal.

For the Senate: Sens. Parker, Reiten, Kusler

For the House: Reps. Schoenwald, Gerl, Retzer

SB 2173 was placed on the Seventh order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Conference Committee to which was referred SB 2373 has had the same under consideration and recommends that the HOUSE RECEDE from its amendments as found on pages 1809-1813 of the Senate Journal and that SB 2373 be amended as follows:

On page 1 of the engrossed bill, line 1, after the words "A BILL" delete the remainder of the bill and insert in lieu thereof the following "for an Act to create and enact two new subsections to section 39-01-01, a new subsection to section 39-06-31, a new subsection to section 39-06.1-10, two new sections to chapter 39-08, and three new sections to chapter 39-20 of the North Dakota Century Code, relating to penalty and punishment for operating a motor vehicle while under the influence of intoxicating liquor or controlled substances and to law enforcement procedures; to amend and reenact section 27-20-51, subsection 5 of section 27-20-54, subsection 1 of section 39-06-01, subsection 5 of section 39-06-17, subsection 2 of section 39-06-23, section 39-06-33.1, subsections 1 and 2 of section 39-06-35, sections 39-06-36, 39-06-42, 39-06-43, subsection 1 of section 39-06.1-05, section 39-06.1-07, subdivision b of subsection 3 and subsection 4 of section 39-06.1-10, sections 39-06.1-11, 39-07-07, 39-07-10, 39-07-11, 39-08-01, 39-20-01, 39-20-02, 39-20-04, 39-20-05, 39-20-06, 39-20-07, 39-20-08, 39-20-09, 39-20-14, 40-18-01, 40-18-12, and 40-18-13 of the North Dakota Century Code, relating to reporting juvenile offenses, penalty and punishment for operating a motor vehicle while under the influence or for driving in violation of license suspension, revocation, or restriction, testing for blood alcohol concentration, interpretation of tests, issuing of notification forms to arrested drivers, and law enforcement, judicial, and administrative procedures; and to repeal section 39-06-29.1 of the North Dakota Century Code, relating to the authority to suspend operator's licenses of juveniles.

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

SECTION 1. AMENDMENT. Section 27-20-51 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-20-51. Inspection of court files and records. A++

1. Except as provided in subsection 2, all
files and records of the court in a

proceeding under this chapter shall may not be disclosed to the public and are open to inspection only by:

- 1- a. The judge, officers, and professional staff of the court.
 - 2- b. The parties to the proceeding and their counsel and representatives.
 - 3- c. A public or private agency or institution providing supervision or having custody of the child under order of the court, which shall be given a copy of the findings and order of disposition when it receives custody of the child.
 - 4- d. A court and its probation and other officials or professional staff and the attorney for the defendant for use in preparing a presentence report in a criminal case in which the defendant is convicted and who prior thereto had been a party to the proceeding in juvenile court.
 - 5- e. With leave of court any other person or agency or institution having a legitimate interest in the proceeding or in the work of the court.
 - 6- f. Upon leave of the court, the principal of any public or private school which is a member of the North Dakota high school activities association, or the superintendent of any school district which has one or more schools involved in the association, but only to the extent necessary to enforce the rules and regulations of the North Dakota high school activities association.
2. In a proceeding under this chapter, if the court finds that a child committed a delinquent or unruly act which constitutes a violation of a law or local ordinance governing the operation of a motor vehicle or a delinquent act of manslaughter or negligent homicide caused by the child's operation of a motor vehicle, the court shall, within ten days, report the finding to the state highway commissioner.

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SECTION 2. AMENDMENT. Subsection 5 of section 27-20-54 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Upon entry of an order under subsection 2 or 4, the proceeding shall be treated as if it never occurred. All index references, except those which may be made by the state highway commissioner, shall be deleted, and upon inquiry in any matter the child, the court, law enforcement officers, and representatives of agencies, except the state highway commissioner, shall properly reply that no record exists with respect to the child. Copies of the order shall be sent to each agency or official therein named. Each law enforcement agency and law enforcement officer except the state highway commissioner, upon receipt of a copy of the order, shall destroy all files, records, and references to the child pertaining to his apprehension, detention, and referral to the juvenile court and any record of disposition made by the juvenile court.

SECTION 3. Two new subsections to section 39-01-01 of the 1981 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

"Appropriate licensed addiction treatment program" means an addiction treatment program conducted by an addiction facility licensed by the department of human services.

"Manifest injustice" means a specific finding by the court that the imposition of sentence is unreasonably harsh or shocking to the conscience of a reasonable person, with due consideration of the totality of circumstances.

SECTION 4. AMENDMENT. Subsection 1 of section 39-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. No A person, except these hereinafter unless expressly exempted in this section, shall may not drive any motor vehicle upon on a highway or on public or private areas

to which the public has a right of access for vehicular use in this state unless ~~such~~ the person has a valid license as an operator under the provisions of this chapter or a temporary operator's permit issued under chapter 39-20. ~~No~~ A person ~~shall~~ may not receive an operator's license unless and until ~~he~~ that person surrenders to the commissioner all valid operator's licenses in ~~his~~ the person's possession issued to ~~him~~ the person by any other jurisdiction. All surrendered licenses shall be returned by the commissioner to the issuing department together with information that the licensee is now licensed in a new jurisdiction. ~~No~~ A person ~~shall be permitted to~~ may not have more than one valid operator's license at any time.

SECTION 5. AMENDMENT. Subsection 5 of section 39-06-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. It is a class B misdemeanor for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to ~~him~~ that person. If the restricted license was issued under section 39-06.1-11 and the underlying suspension was imposed for a violation of section 39-08-01 or equivalent ordinance, or is governed by chapter 39-20, punishment is as provided in subsection 2 of section 39-06-42 and upon receiving notice of the conviction the commissioner shall revoke, without opportunity for hearing, the licensee's restricted license and shall extend the underlying suspension for a like period of not more than one year. The commissioner may not issue a restricted license for the extended period of suspension imposed under this subsection. If the conviction referred to in this section is reversed by an appellate court, the commissioner shall restore the person to the status held by the person prior to the conviction, including restoration of driving privileges if appropriate.

SECTION 6. AMENDMENT. Subsection 2 of section 39-06-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Revocation" means that the driver's operator's license and privilege to drive a motor vehicle on the public highways a highway or on public or private areas to which the public has a right of access for vehicular use in this state are terminated and shall not be renewed or restored, except that an on application for a new license may be presented to and acted upon by the commissioner after the expiration of the period of revocation, which period shall not must be less than at least thirty days nor but not more than one year, except as provided in sections 39-06-17, 39-06-31, 39-06-36, and 39-06-43.

SECTION 7. A new subsection to section 39-06-31 of the North Dakota Century Code is hereby created and enacted to read as follows:

Any offense classified as a felony which is a violation of section 22 of this Act. The revocation of the license under this subsection may be beyond any time of imprisonment or court-ordered inpatient addiction treatment.

SECTION 8. AMENDMENT. Section 39-06-33.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-33.1. Authority to suspend licenses after traffic death or injury - Show cause order required. The Except as provided in section 39-06-31, the commissioner may suspend the license of an operator upon a showing by ~~the~~ the commissioner's records or other sufficient evidence that the licensee has been convicted by a court of competent jurisdiction for violation of the provisions of this title or any other law of this state or municipal ordinance regulating the operation of motor vehicles on highways where it appears from the department commissioner's records that the violation for which he the licensee was convicted contributed in causing an accident resulting in the death or serious personal injury, requiring professional medical care of another, or serious property damage. Prior to Before suspending the license of any person as authorized in this section, the commissioner shall immediately notify the licensee in writing to show cause, within twenty days, why ~~his~~ the license should not be suspended or revoked. Upon the request of a licensee the commissioner shall afford ~~him~~ the licensee an opportunity for a hearing as early as

practical within ~~not~~ to exceed twenty days after receipt of such the request in the county wherein the licensee resides unless the department and licensee agree that such hearing may be held in some other county at a time and place designated by the commissioner. Upon such hearing the commissioner or his duly authorized agent hearing officer may administer oaths and, may issue subpoenas for the attendance of witnesses and the production of relevant books and papers, and may require a reexamination of the licensee. Upon such hearing the commissioner may, for good cause, ~~either suspend or~~ revoke the license of such person the licensee.

SECTION 9. AMENDMENT. Subsections 1 and 2 of section 39-06-35 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. The commissioner ~~shall~~ may not suspend a ~~driver's~~ an operator's license or privilege to drive a motor vehicle ~~on the public highways~~ for a period of more than one year, except as permitted or required under this section, section 39-06-17, section 39-06-43, or section 16 of this Act.
2. ~~At When the end of the period of suspension a license surrendered to the department under section 39-06-37 shall be returned to the licensee imposed under this title ceases, the operator's license or driving privilege that has been suspended may not be returned or reinstated, and remains under suspension, until the operator pays to the commissioner a reinstatement fee of twenty-five dollars. Upon payment of the reinstatement fee the license must be returned to the operator. A reinstatement fee is not required for a license to be returned to the operator if the return of the license is due to the findings of a hearing, reexamination of hearing, or court or judicial review under chapter 39-06, 39-06.1, or 39-20.~~

SECTION 10. AMENDMENT. Section 39-06-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-36. Restoration of revoked licenses. Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked shall not be entitled to have such license or privilege renewed or restored unless the revocation was for a

cause which has been removed, except that after the expiration of the revocation period such person may make application for a new license as provided by law, but the commissioner shall not then issue a new license unless and until he is satisfied after investigation of the individual's driving records, driving habits, and driving ability of such person that it will be safe to grant the privilege of driving a motor vehicle on the public highways. A person whose license or privilege to drive a motor vehicle has been revoked must pay to the commissioner a revocation reinstatement fee of twenty-five dollars, in addition to any license renewal fee, for issuance of a new license. Until the reinstatement fee is paid the license and privilege to drive a motor vehicle remain under revocation. A reinstatement fee is not required if a revoked license is reinstated due to the findings of a hearing, reexamination of hearing, or court or judicial review as provided under chapter 39-06, 39-06.1 or 39-20.

