

## JOURNAL OF THE SENATE

## Fifty-eighth Legislative Assembly

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Bismarck, March 24, 2003

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

The prayer was offered by Pastor Keith Ritchie, Cornerstone Community Church, Bismarck.

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

A quorum was declared by the President.

## REQUEST

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

**REMARKS OF SENATOR ELROY LINDAAS**  
**State Class B Basketball Champions**  
**May-Port CG Patriots**

Last weekend, the city of Bismarck welcomed the Class B basketball teams from across North Dakota, along with their families, coaches, and home town fans. An annual spectacle unique to Class B schools and for the most part, rural North Dakota. Excitement and anticipation is displayed by everyone in attendance. As the opening round of games was played, each team represented their regions with pride, knowing that they had accomplished a great deal just by being able to go to state. As each bracket was filled and winners moved up, those who did not win need not have any regrets. Today it is my distinct pleasure to offer our congratulations to the number one winners from my home community and school, the May-Port-CG Patriots.

It is difficult not to gloat just a little when your home town team brings home the number one trophy. For now, they are the best that Class B basketball has to offer in North Dakota and they deserve praise for what they have accomplished. Adding to this, two players, Craig and Kyle Nelson, were named to the All Tournament Team.

The outstanding performance by all of these fine young men is a reflection of their character, talent, hard work, and dedication to the goal they achieved last Saturday night; the first place trophy and their **50th** straight win!

Congratulations also to the coaches, particularly Coach Nelson, named "Coach of the Year", and the May-Port Clifford Galesburg school administration.

As I left for Bismarck yesterday to return to our Legislative Session, I stopped along the way as the caravan made up of fire trucks from the Galesburg, Clifford, Portland, and Mayville departments passed, leading the team bus and several other vehicles to the awaiting celebration at the high school.

As I made my way along the route traveled by the caravan, one thing stood out, even above the welcoming signs, banners, and balloons. Several American flags were displayed along the route, evidence that Patriotism is at the forefront in these times, even as we celebrate. Once again, congratulations to the May-Port CG Patriots for a job well done.

## MOTION

**SEN. CHRISTMANN MOVED** that HB 1024, which is on the Fourteenth order, be laid over one legislative day, which motion prevailed.

## MOTION

**SEN. CHRISTMANN MOVED** that HB 1079, which is on the Sixth order, be rereferred to the **Education Committee**, which motion prevailed. Pursuant to Sen. Christmann's motion, HB 1079 was rereferred.

## CONSIDERATION OF AMENDMENTS

**HB 1391, as engrossed: SEN. HEITKAMP (Natural Resources Committee) MOVED** that the amendments on SJ page 874 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed.

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

**MADAM PRESIDENT:** The House respectfully requests the return of: SB 2196.

**MOTION**

**SEN. STENEHJEM MOVED** that the Senate honor the request from the House for the return of SB 2196, which motion prevailed on a voice vote.

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

**MR. SPEAKER:** The Senate accedes to the House request for the return of: SB 2196.

**CONSIDERATION OF AMENDMENTS**

**HB 1087, as engrossed: SEN. MUTCH (Transportation Committee) MOVED** that the amendments on SJ pages 865-866 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HB 1271, as engrossed: SEN. COOK (Political Subdivisions Committee) MOVED** that the amendments on SJ page 866 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HB 1309, as engrossed: SEN. TAYLOR (Transportation Committee) MOVED** that the amendments on SJ pages 866-874 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HB 1358, as engrossed and amended: SEN. HEITKAMP (Appropriations Committee) MOVED** that the amendments on SJ page 874 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HCR 3040: SEN. LYSON (Natural Resources Committee) MOVED** that the amendments on SJ page 875 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HCR 3027, as engrossed: SEN. CHRISTENSON (Education Committee) MOVED** that the amendments on SJ page 875 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HCR 3041, as engrossed: SEN. LYSON (Natural Resources Committee) MOVED** that the amendments on SJ page 875 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**SECOND READING OF HOUSE BILL**

**HB 1158:** A BILL for an Act to amend and reenact subsections 18, 19, and 28 of section 19-18-02 and sections 19-18-04, 19-18-04.1, and 19-18-07 of the North Dakota Century Code, relating to pesticide registrations; to repeal section 19-18-02.2 of the North Dakota Century Code, relating to a pesticide residue advisory board; and to declare an emergency.