SECTION 11. AMENDMENT. Section 39-06-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-42. Penalty for driving while license suspended or revoked - Impoundment of vehicle number plates - Authority of cities.

1. Except as provided in chapters 39-16 and 39-16.1, and ~~in~~ section 39-06.1-11, any person who drives a motor vehicle on ~~any public~~ a highway of this state at a time when ~~his~~ or on public or private areas to which the public has a right of access for vehicular use in this state while that person's license or privilege so to do is suspended or revoked ~~shall be~~ is guilty of a class B misdemeanor.
2. If the suspension or revocation was imposed for violation of section 39-08-01 or equivalent ordinance or was governed by section 39-06-31 or chapter 39-20, the sentence must be at least fifteen days' imprisonment and such fine as the court deems proper. The sentence and the imposition of sentence may not be suspended under chapter 12-53. Forfeiture of bail is not permitted in lieu of the defendant's personal appearance in open court for arraignment on a charge under this subsection.

3. In addition to any other punishment imposed, the court may order the number plates of the motor vehicle owned and operated by the offender at the time of the offense to be impounded by the sheriff for the duration of the period of suspension or revocation, as the case may be, of the offender's driving license or privilege. When a period of suspension has been extended under subsection 5 of section 39-06-17, the court may order the number plates to be impounded in accordance with this subsection. The impounded number plates may be released, upon order of the court, to a bona fide purchaser of the offender's motor vehicle, if that purchaser produces a new certificate of title to the motor vehicle issued by the registrar of motor vehicles.
- 2- 4. A city may, by ordinance, authorize its municipal judge to order impoundment of motor vehicle number plates in the manner provided in subsection 1 of this section 3.

SECTION 12. AMENDMENT. Section 39-06-43 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-43. Extension of license suspension or revocation. The commissioner upon receiving a record of the conviction of any person upon a charge of driving a vehicle while the license or driving privileges of the person was suspended shall extend the period of that suspension for an additional like period and if the original suspension was for an indefinite or unstated period of time, the additional suspension shall be for a period of six months on and after the date the person would otherwise have been entitled to the return of license or privileges. If, however, the original suspension of driving privileges resulted solely from failure to appear in court or to post and forfeit bond on noncriminal traffic violations, there shall be no additional period of suspension. If the conviction was upon a charge of driving while a license or driving privileges was revoked, the commissioner shall not issue a new license for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license. Upon a conviction of a person for violating a restricted license issued under section 39-06.1-11 and in which the underlying suspension was imposed for violating section 39-08-01 or equivalent

ordinance or is governed by chapter 39-20, the commissioner shall extend the period of the underlying suspension in accordance with subsection 5 of section 39-06-17.

SECTION 13. AMENDMENT. Subsection 1 of section 39-06.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Driving or being in actual physical control of a vehicle ~~while under the influence of a controlled substance or intoxicating liquor~~ in violation of section 39-08-01, or an equivalent ordinance.

SECTION 14. AMENDMENT. Section 39-06.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06.1-07. Notification to offenders - Duties of licensing authority. The licensing authority shall prepare ~~a notification form forms and a temporary operator's permit as provided in section 33 or 34 of this Act to be appended to the form of delivered to persons charged along with the uniform traffic summons and complaint as provided in section 29-05-31.~~ The notification ~~form forms~~ shall contain language, approved by the attorney general, informing persons charged with traffic violations, other than offenses listed in section 39-06.1-05, of the procedures available to them under sections 39-06.1-02 and 39-06.1-03 and informing persons who ~~refuse a chemical test or onsite screening test under chapter 39-20 or who, on taking a chemical test, are found to be in violation of subdivision e of subsection 1 of section 39-08-01, of the procedures available under chapter 39-20.~~ The notification shall also contain a schedule of points to be charged against a person's driving record ~~or other operator's license penalties~~ as provided by law, and a schedule of statutory fees and bond amounts as determined in accordance with sections 39-06.1-06 and 39-06.1-02.

SECTION 15. AMENDMENT. Subdivision b of subsection 3 and subsection 4 of section 39-06.1-10 of the 1981 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

- b. Criminal Violations
Conviction of:

Points Assigned:

- (1) Reckless driving, in violation of section 39-08-03, or 8 points

equivalent ordinance

- (2) Aggravated reckless driving, in violation of section 39-08-03, or equivalent ordinance

12

points
- (3) Leaving the scene of an accident involving property damage in violation of sections 39-08-05, 39-08-07, or 39-08-08, or equivalent ordinances

14

points
- (4) Leaving the scene of an accident involving personal injury or death in violation of section 39-08-04, or equivalent ordinance

18

points
- (5) Driving while under the influence or being in actual physical control of a motor vehicle in violation of section 39-08-01, or equivalent ordinance, if the driving record shows that the licensee has not within the five years preceding the violation previously violated section 39-08-01, or equivalent ordinance

15 24

points
- (6) Being in actual physical control of a motor vehicle while under the influence in violation of section 39-08-01, or equivalent ordinance

6

points
- Driving or being in actual physical control of a motor vehicle in violation of section 39-08-01, or equivalent ordinance, if the driving record shows that the licensee has within the five years preceding the violation previously violated section 39-08-01, or equivalent ordinance

63

points

- (7) Violating restrictions in a restricted license issued ~~pursuant to~~ under section 39-06-17 and relating to the use of eyeglasses or contact lenses while driving 3 points
 - (8) Violating any restrictions other than those listed in paragraph 7 of this subdivision, contained in a restricted license issued ~~pursuant to~~ under section 39-06-17 or section 39-06.1-11 4 points
4. If judicial disposition of a traffic violation includes an order or recommendation of suspension or revocation of an operator's license, ~~such the~~ suspension or revocation ~~shall run~~ runs concurrently with any suspension ordered ~~pursuant to~~ under this section. After a conviction of a person for violating section 39-08-01, the commissioner shall, in suspending the person's operator's license, give credit for the time in which license suspension or revocation has been or is being imposed under chapter 39-20 in connection with the same offense.

SECTION 16. A new subsection to section 39-06.1-10 of the 1981 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

- a. If the commissioner is informed by a court that under section 39-08-01 or 40-18-12 a person convicted of violating section 39-08-01 or equivalent ordinance has been referred for addiction evaluation to an appropriate licensed addiction treatment program and has been subsequently evaluated as needing addiction treatment, the commissioner shall, within three days of being so informed, send notice to the offender informing the offender of the addiction evaluation and of the provisions of this subsection.

- b. If the offender does not, within thirty days from the date the commissioner mailed the notice, enroll in an appropriate licensed addiction treatment program, with that enrollment verified by the program's addiction counselor or instructor, or, if enrolled, the offender does not complete the treatment program, the commissioner shall, subject to the offender's opportunity for hearing under subsection 1, suspend that person's driving privileges in accordance with subdivisions c and d.
- c. If the driving record shows that: The suspension must be at least
- (1) Within the five years preceding the most recent violation of section 39-08-01, or equivalent ordinance, the offender has not previously violated section 39-08-01 or equivalent ordinance 180 days
 - (2) Within the five years preceding the most recent violation of section 39-08-01, or equivalent ordinance, the offender has once previously violated section 39-08-01 or equivalent ordinance 1 year
 - (3) Within the five years preceding the most recent violation of section 39-08-01, or equivalent ordinance, the offender has twice previously violated section 39-08-01 or equivalent ordinance 2 years
- d. If within the seven years preceding the most recent violation of section 39-08-01, or equivalent ordinance, the offender has previously violated section 39-08-01 or equivalent ordinance at least three times, the commissioner may restore driving privileges to the offender only after that

person has completed addiction treatment through an appropriate licensed addiction treatment program and has had no alcohol or drug-related offense for two consecutive years after completion of treatment.

- e. A period of license suspension imposed on an offender under this subsection is in addition and consecutive to any period of license suspension or revocation imposed under section 39-06-31 or chapter 39-20 or after a conviction of violating section 39-08-01 or equivalent ordinance.

SECTION 17. AMENDMENT. Section 39-06.1-11 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06.1-11. Temporary restricted license. When

1. Except as provided under subsection 2, if the licensing authority has suspended a license, pursuant to under section 39-06.1-10, or when the commissioner has ~~revoked~~ a license pursuant to section 39-20-04, or when or if the commissioner has extended a suspension or revocation pursuant to under section 39-06-43, for a period in excess of for more than seven days, the authority may, for good cause, upon receiving written application from the ~~licensee~~ offender affected, issue a temporary restricted operator's license valid, after seven days of the suspension period have passed, for the remainder of the suspension period. The
2. If the licensing authority has suspended a license under chapter 39-20, or after a violation of section 39-08-01 or equivalent ordinance, the authority may, in accordance with this section, for good cause, and upon written application of the offender, issue a temporary restricted license which takes effect after thirty days of the suspension have been served after a first offense under section 39-08-01 or chapter 39-20. The licensing authority may not issue a temporary restricted license to any offender whose operator's license is under suspension upon a second or subsequent offense within the time limitations under section 39-08-01. The licensing authority may not issue a temporary restricted

license for a period of license revocation or suspension imposed under section 39-06-31, section 16, or 26 of this Act or subsection 5 of section 39-06-17.

3. A restricted license issued under this section may authorize the use of a motor vehicle only during the licensee's normal working hours, or may contain any other restrictions authorized by section 39-06-17. Violation of a restriction imposed according to this section shall be is deemed a violation of section 39-06-17.

SECTION 18. AMENDMENT. Section 39-07-07 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-07-07. Halting person for violating traffic regulations - Duty of officer halting. Whenever any person is halted for the violation of any of the provisions of chapters 39-01 through 39-13, 39-18, 39-21, and 39-24, or of equivalent city ordinances, the officer halting such that person, except as otherwise provided in section 39-07-09 and section 33 or 34 of this Act, may:

1. Take the name and address of such the person;
2. Take the license number of his the person's motor vehicle; and
3. Issue a summons or otherwise notify him that person in writing to appear at a time and place to be specified in such the summons or notice.

A halting officer employed by any political subdivision of the state may not take a person into custody or require that person to proceed with the officer to any other location for the purpose of posting bond, where the traffic violation was a noncriminal offense under section 39-06.1-02. The officer shall provide the person with an envelope for use by that person to mail in mailing the bond.

SECTION 19. AMENDMENT. Section 39-07-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-07-10. Officer violating provisions for arrest and notice of hearing to defendant may be removed from office. Any officer violating any of the provisions of

~~sections~~ section 39-07-07, 39-07-08, and 39-07-09, or section 33 or 34 of this Act is guilty of misconduct in office and ~~shall be~~ is subject to removal from office.

SECTION 20. AMENDMENT. Section 39-07-11 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-07-11. Magistrate to keep record of convictions of traffic violations - Records of conviction to be forwarded to licensing authority. Every magistrate in this state, as defined in section 29-01-14, shall keep a full record of every case brought before ~~him~~ the magistrate in which a person is charged with a violation of section 12.1-16-02 or 12.1-16-03, or of any provision of chapters 39-05 through 39-13, ~~and chapters~~ 39-21 and 39-24, or with a violation of a municipal ordinance which is equivalent to any of the provisions of the foregoing statutes. Within ten days after a final order or judgment of conviction, for a violation not subject to disposition and reporting ~~pursuant to~~ under chapter 39-06.1, by the North Dakota supreme court or any lower court having jurisdiction, provided that no appeal is pending and the time for filing a notice of appeal has elapsed, the magistrate then having jurisdiction shall forward a report of that fact to the licensing authority. Any conviction for which a report is received by the licensing authority may be deemed by the licensing authority to be final, and the licensing authority may take any action authorized by law to be taken based ~~upon~~ on the report. Subject to the filing of an appeal, a conviction ~~shall include~~ includes those instances when:

1. A sentence is imposed and suspended;
2. Imposition of a sentence is suspended under chapter 12-53; or
3. There is a forfeiture of bail or collateral deposited to secure a defendant's appearance in court and the forfeiture has not been vacated.

SECTION 21. AMENDMENT. Section 39-08-01 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-08-01. Persons under the influence of intoxicating liquor or controlled substances not to operate vehicle - Penalty.

1. No A person shall may not drive or be in actual physical control of any vehicle upon a highway or upon public or private areas to which the public has a right of access for vehicular use in this state if any of the following apply:
 - a. He is an habitual user of narcotic drugs or is under the influence of a narcotic drug; That person has a blood alcohol concentration of at least ten one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after the driving.
 - b. He That person is under the influence of intoxicating liquor;.
 - c. He is under the influence of any controlled substance to a degree which renders him incapable of safely driving; or That person is an habitual user of narcotic drugs or is under the influence of a narcotic drug.
 - d. He is under the influence of a combination of intoxicating liquor and a controlled substance to a degree rendering him incapable of safely driving; That person is under the influence of any controlled substance to a degree which renders that person incapable of safely driving.
 - e. That person is under the influence of a combination of intoxicating liquor and a controlled substance to a degree which renders that person incapable of safely driving.
2. A person may not be in actual physical control of any vehicle upon a highway or upon public or private areas to which the public has a right of access for vehicular use in this state if any of the following apply:
 - a. That person has a blood alcohol concentration of at least ten one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after being in physical control of a vehicle.

- b. That person is under the influence of intoxicating liquor.
 - c. That person is an habitual user of narcotic drugs or is under the influence of a narcotic drug.
 - d. That person is under the influence of any controlled substance to a degree which renders that person incapable of safely driving.
 - e. That person is under the influence of a combination of intoxicating liquor and a controlled substance to a degree which renders that person incapable of safely driving.
3. A person violating any provision of this section or equivalent ordinance is guilty of a class B misdemeanor for the first or second conviction in a twenty-four-month five-year period, and of a class A misdemeanor for the second a later conviction in a twenty-four-month five-year period. Notwithstanding the other provisions of this subsection, a person violating this section or equivalent ordinance is guilty of a class A misdemeanor for the fourth or subsequent conviction in a seven-year period. The minimum penalty for such violation shall be either three days in jail or a fine of one hundred dollars, or both such fine and imprisonment, in the event the complaint does not include the allegation that, if convicted, such conviction would be the second or subsequent violation within the time limit as provided in this section, the violating this section is as provided in subsection 5. The court may shall take judicial notice of such the fact that a conviction would be a subsequent conviction if indicated by the records of the state highway department commissioner or may make such finding based on other evidence.
- 3- Repealed by S-L- 1975, ch- 106, § 673-
4. Upon conviction, the court may order the motor vehicle number plates of the motor vehicle owned and operated by the offender at the time of the offense to be impounded by the sheriff or the chief law enforcement

officer of the city, as is appropriate, for the duration of the period of suspension of the offender's driver's license or driving privilege by the licensing authority. The impounded motor vehicle number plates may be released, upon the order of the court, to a bona fide purchaser of the offender's motor vehicle, if that purchaser produces a new certificate of title issued by the registrar of motor vehicles.

5. The court may, upon a conviction of a person under this section, but prior to sentencing, refer the person to an addiction facility licensed by the North Dakota state department of health for diagnosis. Upon receipt of the results of this diagnosis, the court may impose a sentence as prescribed in this section or it may sentence the person to treatment in a facility approved by the North Dakota department of human services. A person convicted of violating this section, or an equivalent ordinance, must be sentenced in accordance with this subsection.

a. For a first offense, the sentence must include both a fine of at least two hundred fifty dollars and referral for addiction evaluation to an appropriate licensed addiction treatment program. If the addiction evaluation indicates treatment is needed, the court shall notify the commissioner.

b. For a second offense within five years, the sentence must include at least four days' imprisonment of which forty-eight hours must be served consecutively, or ten days' community service; a fine of at least five hundred dollars; and referral for addiction evaluation to an appropriate licensed addiction treatment program. If the addiction evaluation indicates treatment is needed, the court shall notify the commissioner.

c. For a third offense within five years, the sentence must include at least sixty days' imprisonment, of which forty-eight hours must be served consecutively; a fine of one thousand dollars, and referral for addiction

evaluation to an appropriate licensed addiction treatment program. If the addiction evaluation indicates treatment is needed, the court shall notify the commissioner.

d. For a fourth offense within seven years, the sentence must include one hundred eighty days' imprisonment, of which forty-eight hours must be served consecutively and a fine of one thousand dollars.

e. A sentence or imposition of sentence under this section may not be suspended under chapter 12-53 except that a fine or a sentence of imprisonment may be suspended in any of the following instances:

(1) Upon conviction of being in actual physical control of a motor vehicle in violation of this section or equivalent ordinance.

(2) If the defendant is under age eighteen when convicted except that if the defendant has, within the preceeding five years, previously been convicted of violating section 39-08-01 or equivalent ordinance, the sentence must include at least forty-eight consecutive hours imprisonment or in a minimum security facility or at least ten days of community service, which sentence or imposition of sentence may not be suspended under chapter 12-53.

f. For purposes of this section, conviction of an offense under a law or ordinance of another state which is equivalent to this section shall be considered a prior offense if such offense was committed within the time limitations specified in this subsection.

g. If the penalty mandated by this section includes imprisonment upon conviction of a violation of this section or equivalent ordinance, and if an addiction evaluation has indicated that

the defendant needs treatment, the court may order the defendant to undergo inpatient treatment at an appropriate licensed addiction treatment program and the time spent by the defendant in the inpatient treatment must be credited as a portion of a sentence of imprisonment under this section.

SECTION 22. A new section to chapter 39-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

Special punishment for causing injury or death while operating a vehicle while under the influence of alcohol.

1. If a person is charged with violation of section 39-08-01 and violation of section 12.1-16-02, 12.1-16-03, or 39-08-03 arising from the same occurrence, the court shall consolidate the charges for trial. The penalty provided in this section applies when the court finds the person guilty of violation of section 39-08-01 and section 12.1-16-02 or 12.1-16-03, or a violation of sections 39-08-01 and 39-08-03 if the court finds that the violation caused serious bodily injury, as defined in section 12.1-01-04, to another person.
2. If the defendant was at least eighteen years of age at the time of the violation of section 39-08-01 and section 12.1-16-02 or 12.1-16-03, the sentence under section 12.1-16-02 or 12.1-16-03 must be at least one year's imprisonment. If the defendant was at least eighteen years of age at the time of the violation of section 39-08-01 and section 39-08-03, the sentence under section 39-08-03 must be at least ninety days' imprisonment. The sentence for violation of section 12.1-16-02, 12.1-16-03, or 39-08-03 may not be suspended unless the court finds that manifest injustice would result from imposition of the sentence. The sentence must be served in its entirety, without benefit of parole or pardon. The sentence for violation of section 12.1-16-02, 12.1-16-03, or 39-08-03 under this section must be consecutive to any sentence imposed

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for violating section 39-08-01 or equivalent ordinance.

3. If the defendant was less than eighteen years of age at the time of the offense, the punishment may be in accordance with subsection 2 or chapter 27-20.