**ROLL CALL**

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

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

**ABSENT AND NOT VOTING:** Bercier

HB 1158, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

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**SECOND READING OF HOUSE BILL**

**HB 1299:** A BILL for an Act to create and enact a new section to chapter 39-04 of the North Dakota Century Code, relating to North Dakota FFA foundation number plates.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 29 YEAS, 17 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christenson; Dever; Erbele; Every; Fairfield; Grindberg; Heitkamp; Holmberg; Klein; Krauter; Krebsbach; Kringstad; Lindaas; Mathern; Nelson; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Tallackson; Taylor; Thane; Wardner

**NAYS:** Christmann; Cook; Espgaard; Fischer; Flakoll; Freborg; Kilzer; Lee, G.; Lee, J.; Lyson; Mutch; Nething; Syverson; Tollefson; Traynor; Trenbeath; Urlacher

**ABSENT AND NOT VOTING:** Bercier

Engrossed HB 1299 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1486:** A BILL for an Act to amend and reenact section 4-28-07 of the North Dakota Century Code, relating to uses for the wheat tax levy.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 31 YEAS, 15 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christmann; Cook; Dever; Erbele; Espgaard; Fischer; Flakoll; Grindberg; Holmberg; Kilzer; Klein; Krauter; Kringstad; Lee, G.; Lee, J.; Lyson; Mutch; Nething; Polovitz; Schobinger; Stenehjem; Syverson; Thane; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**NAYS:** Christenson; Every; Fairfield; Freborg; Heitkamp; Krebsbach; Lindaas; Mathern; Nelson; Nichols; O'Connell; Robinson; Seymour; Tallackson; Taylor

**ABSENT AND NOT VOTING:** Bercier

Engrossed HB 1486, as amended, passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1238:** A BILL for an Act to amend and reenact subsection 1 of section 39-08-20 of the North Dakota Century Code, relating to driving without liability insurance.

**ROLL CALL**

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

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

**ABSENT AND NOT VOTING:** Bercier

HB 1238 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1263:** A BILL for an Act to amend and reenact section 32-03.2-02.1 of the North Dakota Century Code, relating to automobile accident damage liability.

**ROLL CALL**

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

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

**ABSENT AND NOT VOTING:** Bercier

Reengrossed HB 1263 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1423:** A BILL for an Act to amend and reenact section 54-34.3-13 of the North Dakota Century Code, relating to rural growth incentive program grants and loans by the department of commerce; and to provide an expiration date.

**ROLL CALL**

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

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

**ABSENT AND NOT VOTING:** Bercier

Engrossed HB 1423 passed and the title was agreed to.

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**SECOND READING OF HOUSE BILL**

**HB 1488:** A BILL for an Act to provide that state agencies may not reduce cost-sharing programs with political subdivisions during a biennium.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 4 YEAS, 42 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Bowman; Klein; Schobinger; Thane

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

**ABSENT AND NOT VOTING:** Bercier

Engrossed HB 1488 lost.

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**SECOND READING OF HOUSE BILL**

**HB 1439:** A BILL for an Act to create and enact a new paragraph to subdivision b of subsection 3 of section 39-06.1-10; to amend and reenact subsection 7 of section 39-06.1-10, sections 39-08-01 and 39-09-02, and subsection 1 of section 39-20-04.1 of the North Dakota Century Code, relating to speed limits and consequences for driving while under the influence; and to provide a penalty.