SECTION 23. A new section to chapter 39-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

Prior offenses. For purposes of this chapter, chapter 39-06.1, and chapter 39-20 a previous conviction does not include any prior violation of section 39-08-01 or equivalent ordinance if the offense occurred prior to July 1, 1981.

SECTION 24. AMENDMENT. Section 39-20-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-01. Implied consent to determine alcoholic content of blood. Any person who operates a motor vehicle upon the public highways or on a highway or on public or private areas to which the public has a right of access for vehicular use in this state shall be deemed to have given consent, and shall consent, subject to the provisions of this chapter, to a chemical test, or tests, of his the blood, breath, saliva, or urine for the purpose of determining the alcoholic content of his the blood. The test or tests shall must be administered at the direction of a law enforcement officer only after placing such the person, except persons mentioned in section 39-20-03, under arrest and informing him that person that he the person is or will be charged with the offense of driving or being in actual physical control of a vehicle upon the public highways while under the influence of intoxicating liquor. The arresting officer shall also inform the person charged that refusal of the person to submit to the test determined appropriate will result in a revocation for one year of the person's driving privileges. The arresting officer shall determine which of the aforesaid tests shall is to be used.

SECTION 25. AMENDMENT. Section 39-20-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-02. Persons qualified to administer test and opportunity for additional test. Only a physician, or a qualified technician, chemist, or registered

nurse acting at the request of a law enforcement officer may withdraw blood for purpose of determining the alcoholic content therein. This limitation ~~shall~~ does not apply to the taking of breath, saliva, or urine specimen. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person of his own choosing administer a chemical test or tests in addition to any administered at the direction of a law enforcement officer with all costs of an additional test or tests to be the sole responsibility of the person charged. The failure or inability to obtain an additional test by a person shall not preclude the admission of the test or tests taken at the direction of law enforcement officer. Upon the request of the person who is tested, full information concerning the test or tests taken at the direction of the law enforcement officer shall be made available to him.

SECTION 26. AMENDMENT. Section 39-20-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-04. Revocation of privilege to drive motor vehicle upon refusal to submit to chemical testing. If a person under arrest refuses to submit to chemical testing under section 39-20-01 or 39-20-14, none shall be given, but the commissioner, upon the receipt of that person's operator's license, if taken under section 33 or 34 of this Act, and a sworn report of the law enforcement officer, forwarded by the arresting officer within five days after the refusal, showing that he the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor in violation of section 39-08-01 or equivalent ordinance, that the person was lawfully arrested if applicable, and that the person had refused to submit to the test or tests under section 39-20-01 or 39-20-14, shall revoke his that person's license or permit to drive and any nonresident operating privilege for a period of six months, or, if one year, or if the person is a resident without a license or a permit to operate a motor vehicle in this state, the commissioner shall deny to the person the issuance of a license or permit for a period of six months one year after the date of the alleged violation, subject to the opportunity for a prerevocation hearing and postrevocation review as hereinafter provided in this chapter. In the revocation of the person's operator's license the commissioner shall give credit for time in which the

person was without an operator's license after the day of the person's refusal to submit to the test except that the commissioner may not give credit for time in which the person retained driving privileges through a temporary driver's permit issued under sections 33 and 34 of this Act.

SECTION 27. AMENDMENT. Section 39-20-05 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-05. Administrative hearing on request. Prior
to

1. Before issuing an order of suspension, revocation, or denial under section 39-20-04 or section 35 of this Act, the commissioner shall give such the person a written notice of intention to revoke, suspend, or deny and afford him that person an opportunity for a hearing. If the commissioner receives a written request within ten days, he shall hold such hearing if the person mails a request for the hearing to the commissioner within five days after the issuance of the temporary operator's permit. The hearing must be held within sixty twenty days. The after the date of issuance of the temporary operator's permit.
2. If the issue to be determined by the hearing concerns license suspension for operating a motor vehicle while having a blood alcohol concentration of at least ten one-hundredths of one percent by weight, the hearing must be before a hearing officer assigned by the commissioner and at a time and place designated by the commissioner. The hearing must be recorded and its scope may cover only the issues of whether the arresting officer had reasonable grounds to believe the person had been driving or was in actual physical control of a vehicle in violation of 39-08-01 or equivalent ordinance; whether the person was placed under arrest; whether the person was tested in accordance with section 39-20-01 or 39-20-03 and, if applicable, section 39-20-02; and whether, based on a review of the test procedures and results, the person had a blood alcohol concentration of at least ten one-hundredths of one percent by weight.

Whether the person was informed that the privilege to drive might be suspended based on the results of the test is not an issue.

3. If the issue to be determined by the hearing concerns license revocation for refusing to submit to a test under section 39-20-01 or 39-20-14, the hearing shall must be before the commissioner or his authorized agent in the county wherein the alleged events occurred for which the person was arrested, unless the commissioner or his authorized agent and the person agree that the hearing may be held in some other county a hearing officer assigned by the commissioner at a time and place designated by the commissioner. The hearing shall must be transcribed recorded and its scope shall may cover only the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a vehicle upon the public highways while under the influence of intoxicating liquor in violation of section 39-08-01 or equivalent ordinance; whether the person was placed under arrest if applicable; and, whether he that person refused to submit to the test or tests. Whether the person was informed that his the privilege to drive would be revoked or denied if he refused for refusal to submit to the test or tests shall is not be an issue.

4. At the a hearing under this section, the regularly kept records of the commissioner may be introduced and shall. Those records establish prima facie the their contents thereof without further foundation. The commissioner or his authorized agent shall promptly make findings of fact, conclusions, and decision as provided for in section 28-32-13. At the close of the hearing, the hearing officer shall notify the person of the hearing officer's findings of fact, conclusions of law, and decision based on the findings and conclusions and shall immediately deliver to the person a copy of the decision. If the hearing officer finds, based on a preponderance of the evidence, that the person refused a test under section 39-20-01 or 39-20-14 or that the person was

operating a motor vehicle with a blood alcohol concentration of at least ten one-hundredths of one percent by weight, the hearing officer shall immediately take possession of the person's temporary operator's permit issued under section 33 or 34 of this Act. If the hearing officer does not find against the person, the hearing officer shall sign, date, and mark on the person's permit an extension of driving privileges for the next twenty days and shall return the permit to the person. The hearing officer shall report the findings, conclusions, and decisions to the commissioner within ten days of the conclusion of the hearing. Within two days from the date in which the commissioner receives the report, the commissioner shall mail a notice of the decision to the person who requested the hearing and, if the decision of the hearing officer is to not suspend or not revoke the person's operator's license, shall return the license to the person. If the hearing officer has determined in favor of the person, the commissioner shall return the person's operator's license. Notice of the decision and resulting order of the commissioner shall be is sufficient if mailed by regular mail to the address on file with the commissioner pursuant to under section 39-06-20.

5. If the person who requested a hearing under this section fails to appear at the hearing without justification, the right to the hearing is waived, and the commissioner's determination on license revocation, suspension, or denial will be based on the written request for hearing, law enforcement officer's report, and other evidence as may be available.

SECTION 28. AMENDMENT. Section 39-20-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-06. Judicial review. Any person aggrieved by the decision of the commissioner or his authorized agent a hearing officer under section 39-20-05 may, within thirty seven days after the commissioner mailed the notice of the decision, section 28-32-15 notwithstanding, serve on the commissioner and file a notice of appeal and specifications of error in the

district court in the county wherein where the alleged events occurred for which he was arrested the demand for a test was made, or in the county in which the administrative hearing was held. It shall be the duty of the The court to shall set the matter for hearing, and the petitioner shall give twenty days' notice thereof of the hearing to the commissioner and to the hearing officer who rendered the decision. The commissioner shall or the court may not thereupon stay his the decision until the hearing date but in no event for more than sixty days. Within fifteen days after receipt of the notice, the commissioner or the hearing officer who rendered the decision shall file in the office of the clerk of court to which the appeal is taken a certified transcript of the testimony and all other proceedings. It shall constitute is the record on which appeal shall be determined. No additional evidence shall may be heard. The court shall affirm the decision of the commissioner or his authorized agent hearing officer unless it finds the evidence insufficient to warrant the conclusion reached by the commissioner or hearing officer. The court may in its discretion direct that the matter be returned to the commissioner or hearing officer for rehearing and the presentation of additional evidence.

SECTION 29. AMENDMENT. Section 39-20-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-07. Interpretation of chemical tests. Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a motor vehicle while under the influence of intoxicating liquor, evidence of the amount of alcohol in the person's blood at the time of the act alleged as shown by a chemical analysis of his the blood, breath, saliva, or urine is admissible. For the purpose of this section:

1. A person having, at that time, five-hundredths a blood alcohol concentration of not more than five one-hundredths of one percent or less by weight of alcohol in his blood is presumed not to be under the influence of intoxicating liquor.
2. Evidence that there was at that time more than five-hundredths five one-hundredths of one percent and less than ten-hundredths of one percent by weight of alcohol in the

person's blood is relevant evidence, but it is not to be given prima facie effect in indicating whether the person was under the influence of intoxicating liquor.

3. A person having, at that time, ~~ten-hundredths~~ a blood alcohol concentration of at least ten ~~one-hundredths~~ of one percent or more by weight of alcohol in his blood shall be presumed to be at the time of the performance of a chemical test within two hours after driving or being in physical control of a vehicle is under the influence of intoxicating liquor at the time of driving or being in physical control of a vehicle.
4. Percent by weight of alcohol in the blood ~~shall be or blood alcohol concentration~~ is based upon grams of alcohol per one hundred cubic centimeters of blood or grams of alcohol per two hundred ten liters of alveolar breath.
5. The results of ~~such~~ the chemical analysis ~~shall must~~ be received in evidence when it is shown that the sample was properly obtained and the test was fairly administered, provided that a and if the test of a person's blood, urine, breath, or other bodily substance and the result thereof is further shown to have been performed according to methods ~~or~~ and with devices approved by the state toxicologist, ~~or both~~, and by an individual possessing a certificate of qualification to administer the test issued by the state toxicologist. The state toxicologist is authorized to approve satisfactory techniques, devices, and methods of chemical analysis and ~~to~~ determine the qualifications of individuals to conduct such analysis, and shall issue a certificate to all qualified operators who shall exhibit the certificate upon demand by of the person requested to take the chemical test. The state toxicologist may appoint, train, certify, and supervise field inspectors of breath testing equipment and its operation, and the inspectors shall report the findings of any inspection to the state toxicologist for appropriate action. Upon approval of the methods or devices, or both, and techniques

required to perform ~~such~~ the tests and the persons qualified to administer them, the state toxicologist shall prepare and file written record of ~~such~~ the approval with the clerk of the district court in each county ~~within the state which~~ and shall include in the record:

- a. A quarterly register of the specific testing devices currently approved, including serial number, location, and the date and results of last inspection.
- b. A quarterly register of currently qualified and certified operators of ~~said~~ the devices, stating the date of certification and its expiration.
- c. The operational check list and forms prescribing the methods and techniques currently approved by the state toxicologist in using ~~such~~ the devices during the administration of the tests.

Copies of ~~the above~~ these records certified by the clerk of the district court ~~shall~~ must be admitted as prima facie evidence of the matters stated ~~therein~~ in the records.

6. A certified copy of the analytical report of a blood analysis signed by the state toxicologist ~~shall~~ must be accepted as prima facie evidence of the results of ~~such~~ a chemical analysis performed ~~herein~~ under this chapter.
7. Notwithstanding any statute or rule to the contrary, the defendant may subpoena the state toxicologist or any employee ~~thereof~~ of the state toxicologist to testify at the trial of the issue ~~at no~~ without cost to the defendant.
8. A signed statement from the nurse or medical technician drawing the blood sample for testing as set forth in subsection 5 is prima facie evidence that the blood sample was properly drawn and no further foundation for the admission of such evidence may be required.

SECTION 30. AMENDMENT. Section 39-20-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-08. Proof of refusal admissible in any civil or criminal action or proceeding. If the person under arrest refuses to submit to the test or tests, proof of refusal ~~shall be~~ is admissible in any civil or criminal action or proceeding arising out of acts alleged to have been committed while the person was driving or in actual physical control of a vehicle upon the public highways while under the influence of intoxicating liquor; ~~provided the person shall first have testified in the action.~~

SECTION 31. AMENDMENT. Section 39-20-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-09. Effect of evidence of chemical test. The provisions of this chapter do not limit the introduction of any other competent evidence bearing on the question of whether the person was under the influence of intoxicating liquor but, if the test results show a blood alcohol concentration of at least ten one-hundredths of one percent, the purpose of such evidence shall be limited to the issues of probable cause, whether an arrest was made prior to the administering of the test, and the validity of the test results.

SECTION 32. AMENDMENT. Section 39-20-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-20-14. Screening tests. Any person who operates a motor vehicle upon the public highways of this state ~~shall be~~ is deemed to have given consent to submit to an onsite screening test or tests of ~~his~~ the person's breath for the purpose of estimating the alcohol content of ~~his~~ the person's blood upon the request of a law enforcement officer who has reason to believe that ~~such~~ the person committed a moving traffic violation or was involved in a traffic accident as a driver, and in conjunction with the violation or the accident the officer has, through ~~his~~ the officer's observations, formulated an opinion that ~~such~~ the person's body contains alcohol. A person ~~shall~~ may not be required to submit to a screening test or tests of ~~his~~ the person's breath while at a hospital as a patient if the medical practitioner in immediate charge of ~~his~~ the person's case is not first notified of the proposal to make the requirement, or objects to the test or tests on the

ground that such would be prejudicial to the proper care or treatment of the patient. The screening test or tests shall be performed by an enforcement officer certified as a chemical test operator by the state toxicologist and according to methods and with devices approved by the state toxicologist. The results of such screening test shall be used only for determining whether or not a further test shall be given under the provisions of section 39-20-01. The officer shall inform the person that refusal of the person to submit to a screening test will result in a revocation for one year of that person's driving privileges. If such person refuses to submit to such screening test or tests, none shall be given, but such refusal shall be sufficient cause to revoke such person's license or permit to drive in the same manner as provided in section 39-20-04, and a hearing as provided in section 39-20-05 and a judicial review as provided in section 39-20-06 shall be available. No provisions of this section shall supersede any provisions of chapter 39-20, nor shall any provision of chapter 39-20 be construed to supersede this section except as provided herein.

SECTION 33. A new section to chapter 39-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

Action following test result or on refusing test for a resident operator. If a person refused to submit to a test as provided under section 39-20-01 or 39-20-14, or if a person submits to a test under section 39-20-01, 39-20-02, or 39-20-03 and the test shows that person to have a blood alcohol concentration of at least ten one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after the driving, the following procedures apply:

1. The law enforcement officer shall immediately take possession of the person's operator's license and shall immediately issue to that person a temporary operator's permit extending driving privileges for the next twenty days. The law enforcement officer shall sign and note the date on the temporary operator's permit. The temporary operator's permit serves as the department's official notification to the person of the department's intent to revoke, suspend, or deny driving privileges in this state.

2. If a test administered under section 39-20-01 or 39-20-03 was by drawing blood as provided in section 39-20-02 and the person tested is not a resident of an area in which the law enforcement officer has jurisdiction, the law enforcement officer shall, on receiving the analysis of the blood from the state toxicologist and if the analysis shows that person had a blood alcohol concentration of at least ten one-hundredths of one percent by weight, notify the sheriff in the county of this state where the person lives. On that notification, that sheriff shall immediately take possession of the person's North Dakota operator's license and, within twenty-four hours, relay the license to the arresting officer. The sheriff shall also, on taking possession of the person's operator's license, issue to that person a temporary operator's permit as provided in this section, and shall sign and date the permit as provided in subsection 1. The temporary operator's permit serves as the department's official notification to the person of the department's intent to revoke, suspend, or deny driving privileges in this state.
3. The law enforcement officer, within five days of issuing the temporary operator's permit, shall forward to the commissioner a sworn report and the person's operator's license taken under subsection 1 or 2. If the person was issued a temporary operator's permit because of the person's refusal to submit to a test or tests under section 39-20-01 or section 39-20-14, the sworn report shall include information as provided in section 39-20-04. If the person was issued a temporary operator's permit because of the results of a test, the sworn report must show that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while in violation of section 39-08-01, or equivalent ordinance, that the person was lawfully arrested, that the person was tested in accordance with section 39-20-01, 39-20-02, or 39-20-03, and that the test results of the test show that the person had a blood alcohol concentration of at

least ten one-hundredths of one percent by weight.

SECTION 34. A new section to chapter 39-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

Action following test result or on refusing test by a nonresident operator. If a person licensed in another state refuses in this state to submit to a test provided under section 39-20-01 or 39-20-14, or who submits to a test under section 39-20-01, 39-20-02, or 39-20-03 and the test results show the person to have a blood alcohol concentration of at least ten one-hundredths of one percent by weight, the following procedures apply:

1. Without taking possession of the person's out-of-state operator's license, the law enforcement officer shall issue to the person a temporary operator's permit extending nonresident operating privileges in this state for twenty days from the date of issuance. The temporary permit shall be signed and dated by the officer and serves as the department's official notification to the person of the department's intent to revoke, suspend, or deny driving privileges in this state.
2. If the test was administered by drawing blood, the law enforcement officer, on reviewing the blood alcohol concentration analysis showing the person had a blood alcohol concentration of at least ten one-hundredths of one percent by weight, shall mail the person a notification of the test results, a temporary operator's permit extending nonresident operating privileges in this state for twenty days from the date of mailing, and notice of the intent to revoke, suspend, or deny driving privileges in this state, together with the notice provided under section 39-06.1-07 of the procedures available under this chapter. The temporary operator's permit shall be signed and dated by the officer. The law enforcement officer, within five days of issuing the temporary operator's permit, shall forward to the commissioner a sworn report. If the person was issued a temporary operator's permit because of the person's refusal to submit to a test under sections 39-20-01 and 39-20-14, the sworn

report shall include information as provided in section 39-20-04. If the person was issued a temporary operator's permit because of the results of a test, the sworn report must show that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while in violation of section 39-08-01, or equivalent ordinance, that the person was lawfully arrested, that the person was tested in accordance with section 39-20-01, 39-20-02, or 39-20-03, and that the results of the test show that the person had a blood alcohol concentration of at least ten one-hundredths of one percent by weight.

SECTION 35. A new section to chapter 39-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

Administrative penalty for driving or being in physical control of a vehicle while having certain blood alcohol concentration.

1. After the receipt of a person's operator's license, if taken under section 33 or 34 of this Act, and the sworn report of a law enforcement officer and if no written request for hearing has been received from the arrested person under section 39-20-05, or if that hearing is requested and the findings, conclusion, and decision from the hearing confirm that the arrested person was driving or in physical control of a vehicle while having a blood alcohol concentration of at least ten one-hundredths of one percent by weight, the commissioner shall suspend the person's operator's license as follows:
 - a. For ninety days if the person was arrested for driving or being in actual physical control of a motor vehicle in violation of section 39-08-01 or equivalent ordinance and the person's driving record shows that, within the five years preceding the date of the arrest, the person has not previously violated section 39-08-01 or equivalent ordinance or the person's operator's license has not previously been suspended under this section.