**MOTION**

**SEN. NETHING MOVED** that Engrossed HB 1439 be amended as follows, which motion prevailed on a verification vote.

Page 1, line 1, remove "create and enact a new paragraph to subdivision b of subsection 3 of"

Page 1, line 2, remove "section 39-06.1-10; to"

Page 1, line 3, replace "39-09-02" with "39-20-04"

Page 1, line 4, replace "speed limits and" with "the"

Page 1, remove lines 7 through 13

Page 1, line 20, remove "of at least"

Page 1, line 21, remove "eight one-hundredths of one percent by weight and"

Page 1, line 22, remove ". The director shall waive the"

Page 1, remove line 23

Page 2, remove line 1

Page 2, line 2, remove "vehicle"

Page 2, line 17, remove "of at least"

Page 2, line 18, remove "eight one-hundredths of one percent by weight and"

Page 6, line 4, remove the overstrike over "~~ten~~" and remove "eight"

Page 6, line 20, remove "of an infraction if"

Page 6, remove lines 21 and 22

Page 6, line 23, remove "five-year period," and remove "at least"

Page 6, line 24, remove "eleven one-hundredths of one percent by weight and"

Page 6, line 25, remove the overstrike over "~~or second~~" and remove "or if the"

Page 6, remove lines 26 and 27

Page 6, line 30, remove "at least eight"

Page 6, line 31, remove "one-hundredths of one percent by weight and"

Page 7, line 8, after the period insert "A person convicted of violating subdivision b of subsection 1 is conclusively presumed to have an alcohol concentration of at least sixteen one-hundredths of one percent by weight."

Page 7, line 17, remove "if the alcohol concentration was at at least eight"

Page 7, remove line 18

Page 7, line 19, remove "of one percent by weight" and remove "a fine of at least one"

Page 7, line 20, remove "hundred dollars or" and remove "at least eleven"

Page 7, line 21, remove "one-hundredths of one percent by weight and"

Page 7, line 29, remove "at least eight one-hundredths of one"

Page 7, line 30, remove "percent by weight and"

Page 8, line 7, remove "at least eight one-hundredths of one percent by weight and"

Page 9, replace lines 5 through 30 with:

**"SECTION 3. AMENDMENT.** Section 39-20-04 of the North Dakota Century Code is amended and reenacted as follows:

**39-20-04. Revocation of privilege to drive motor vehicle upon refusal to submit to testing.**

1. If a person refuses to submit to testing under section 39-20-01 or 39-20-14, none may be given, but the law enforcement officer shall immediately take possession of the person's operator's license if it is then available and shall immediately issue to that person a temporary operator's permit, if the person then has valid operating privileges, extending driving privileges for the next twenty-five days or until earlier terminated by a decision of a hearing officer under section 39-20-05. The law enforcement officer shall sign and note the date on the temporary operator's permit. The temporary operator's permit serves as the director's official notification to the person of the director's intent to revoke driving privileges in this state and of the hearing procedures under this chapter. The director, upon the receipt of that person's operator's license and a certified written report of the law enforcement officer in the form required by the director, forwarded by the officer within five days after issuing the temporary operator's permit, showing 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 or, for purposes of section 39-20-14, had reason to believe that the person committed a moving traffic violation or was involved in a traffic accident as a driver, and in conjunction with the violation or accident the officer has, through the officer's observations, formulated an opinion that the person's body contains alcohol, 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 that person's license or permit to drive and any nonresident operating privilege for the appropriate period under this section, or if the person is a resident without a license or a permit to operate a motor vehicle in this state, the director shall deny to the person the issuance of a license or permit for the appropriate period under this section after the date of the alleged violation, subject to the opportunity for a prerevocation hearing and postrevocation review as provided in this chapter. In the revocation of the person's operator's license the director 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 director may not give credit for time in which the person retained driving privileges through a temporary operator's permit issued under this section or section 39-20-03.2. The period of revocation or denial of issuance of a license or permit under this section is:
  - a. One year if the person's driving record shows that within the five years preceding the most recent violation of this section, the person's operator's license has not previously been suspended, revoked, or issuance denied for a violation of this chapter or section 39-08-01 or equivalent ordinance.
  - b. ~~Two~~ Three years if the person's driving record shows that within the five years preceding the most recent violation of this section, the person's operator's license has been once previously suspended, revoked, or issuance denied for a violation of this chapter or section 39-08-01 or equivalent ordinance.
  - c. ~~Three~~ Five years if the person's driving record shows that within the five years preceding the most recent violation of this section, the person's operator's license has at least twice previously been suspended, revoked, or issuance denied under this chapter, or for a violation of section 39-08-01 or equivalent ordinance, or any combination ~~thereof~~ of the same, and the suspensions, revocations, or denials resulted from at least two separate arrests.