- b. For one year if the person was arrested for driving or being in actual physical control of a motor vehicle in violation of section 39-08-01 or equivalent ordinance and the person's driving record shows that, within the five years preceding the date of the arrest, the person has previously violated section 39-08-01 or equivalent ordinance or the person's operator's license has previously been suspended under this section.
2. In the suspension of the person's operator's license the commissioner shall give credit for the time the person was without an operator's license after the day of the offense, except that the commissioner may not give credit for the time the person retained driving privileges through a temporary operator's permit issued under section 33 or 34 of this Act or section 39-20-06.

SECTION 36. AMENDMENT. Section 40-18-01 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-01. Jurisdiction of municipal judge. The municipal judge within a city having a population of three thousand or more shall be an attorney licensed to practice law in this state, unless no person so licensed is available in the city, and shall have exclusive jurisdiction of, and shall hear, try, and determine, all offenses against the ordinances of the city. The offices of county judge and municipal judge may not be held by the same person. In a city with a population of less than three thousand, the municipal judge may be, but need not be, an attorney licensed to practice law in this state, nor shall he be required to be a resident of the city in which he is to serve. Notwithstanding any other provision of law, the municipal court or municipal judge has no jurisdiction to hear, try, and determine an offense which would be a violation of section 39-08-01 or equivalent ordinance, if the person charged with the offense has twice previously been convicted of violation of section 39-08-01 or equivalent ordinance within the five years preceding the commission of the offense charged or if the person charged with the offense has three times previously been convicted of violation of section 39-08-01 or equivalent ordinance within the seven years preceding the commission of the offense charged. If such an offense is charged

in the municipal court and the municipal judge has notice of violation of section 39-08-01 or equivalent ordinance twice within the five years, or three times within the seven years, preceding the commission of the offense charged, the municipal judge shall dismiss the charge, without prejudice, and direct that the charge be filed against the person in the county court.

SECTION 37. AMENDMENT. Section 40-18-12 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-12. Commitment for violation of city ordinance - Limitation - Labor in lieu of fine - Diagnosis and treatment of persons convicted while driving under the influence. If the defendant is found guilty of the violation of a municipal ordinance and is committed as provided in section 40-11-12, the governing body may provide by ordinance that ~~he shall be required to the defendant~~ work for the municipality at such labor as ~~his~~ the defendant's strength and health ~~will~~ permit, not exceeding eight hours in each working day. For that work, the person so imprisoned ~~shall~~ must be allowed for each day, exclusive of ~~his~~ board, ten dollars on account of the fines and costs assessed ~~against him~~. If a person is convicted under an ordinance prohibiting driving while under the influence of an intoxicating liquor or a narcotic drug, the court ~~may, prior to sentencing,~~ shall refer the person to an ~~approved treatment facility appropriate licensed~~ addiction treatment program for ~~diagnosis~~ addiction evaluation and, ~~if the evaluation indicates that treatment is needed, report to the state highway commissioner in accordance with section 39-08-01.~~ Upon receipt of the results of this diagnosis, the court may impose a sentence as prescribed by the city's ordinances or it may sentence the person to treatment in a facility approved by the state division of alcoholism and drug abuse.

SECTION 38. AMENDMENT. Section 40-18-13 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-18-13. Sentencing alternatives - Suspension of sentence or imposition of sentence. Subject to section 40-05-06, a municipal judge may ~~utilize~~ use the sentencing alternatives provided by section 12.1-32-02 and may suspend any sentence ~~imposed by him~~ the judge imposes or suspend the imposition of any sentence during the good behavior of any person adjudged to have committed an offense, or for other reasonable cause, ~~pursuant to under~~ chapter 12-53,

except that a municipal judge may not suspend a sentence or the imposition of sentence for driving a motor vehicle in violation of an operator's license suspension, revocation, or restriction or for a violation of section 39-08-01 or equivalent ordinance if that suspension of sentence or suspension of the imposition of sentence is prohibited under section 39-06-17, section 39-06-42, or chapter 39-08.

SECTION 39. REPEAL. Section 39-06-29.1 of the North Dakota Century Code is hereby repealed."

And renumber the lines and pages accordingly

For the Senate: Sens. Olson, Christensen, Maixner (refused to sign)

For the House: Reps. Conmy, E. Pomeroy, R. Meiers

SB 2373 was placed on the Seventh order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Conference Committee to which was referred SB 2431 has had the same under consideration and recommends that the HOUSE RECEDE from its amendments as found on pages 1906-1908 of the Senate Journal and that SB 2431 be amended as follows:

On page 1 of the engrossed bill, line 2, delete the numerals "40-05.1" and insert in lieu thereof the words "39-04, and a new subsection to section 40-05.1-06"

On page 1 of the engrossed bill, line 3, delete the words "sales, use, motor vehicle fuel, and special fuel" and insert in lieu thereof the word "certain"

On page 1 of the engrossed bill, line 4, delete the words "only upon approval of the electors" and insert in lieu thereof the words "and fees and authorizing collection agreements"

On page 1 of the engrossed bill, line 6, delete the words "sales and use"

On page 1 of the engrossed bill, line 6, after the word "cities" and before the period insert the words "; and to provide an effective date"

On page 1 of the engrossed bill, after line 8, insert the following new section:

"SECTION 1. A new section to chapter 39-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Motor vehicle registration fee collection agreements with home rule cities. The governing body of any incorporated city that has adopted the home rule provisions of chapter 40-05.1 and the department may enter into contractual agreements where the department may collect any motor vehicle registration fees assessed by the city. The department shall deposit with the state treasurer all money collected under this section and shall accompany each remittance with a certificate showing the city for which it was collected. The state treasurer, quarterly, shall pay to the city auditors of the several cities the money to which they are entitled under this section. Agreements entered into under this section shall provide for an agreed amount to be allowed the department for services rendered in connection with the collections. Any sums collected for services rendered shall be paid to the state treasurer for deposit in the motor vehicle registration fund."

- On page 1 of the engrossed bill, line 9, delete the words "section to chapter 40-05.1 of" and insert in lieu thereof the words "subsection to section 40-05.1-06 of the 1981 Supplement to"
- On page 1 of the engrossed bill, delete lines 12 through 14 and insert in lieu thereof the words "To impose registration fees on motor vehicles, or sales and use"
- On page 1 of the engrossed bill, line 15, delete the words "vehicle fuel, or special fuel"
- On page 1 of the engrossed bill, line 16, after the word "law" insert an underscored period and delete the remainder of the line
- On page 1 of the engrossed bill, delete lines 17 through 19
- On page 1 of the engrossed bill, line 23, overstrike the words "Sales and use tax" and insert immediately thereafter the word "Tax"
- On page 2 of the engrossed bill, line 1, delete the words "and motor vehicle fuel and special fuel taxes"
- On page 2 of the engrossed bill, after line 15, insert the following new section:

"SECTION 4. EFFECTIVE DATE. This Act becomes effective on July 1, 1984."

And renumber the lines, sections, and pages accordingly

For the Senate: Sens. Adams (refused to sign), Goodman, Dotzenrod
For the House: Reps. G. Pomeroy, Schneider, Timm

SB 2431 was placed on the Seventh order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Conference Committee to which was referred HB 1420 has had the same under consideration and recommends that the HOUSE ACCEDE to the Senate amendments as found on pages 1613 and 1614 of the Senate Journal.

For the Senate: Sens. Olson, Stenehjem, Maixner
For the House: Reps. Keller, A. Williams, Conmy

HB 1420 was placed on the Seventh order of business on the calendar for the succeeding legislative day.

MOTION

SEN. NOTHING MOVED that the Senate stand in recess until 2:30 p.m., which motion prevailed.

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

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT: Your Committee on Agriculture to which was referred HCR 3094 has had the same under consideration and recommends that the same DO PASS.

SEN. VOSPER, Chairman

HCR 3094 was placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

MR. PRESIDENT: Your Committee on Agriculture to which was referred HCR 3095 has had the same under consideration and recommends that the same DO PASS.

SEN. VOSPER, Chairman

HCR 3095 was placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

REPORT OF PROCEDURAL COMMITTEE

MR. PRESIDENT: Your Committee on Enrollment and Engrossment respectfully report that they have examined the following bills and find the same correctly enrolled:

SB 2271, SB 2306, SB 2354, SCR 4060

SEN. FRITZELL, Chairman

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

SIGNING OF BILLS AND RESOLUTIONS

THE SECRETARY ANNOUNCED that the President signed the following:

SB 2271, SB 2306, SB 2354, SCR 4060

LEO LEIDHOLM, Secretary

CONSIDERATION OF AMENDMENTS

SEN. LIPS MOVED that the amendments to HB 1007 as recommended by the Committee on Appropriations as printed on pages 2122-2125 of the Senate Journal be adopted, which motion prevailed.

SEN. LIPS MOVED that the rules be suspended that HB 1007 be placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

SECOND READING OF A HOUSE BILL

HB 1007: A BILL for an Act making an appropriation for defraying the expenses of community or junior colleges.

Which has been read.

ROLL CALL

The question being on the final passage of the bill as amended, the roll was called and there were 49 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING.

YEAS: Adams; Bakewell; Barth; Berube; Christensen; David; Dotzenrod; Erickson; Fritzell; Grotberg; Heigaard; Miller Heinrich; Hilken; Holmberg; Kilander; Krauter; Kusler; Lashkowitz; Lips; Lodoen; Maixner; Matchie; Meyer, D.; Meyer, J.; Moore; Mutch; Naaden; Nelson; Nothing; Olson; Parker; Peterson; Redlin; Reiten; Satrom; Stenehjelm; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Tweten; Vosper; Waldera; Walsh; Wenstrom; Wogsland; Wright

NAYS: None

ABSENT AND NOT VOTING: Dykshoorn; Goodman; Lee; Leibhan

HB 1007 passed and the title was agreed to.