2. A person's driving privileges are not subject to revocation under ~~this section~~ subdivision a of subsection 1 if all of the following criteria are met:
  - a. ~~No~~ An administrative hearing is not held under section 39-20-05;
  - b. The person mails an affidavit to the director within twenty-five days after the temporary operator's permit is issued. The affidavit must state that the person:
    - (1) Intends to voluntarily plead guilty to violating section 39-08-01 or equivalent ordinance with an alcohol concentration under sixteen one-hundredths of one percent by weight within twenty-five days after the temporary operator's permit is issued;
    - (2) Agrees that the person's driving privileges must be suspended as provided under section 39-06.1-10;
    - (3) Acknowledges the right to a section 39-20-05 administrative hearing and section 39-20-06 judicial review and voluntarily and knowingly waives these rights; and
    - (4) Agrees that the person's driving privileges must be revoked as provided under this section without an administrative hearing or judicial review, if the person does not plead guilty within twenty-five days after the temporary operator's permit is issued, or the court does not accept the guilty plea, or the guilty plea is withdrawn;
  - c. The person pleads guilty to violating section 39-08-01 or equivalent ordinance with an alcohol concentration under sixteen one-hundredths of one percent by weight within twenty-five days after the temporary operator's permit is issued;
  - d. The court accepts the person's guilty plea and a notice of that fact is mailed to the director within twenty-five days after the temporary operator's permit is issued; and
  - e. A copy of the final order or judgment of conviction evidencing the acceptance of the person's guilty plea is received by the director prior to the return or reinstatement of the person's driving privileges.
3. The court must mail a copy of an order granting a withdrawal of a guilty plea to violating section 39-08-01, or equivalent ordinance, to the director within ten days after it is ordered. Upon receipt of the order, the director shall immediately revoke the person's driving privileges as provided under this section without providing an administrative hearing."

Page 10, remove lines 1 through 26

Page 11, line 14, remove "of at least eight one-hundredths of"

Page 11, line 15, remove "one percent by weight and"

Page 11, line 16, remove ". The director shall waive the suspension if the alcohol concentration"

Page 11, remove line 17

Page 11, line 18, remove "was not operating a commercial motor vehicle"

Renumber accordingly

**HB 1439:** A BILL for an Act to amend and reenact subsection 7 of section 39-06.1-10, sections 39-08-01 and 39-20-04, and subsection 1 of section 39-20-04.1 of the North Dakota Century Code, relating to the consequences for driving while under the influence; and to provide a penalty.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 27 YEAS, 19 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Bowman; Brown; Christenson; Cook; Erbele; Every; Flakoll; Freborg; Grindberg; Kilzer; Krebsbach; Kringstad; Lee, G.; Lindaas; Mathern; Nelson; Nething; O'Connell; Robinson; Tallackson; Taylor; Thane; Tollefson; Traynor; Urlacher; Wardner

**NAYS:** Christmann; Dever; Espegard; Fairfield; Fischer; Heitkamp; Holmberg; Klein; Krauter; Lee, J.; Lyson; Mutch; Nichols; Polovitz; Schobinger; Seymour; Stenehjem; Syverson; Trenbeath

**ABSENT AND NOT VOTING:** Bercier

Engrossed HB 1439, as amended, passed and the title was agreed to.

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**SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3038:** A concurrent resolution urging Congress to permit states to enact prohibitions on the use of federal family planning funds by private and public agencies.

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

HCR 3038 was declared adopted, and the title was agreed to on a voice vote.

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**SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3047:** A concurrent resolution urging the State Historical Society of North Dakota to rethink and amend the proposed unmarketable name of the state visitor center at the confluence of the Yellowstone and Missouri Rivers.

**REQUEST**

**SEN. MATHERN REQUESTED** a recorded roll call vote on Engrossed HCR 3047, which request was granted.

**ROLL CALL**

The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 7 YEAS, 38 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Every; Heitkamp; Krauter; Mathern; O'Connell; Tallackson; Thane

**NAYS:** Andrist; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Klein; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mutch; Nelson; Nething; Polovitz; Robinson; Schobinger; Seymour; Stenehjem; Syverson; Taylor; Tollefson; Traynor; Trenbeath; Urlacher; Wardner

**ABSENT AND NOT VOTING:** Bercier; Nichols

Engrossed HCR 3047 was declared lost on a roll call vote.

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**SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3048:** A concurrent resolution celebrating the one-hundredth anniversary of Theodore Roosevelt's election as President of the United States.

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

HCR 3048 was declared adopted, and the title was agreed to on a voice vote.

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**SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3062:** A concurrent resolution directing the Legislative Council to study vulnerable adult abuse and neglect with an emphasis on whether certain individuals should be required to report suspected incidents of vulnerable adult abuse and neglect.

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

HCR 3062 was declared adopted, and the title was agreed to on a voice vote.

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**SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3064:** A concurrent resolution directing the Legislative Council to study the use of remote-controlled locomotives and related safety and security.

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

HCR 3064 was declared adopted, and the title was agreed to on a voice vote.

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**SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3075:** A concurrent resolution directing the Legislative Council to study and identify federal and state statutory and regulatory policies that discourage or prevent final bond release applications from being filed and study and identify Public Service Commission regulatory policies that could be implemented to encourage flexibility in proving reclamation success and reducing administrative and regulatory burdens necessary for bond release applications and study and identify actions being undertaken by the mining companies to achieve final bond release.

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

Engrossed HCR 3075 was declared adopted, and the title was agreed to on a voice vote.

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**MOTION**

**SEN. CHRISTMANN MOVED** that Senate Rule 329 (4) be further amended to read "fifty-third" in place of "fifty-first", thereby extending the deadline for referral of House bills to the **Appropriations Committee**. The motion prevailed.

**COMMUNICATION FROM GOVERNOR JOHN HOEVEN**

This is to inform you that on March 21, 2003, I have signed the following: SB 2053, SB 2138, SB 2185, SB 2269, and SB 2318.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bill was delivered to the Governor for approval on March 24, 2003: SB 2390.

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

**MADAM PRESIDENT:** The Speaker has signed: SB 2057, SB 2059, SB 2068, SB 2175, SB 2180, SB 2200, SB 2208, SB 2237, SB 2252, SB 2270, SB 2312, SB 2401.

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

**MADAM PRESIDENT:** The Speaker has signed and your signature is respectfully requested on: HB 1056, HB 1062, HB 1082, HB 1101, HB 1168, HB 1195, HB 1215, HB 1227, HB 1235, HB 1237, HB 1239, HB 1249, HB 1268, HB 1277, HB 1322, HB 1336, HB 1382, HB 1410, HB 1498.

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

**MADAM PRESIDENT:** The Speaker has signed and your signature is respectfully requested on: HB 1052, HB 1073, HB 1200, HB 1252, HB 1261, HB 1316, HB 1331.

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

**MADAM PRESIDENT:** The Speaker has signed and your signature is respectfully requested on: HCR 3015, HCR 3020, HCR 3025, HCR 3028, HCR 3032, HCR 3052, HCR 3060, HCR 3073.

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

**MADAM PRESIDENT:** The Speaker has signed and your signature is respectfully requested on: HCR 3019, HCR 3031, HCR 3036, HCR 3042, HCR 3050, HCR 3054, HCR 3072.