SEN. NOTHING MOVED that the vote by which HB 1007 passed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

CONSIDERATION OF AMENDMENTS

SEN. THANE MOVED that HB 1733 be laid over one legislative day, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

SEN. WRIGHT MOVED that the Senate do concur in the House amendments to SB 2121 as printed on page 1565 of the Senate Journal, which motion prevailed.

SEN. WRIGHT MOVED that the rules be suspended, that SB 2121 be deemed properly engrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

SECOND READING OF A SENATE BILL

SB 2121: A BILL for an Act to amend and reenact section 37-18.1-01 and subsection 1 of section 37-18.1-03 of the North Dakota Century Code, relating to the membership on the administrative committee on veterans' affairs and membership of subcommittees of that committee.

Which has been read.

ROLL CALL

The question being on the final passage of the bill as amended, the roll was called and there were 19 YEAS, 30 NAYS, 4 ABSENT AND NOT VOTING.

YEAS: Barth; Berube; David; Dotzenrod; Heigaard; Miller Heinrich; Hilken; Krauter; Kusler; Maixner; Matchie; Meyer, D.; Meyer, J.; Redlin; Satrom; Stenehjem; Waldera; Walsh; Wogslund

NAYS: Adams; Bakewell; Christensen; Erickson; Fritzell; Grotberg; Holmberg; Kilander; Lashkowitz; Lips; Lodoen; Moore; Mutch; Naaden; Nelson; Nething; Olson; Parker; Peterson; Reiten; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Tweten; Vosper; Wenstrom; Wright

ABSENT AND NOT VOTING: Dykshoorn; Goodman; Lee; Leibhan

SB 2121 was declared lost.

SEN. NOTHING MOVED that the vote by which SB 2121 lost be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

SEN. TODD MOVED that the Senate do concur in the House amendments to SB 2172 as printed on pages 2038 and 2039 of the Senate Journal, which motion prevailed.

SEN. TODD MOVED that the rules be suspended, that SB 2172 be deemed properly reengrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

SECOND READING OF A SENATE BILL

SB 2172: A BILL for an Act to create and enact one new subsection to section 65-01-02 of the North Dakota Century Code, relating to a definition of disability; and to amend and reenact subsections 8 and 11 of section 65-01-02, and section 65-05-14 of the North Dakota Century Code, relating to definitions of injury and permanent impairment, and to permanent impairment benefits.

Which has been read.

ROLL CALL

The question being on the final passage of the bill as amended, the roll was called and there were 47 YEAS, 1 NAY, 5 ABSENT AND NOT VOTING.

YEAS: Adams; Bakewell; Barth; Berube; Christensen; David; Dotzenrod; Erickson; Fritzell; Grotberg; Heigaard; Miller Heinrich; Hilken; Holmberg; Kilander; Krauter; Kusler; Lips; Lodoen; Maixner; Matchie; Meyer, D.; Meyer, J.; Moore; Mutch; Naaden; Nelson; Nething; Olson; Parker; Peterson; Redlin; Reiten; Satrom; Stenehjelm; Streibel; Stromme; Tennefos; Thane; Todd; Tweten; Vosper; Waldera; Walsh; Wenstrom; Wogsland; Wright

NAYS: Lashkowitz

ABSENT AND NOT VOTING: Dykshoorn; Goodman; Lee; Leibhan; Tallackson

SB 2172 passed and the title was agreed to.

SEN. NETHING MOVED that the vote by which SB 2172 passed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

SEN. NELSON MOVED that the Senate do concur in the House amendments to SB 2342 as printed on pages 2039 and 2040 of the Senate Journal, which motion prevailed.

SEN. NELSON MOVED that the rules be suspended, that SB 2342 be deemed properly reengrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

SECOND READING OF A SENATE BILL

SB 2342: A BILL for an Act to provide for the issuance, sale, and delivery of water development bonds, southwest pipeline series; to create a sinking fund and other funds; to provide for the servicing and retirement of the bonds; to

provide a continuing appropriation for the payment of the bonds; and to amend and reenact section 57-51.1-07 of the North Dakota Century Code, relating to the allocation of oil extraction tax revenues.

Which has been read.

ROLL CALL

The question being on the final passage of the bill as amended, the roll was called and there were 47 YEAS, 0 NAYS, 6 ABSENT AND NOT VOTING.

YEAS: Adams; Barth; Berube; Christensen; David; Dotzenrod; Erickson; Fritzell; Grotberg; Helgaard; Miller Heinrich; Hilken; Holmberg; Kilander; Krauter; Kusler; Lashkowitz; Lips; Lodoen; Maixner; Matchie; Meyer, D.; Meyer, J.; Moore; Mutch; Naaden; Nelson; Nothing; Olson; Parker; Peterson; Redlin; Reiten; Satrom; Stenehjem; Streibel; Stromme; Tennefos; Thane; Todd; Tweten; Vosper; Waldera; Walsh; Wenstrom; Wogsland; Wright

NAYS: None

ABSENT AND NOT VOTING: Bakewell; Dykshoorn; Goodman; Lee; Leibhan; Tallackson

SB 2342 passed and the title was agreed to.

SEN. NOTHING MOVED that the vote by which SB 2342 passed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

SEN. CHRISTENSEN MOVED that the Senate do concur in the House amendments to SB 2402 as printed on pages 1887 and 1888 of the Senate Journal, which motion prevailed.

SEN. CHRISTENSEN MOVED that the rules be suspended, that SB 2402 be deemed properly reengrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

SECOND READING OF A SENATE BILL

SB 2402: A BILL for an Act to create a Racketeer Influenced and Corrupt Organizations Act providing definitions, offenses, civil remedies, judicial powers, investigation of records, and confidentiality; and to provide penalties.

Which has been read.

ROLL CALL

The question being on the final passage of the bill as amended, the roll was called and there were 46 YEAS, 0 NAYS, 7 ABSENT AND NOT VOTING.

YEAS: Adams; Bakewell; Barth; Berube; Christensen; David; Dotzenrod; Erickson; Fritzell; Grotberg; Miller Heinrich; Hilken; Holmberg; Kilander; Krauter; Kusler; Lashkowitz; Lips; Lodoen; Maixner; Matchie; Meyer, D.; Meyer, J.; Moore; Mutch; Nelson; Nothing; Olson; Parker; Peterson; Redlin; Reiten; Satrom; Stenehjem; Streibel; Stromme; Tennefos; Thane; Todd; Tweten; Vosper; Waldera; Walsh; Wenstrom; Wogsland; Wright

NAYS: None

ABSENT AND NOT VOTING: Dykshoorn; Goodman; Heigaard; Lee; Leibhan; Naaden; Tallackson

SB 2402 passed and the title was agreed to.

SEN. NETHING MOVED that the vote by which SB 2402 passed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

SEN. STENEHJEM MOVED that the Senate do concur in the House amendments to SB 2413 as printed on pages 1982 and 1983 of the Senate Journal, which motion prevailed.

SEN. STENEHJEM MOVED that the rules be suspended, that SB 2413 be deemed properly reengrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

SECOND READING OF A SENATE BILL

SB 2413: A BILL for an Act to amend and reenact section 5-01-06 of the North Dakota Century Code, relating to recovery of damages resulting from intoxication.

Which has been read.

ROLL CALL

The question being on the final passage of the bill as amended, the roll was called and there were 43 YEAS, 6 NAYS, 4 ABSENT AND NOT VOTING.

YEAS: Christensen; Dotzenrod; Erickson; Fritzell; Grotberg; Heigaard; Miller Heinrich; Hilken; Holmberg; Kilander; Krauter; Kusler; Lashkowitz; Lips; Lodoen; Maixner; Matchie; Meyer, J.; Moore; Mutch; Naaden;

Nelson; Nething; Olson; Parker; Peterson; Redlin;
 Reiten; Satrom; Stenehjem; Streibel; Stromme;
 Tallackson; Tennefos; Thane; Todd; Tweten; Vosper;
 Waldera; Walsh; Wenstrom; Wogsland; Wright

NAYS: Adams; Bakewell; Barth; Berube; David; Meyer, D.

ABSENT AND NOT VOTING: Dykshoorn; Goodman; Lee; Leibhan

SB 2413 passed and the title was agreed to.

SEN. NOTHING MOVED that the vote by which SB 2413 passed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

SEN. WRIGHT MOVED that the Senate do concur in the House amendments to SB 2421 as printed on page 1813 of the Senate Journal, which motion prevailed.

SEN. WRIGHT MOVED that the rules be suspended, that SB 2421 be deemed properly reengrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

SECOND READING OF A SENATE BILL

SB 2421: A BILL for an Act to create and enact a new section to chapter 14-09 of the North Dakota Century Code, relating to a scale of minimum contributions for child support.

Which has been read.

ROLL CALL

The question being on the final passage of the bill as amended, the roll was called and there were 47 YEAS, 1 NAY, 5 ABSENT AND NOT VOTING.

YEAS: Adams; Bakewell; Barth; Berube; Christensen; David;
 Dotzenrod; Erickson; Fritzell; Grotberg; Heigaard;
 Hilken; Holmberg; Kilander; Krauter; Kusler; Lips;
 Lodoen; Maixner; Matchie; Meyer, D.; Meyer, J.; Moore;
 Mutch; Naaden; Nelson; Nething; Olson; Parker;
 Peterson; Redlin; Reiten; Satrom; Stenehjem; Streibel;
 Stromme; Tallackson; Tennefos; Thane; Todd; Tweten;
 Vosper; Waldera; Walsh; Wenstrom; Wogsland; Wright

NAYS: Lashkowitz

ABSENT AND NOT VOTING: Dykshoorn; Goodman;
 Miller Heinrich; Lee; Leibhan

SB 2421 passed and the title was agreed to.