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

**MADAM PRESIDENT:** The House has passed unchanged: SB 2196.

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

**MR. SPEAKER:** The Senate has passed unchanged: HB 1238, HB 1263, HB 1299, HB 1423, HCR 3038, HCR 3048, HCR 3062, HCR 3064, HCR 3075.

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

**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1486.

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

**MR. SPEAKER:** The Senate has amended, subsequently passed, and the emergency clause carried: HB 1158.

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

**MR. SPEAKER:** The Senate has failed to pass: HB 1488, HCR 3047.

**MOTION**

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

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate be on the Fourth, Fifth, Seventh, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Tuesday, March 25, 2003, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**HB 1050, as engrossed: Natural Resources Committee (Sen. Fischer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1050 was placed on the Sixth order on the calendar.

Page 4, line 12, replace "a person" with "an individual"

Page 4, line 13, replace "that person" with "the individual's business operation"

Page 4, line 18, after the underscored period insert "The term does not include a person holding title or an equitable interest in business operations if the primary purpose of the business operation is to provide food or lodging to the general public, chamber of commerce activities, travel agencies, or others that offer free information to attract outdoor and recreational use of their communities."

Page 4, line 23, remove "The term does not"

Page 4, remove lines 24 through 27

Page 17, line 8, replace "A person" with "An individual"

Page 17, line 14, after "dollars" insert "for a resident and four hundred dollars for a nonresident"

Page 17, line 15, after "dollars" insert "for a resident and four hundred dollars for a nonresident"

Page 17, line 16, after "dollars" insert "for a resident and two hundred dollars for a nonresident" and replace "a person" with "the individual"

Page 17, line 18, after "dollars" insert "for a resident and two thousand dollars for a nonresident"

Page 17, remove lines 26 through 28

Page 18, replace lines 4 and 5 with:

"3. Guide and outfitter licenses expire on December thirty-first of each year unless revoked at earlier date.

4."

Page 18, line 6, remove "department a renewal fee of the same amount of the license fee."

Page 18, line 26, remove "a resident"

Page 18, line 27, remove "and"

Page 19, line 2, replace "person is" with "individual and the individual's business operation are"

Page 19, line 6, replace "A person" with "An individual"

Page 19, line 8, replace "a person" with "an individual" and replace "had any" with "been convicted of a"

Page 19, line 10, after the underscored period insert "As used in this chapter, "conviction" means a finding of guilt, a guilty plea, a plea of no contest, a plea of nolo contendere, a judgment of conviction even though the court suspended execution of a sentence in accordance with subsection 3 of section 12.1-32-02, or a deferred imposition of sentence in accordance with subsection 4 of section 12.1-32-02 or an equivalent statute. The term does not include a finding of guilt which is reversed on appeal."

Page 19, after line 13, insert:

"7. An applicant for a hunting guide license must have legally hunted for part of each of any three years in a manner directly contributing to the individual's experience and competency as a guide."

Page 19, line 17, replace the first "shall" with "may" and replace the second "shall" with "may"

Page 19, line 18, after the underscored period insert "If the director requests a trade secret or proprietary information, the director shall request the information on a separate form, and that information is confidential and is not a public record subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota. The director may release this information, however, if it is aggregated so as not to identify any guide, outfitter, or client."

Page 19, line 20, replace "persons" with "individuals"

Page 19, line 31, after the underscored period insert "The director shall administer examinations at least twice a year; however, an examination may not be given within ninety days after the previous examination."

Page 20, remove lines 1 and 2

Page 21, line 7, replace "Another" with "Notwithstanding the provisions of chapter 45-11 and 47-25, another" and after the first underscored comma insert "business name, fictitious name, trade name, internet address, world wide web uniform resource identifier,"

Page 21, line 8, replace "committed" with "been convicted of"

Page 21, line 9, replace "violation" with "conviction"

Page 21, line 13, replace "person" with "individual"

Page 21, line 18, replace the second "person" with "individual"

Page 21, line 25, replace "a person" with "an individual"

Page 21, remove lines 28 and 29

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1060: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1060 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1206: Political Subdivisions Committee (Sen. Cook, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1206 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1255, as engrossed: Transportation Committee (Sen. Trenbeath, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1255 was placed on the Sixth order on the calendar.