SEN. NETHING MOVED that the vote by which SB 2421 passed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

SEN. TODD MOVED that the Senate do concur in the House amendments to SB 2499 as printed on page 2040 of the Senate Journal, which motion prevailed.

SEN. TODD MOVED that the rules be suspended, that SB 2499 be deemed properly reengrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

SECOND READING OF A SENATE BILL

SB 2499: A BILL for an Act to establish a life and health insurance guaranty association.

Which has been read.

ROLL CALL

The question being on the final passage of the bill as amended, the roll was called and there were 48 YEAS, 0 NAYS, 5 ABSENT AND NOT VOTING.

YEAS: Adams; Bakewell; Barth; Berube; Christensen; David; Dotzenrod; Erickson; Fritzell; Grotberg; Heigaard; Miller Heinrich; Hilken; Holmberg; Kilander; Krauter; Kusler; Lashkowitz; Lips; Lodoen; Maixner; Matchie; Meyer, D.; Meyer, J.; Moore; Mutch; Naaden; Nelson; Nething; Olson; Parker; Peterson; Redlin; Reiten; Satrom; Stenehjem; Streibel; Stromme; Tallackson; Tennefos; Thane; Todd; Tweten; Vosper; Waldera; Walsh; Wogsland; Wright

NAYS: None

ABSENT AND NOT VOTING: Dykshoorn; Goodman; Lee; Leibhan; Wenstrom

SB 2499 passed and the title was agreed to.

SEN. NETHING MOVED that the vote by which SB 2499 passed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

REPORT OF CONFERENCE COMMITTEE

SEN. MUTCH MOVED that the Senate do concur in the House amendments to SCR 4040 as printed on page 1916 of the Senate Journal, which motion prevailed.

SEN. MUTCH MOVED that the rules be suspended, that SCR 4040 be deemed properly engrossed and placed on the calendar, as amended, for second reading and final passage, which motion prevailed.

SECOND READING OF A SENATE CONCURRENT RESOLUTION

SCR 4040: A concurrent resolution directing the Legislative Council to study preference laws for North Dakota contractors and employees in regard to bids and sales for public contracts and the implementation of prevailing wage laws.

Which has been read.

The question being on the final adoption of the resolution as amended.

SCR 4040 was declared lost on a voice vote.

SEN. NETHING MOVED that the vote by which SCR 4040 lost be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

REPORT OF PROCEDURAL COMMITTEE

MR. PRESIDENT: Your procedural Committee on Delayed Bills has examined a bill to authorize the construction of a computer center at NDSU and has approved its introduction by a unanimous vote.

SEN. NELSON, Chairman

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

FIRST READING OF SENATE BILL

Sens. Lashkowitz, Peterson, Tennefos, Kilander, Matchie introduced:

(Approved by the Committee on Delayed Bills)

SB2501: A BILL for an Act to authorize the construction of a computer center at North Dakota state university, Fargo, with moneys other than from the state general fund; and to provide an appropriation.

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

APPOINTMENT OF CONFERENCE COMMITTEES

SEN. LIPS MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on HB 1001, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on HB 1001:

Sens. Streibel, Tweten, Stromme

SEN. MUTCH MOVED that the President appoint a committee of three to act with a like committee from the House as a Conference Committee on HB 1539, which motion prevailed.

THE PRESIDENT APPOINTED as a Conference Committee on HB 1539:

Sens. Erickson, Kilander, Dotzenrod

POINT OF PERSONAL PRIVILEGE

SEN. ADAMS: Mr. President: I rise on a point of personal privilege and request that my remarks be printed in the Journal.

Mr. President, ladies and gentlemen of the Senate: Yesterday, the Honorable Sterling Lyon, former Premier of Manitoba and now leader of the opposition party of the Manitoba Legislative Assembly proposed a resolution addressing the burning of the American flag and anti-American demonstration in front of the U.S. Consulate in Winnipeg, and Mr. President, if I could have permission, I would like to read that resolution and have it printed in the Journal.

There being no objections, the President permitted the following proposed resolution to be read and printed in the Journal.

PROPOSED RESOLUTION BY THE HONORABLE STERLING LYON,
LEADER OF THE OPPOSITION

WHEREAS, on Wednesday, March 23, 1983, the Deputy Premier and Minister of Tourism and Economic Development, Muriel C. Smith, M.L.A. for Osborne; the Minister of Natural Resources, A.H. Mackling, M.L.A. for St. James; and other members of the NDP Government Caucus, and namely; Phil Eyler, M.L.A. for River East, Harry M. Harapiak, M.L.A. for the Pas; Elijah Harper, M.L.A. for Rupertsland; Andy Anstedt, M.L.A., Springfield; Don Scott, M.L.A. for Inkster; and Gerald Lecuyer, M.L.A. for Radisson, participated in an anti-American demonstration in front of the U.S. Consulate in Winnipeg, staged in support of the Marxist government of Nicaragua and ostensibly to protest alleged United States military involvement in Nicaragua; and

WHEREAS, the flag of the United States of America was burned during the course of this demonstration; and

WHEREAS, the Premier of Manitoba and the NDP Cabinet and Caucus clearly sanctioned the participation of his members in the demonstration; and

WHEREAS, under the Canadian parliamentary system, Cabinet Ministers speak for the government and represent the people of the jurisdiction they serve and cannot divorce themselves in the separate activities from that representative responsibility; and

WHEREAS, the Premier of Manitoba has refused to tender an apology on behalf of the government of Manitoba to the U.S. Consul General and to the government and people of the United States of America for these unprecedented, unfriendly, and insulting actions by members of the Executive Consul and New Democratic Party Government Caucus of Manitoba who freely associated themselves with such anti-American activities; and

WHEREAS, the aforesaid anti-American activities by the New Democratic Party ministers and caucus have seriously damaged the good will which has traditionally existed between the people of Manitoba and Canada and the people of the United States of America and have caused embarrassment to the people of Manitoba;

THEREFORE, BE IT RESOLVED that, because of the refusal of the government of Manitoba to apologize, the Legislature of Manitoba hereby tenders to the government and people of the United States of America its apology and regrets for the irresponsible, inexcusable, and insulting anti-American activities by members of the New Democratic Party Cabinet and Caucus; and

BE IT FURTHER RESOLVED that, while recognizing that such activities do not represent the thinking and beliefs of the people of Manitoba, this Legislature reaffirms the friendship and mutual respect which exists between the people of Manitoba and the people of the United States of America.

SEN. ADAMS: The burning of the American flag is a very serious situation and I hope that the Manitoba Legislature adopts this resolution offered by the Honorable Sterling Lyon.

MESSAGE FROM THE HOUSE
HOUSE CHAMBER

MR. PRESIDENT: The Speaker has appointed Representative E. Pomeroy to replace Representative Keller on the Conference Committee on SB 2067.

Very respectfully,
CHARLES FLEMING, Chief Clerk

SECOND READING OF HOUSE CONCURRENT RESOLUTIONS

HCR 3092: A concurrent resolution urging the Job Service North Dakota Advisory Council to provide alternative unemployment compensation and employer contribution proposals.

Which has been read and is placed on the calendar without recommendation.

The question being on the final adoption of the resolution.

HCR 3092 was declared lost on a voice vote.

SEN. NOTHING MOVED that the vote by which HCR 3092 lost be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

HCR 3093: A concurrent resolution directing the Legislative Council to study the feasibility and desirability of establishing a self-insurance program for state employees.

Which has been read.

The question being on the final adoption of the resolution.

HCR 3093 was declared adopted on a voice vote.

SEN. NOTHING MOVED that the vote by which HCR 3093 passed be reconsidered and the motion to reconsider be laid on the table, which motion prevailed.

MESSAGES TO THE HOUSE
SENATE CHAMBER

MADAM SPEAKER: I have the honor to return herewith the following which the Senate has amended:

HB 1007

Very respectfully,
LEO LEIDHOLM, Secretary

SENATE CHAMBER

MADAM SPEAKER: I have the honor to return herewith the following which the Senate has failed to pass:

HCR 3092

Very respectfully,
LEO LEIDHOLM, Secretary

SENATE CHAMBER

MADAM SPEAKER: I have the honor to return herewith the following which the Senate has passed unchanged:

HCR 3093

Very respectfully,
LEO LEIDHOLM, Secretary

SENATE CHAMBER

MADAM SPEAKER: I have the honor to inform you that the President has appointed as a conference committee to act with a like committee from the House on:

HB 1001: Sens. Streibel, Tweten, Stromme
HB 1539: Sens. Erickson, Kilander, Dotzenrod

Very respectfully,
LEO LEIDHOLM, Secretary

SENATE CHAMBER

MADAM SPEAKER: I have the honor to transmit herewith the following which the President has signed and your signature is respectfully requested:

SB 2271, SB 2306, SB 2354, SCR 4060

Very respectfully,
LEO LEIDHOLM, Secretary

SENATE CHAMBER

MADAM SPEAKER: I have the honor to inform you that the Senate has concurred in the House amendments to SB 2121 and SCR 4040, and subsequently failed to pass the same.

Very respectfully,
LEO LEIDHOLM, Secretary

SENATE CHAMBER

MADAM SPEAKER: I have the honor to inform you that the Senate has concurred in the House amendments to SB 2172, SB 2342, SB 2402, SB 2413, SB 2421, and SB 2499, and subsequently passed the same.

Very respectfully,
LEO LEIDHOLM, Secretary

MOTIONS

SEN. NELSON MOVED that the absent Senators be excused, which motion prevailed.

SEN. NETHING MOVED that after the reading of HCR 3094 and HCR 3095, the Senate adjourn and convene at 8:00 a.m., Friday, April 8, 1983, which motion prevailed.

LEO LEIDHOLM, Secretary