Page 1, line 8, overstrike "Every" and insert immediately thereafter "A", overstrike "No person" and insert immediately thereafter "An individual", and after "may" insert "not"

Page 1, line 12, overstrike "every" and insert immediately thereafter "a"

Page 1, line 13, overstrike "so"

Page 1, line 15, overstrike "Every" and insert immediately thereafter "The"

Page 1, line 17, overstrike "A person" and insert immediately thereafter "An individual"

Page 1, line 19, overstrike "window or"

Page 1, line 21, after "percent" insert "or the object, material, or tinting in conjunction with a window other than the windshield upon which it is displayed, affixed, or applied has a light transmittance of at least fifty percent"

Page 2, line 1, remove "from sunrise to sunset"

Page 2, line 2, remove "and meeting the requirements of subsection 5"

Page 2, remove lines 3 through 8

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1256: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1256 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1257, as engrossed: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO NOT PASS** (4 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). Engrossed HB 1257 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1260, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1260 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1282, as reengrossed: Political Subdivisions Committee (Sen. Cook, Chairman)** recommends **DO NOT PASS** (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Reengrossed HB 1282 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1320, as engrossed: Judiciary Committee (Sen. Traynor, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1320 was placed on the Sixth order on the calendar.

Page 1, line 6, after "Confidentiality" insert "of photographs and video recordings"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1330: Agriculture Committee (Sen. Flakoll, Chairman)** recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1330 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1360: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1360 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1372, as engrossed: Transportation Committee (Sen. Trenbeath, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1372 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 49-11-19 of the North Dakota Century Code, relating to obstructing a crossing by a train; and to provide a penalty.

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

**SECTION 1. AMENDMENT.** Section 49-11-19 of the North Dakota Century Code is amended and reenacted as follows:

**49-11-19. Blocking or obstructing crossing with train - Penalty.** ~~No A~~ A person ~~shall~~ may not operate any train in ~~such~~ a manner as to prevent vehicular use of any roadway for a period of time in excess of ten consecutive minutes except:

1. When necessary to comply with safety signals affecting the safety of the movement of trains;
2. When necessary to avoid striking any object or person on the track;
3. When the train is disabled, by accident or otherwise;
4. When the train is in motion except when engaged in switching operations or loading or unloading operations;
5. When ~~there is no~~ vehicular traffic is not waiting to use the crossing; or
6. When necessary to comply with a government statute or regulation.

~~Any A person who that violates this section is guilty of an infraction a class B misdemeanor. The provisions of this This section does not apply to cities which have on the date of such obstruction ordinances a city that has an ordinance covering the same subject matter."~~

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1394, as engrossed: Transportation Committee (Sen. Trenbeath, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1394 was placed on the Sixth order on the calendar.

Page 3, line 6, after "rotating" insert "amber."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1416, as engrossed: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1416 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "subsection 6 of"

Page 1, replace lines 5 through 13 with:

**"SECTION 1. AMENDMENT.** Section 55-08-05 of the North Dakota Century Code is amended and reenacted as follows:

**55-08-05. Charges for services.** The director ~~is hereby authorized to~~ may provide special services within state parks, state campgrounds, state recreation areas, and reserves; provide special technical assistance services; and ~~to make rules and regulations for the use of such those services.~~ The director shall establish and cause to be collected charges, fees, and rentals for the use of all ~~such~~ special services, and shall revise the same, when necessary, in ~~such the~~ manner that the revenue derived ~~therefrom~~ will be sufficient to pay the cost of providing each ~~such~~ service and to pay the principal of and interest on all bonds issued for projects furnishing the facilities for ~~any such~~ the services, and to maintain a reserve for the security of ~~said the bonds as herein provided.~~ The director may waive the collection of charges, fees, and rentals for the use of all ~~such~~ special services by health care-related charitable organizations conducting group camp activities without charge to participants. However, the director shall waive the collection of charges, fees, and rentals for the use of all special services by any care-related charitable organization sponsoring or conducting summer group camp activities without charge for fourteen days for children from age eight through age fourteen who have diabetes. Nothing in this section requires the director to provide camp services if the camp facilities are otherwise closed due to adverse administrative or fiscal impacts upon the department. Specifically, ~~but without limitation of said general authorization,~~ the director may:

1. Provide special parking space for automobiles or other motor-driven vehicles in any state park or state recreation area.
2. Provide special parking spurs and campgrounds for automobiles and sites for tent camping and special auto trailer coach parking spaces for the use of the individual charged for ~~such the~~ space according to the daily rate which must be determined and fixed by the director consistent with the type of facility provided for the accommodation of visitors in any particular park and with similar facilities offered for tourist camping in the area.
3. Charge a fee for entrance to any pageant grounds ~~which may be~~ created in any state park, state recreation area, or reserve for the purpose of having historical or other pageants conducted by the agent of any authorized agency.
4. Provide water, sewer, and electric service to trailer or tent campsites and buildings and structures included in projects authorized by the legislative assembly.
5. Provide facilities for the sale to the public of food, nonintoxicating beverages, except beer and wine sales as provided in ~~subsection~~ subsections 6 and 7, and other merchandise and personal services of a suitable nature, and make buildings, structures, and other recreational facilities available for use and occupancy by the public, or contract for the lease of ~~any such the~~ buildings, structures, and facilities to a concessionaire to be operated on ~~such the~~ terms and compensation basis as the director determines to be in the best interest of the state. A bond must be required of each concessionaire in ~~such the~~ amount ~~as~~ the director determines, conditioned upon the faithful performance of all duties under the lease and proper accounting for all funds.
6. Allow the sale of beer and wine by concessionaires on property leased to the department by the United States department of the army, corps of engineers, ~~provided if~~ the concessionaire also obtains the appropriate local and state licenses required by section 5-02-01.
7. Allow the sale of on-sale beer and wine by operating, liquor-licensed concessionaires for fourteen events per year on property under the management of the director which borders the Missouri river and which is within fifteen miles [24.14 kilometers] of a city with a population in excess of twenty thousand, if the concessionaire also obtains the appropriate local and state licenses required by section 5-02-01.
8. Charge and collect motor vehicle permit fees in the amounts prescribed by the legislative assembly, which fees are and must be imposed for the sole purposes of paying capital costs of projects required to provide the special services herein described and referred to, and of meeting the principal and interest and reserve requirements of bonds issued to finance such projects.
8. 9. Charge a fee for providing special technical assistance to groups requesting information from the natural heritage inventory date base."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1420, as engrossed: Agriculture Committee (Sen. Flakoll, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1420 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1424, as engrossed: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1424 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1475, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO NOT PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1475 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3008: Judiciary Committee (Sen. Traynor, Chairman)** recommends **DO PASS** (4 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HCR 3008 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3023, as engrossed: Education Committee (Sen. Freborg, Chairman)** recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HCR 3023 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3053, as engrossed: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HCR 3053 was placed on the Sixth order on the calendar.

Page 1, line 1, after the second "the" insert "state's" and replace "powers of the" with "management system, the impact of federal emergency reorganization on the state's emergency operations plan, and the emergency management preparedness of state agencies and local governments."

Page 1, remove line 2

Page 1, after line 5, insert:

"**WHEREAS**, the North Dakota disaster act gives the governor broad, but appropriate, powers in the event of a disaster or emergency; and"

Page 1, line 8, remove "on the state"

Page 1, line 9, remove "level" and replace "current emergency powers of the executive branch of" with "the state emergency management system, the impact of federal reorganization on the state's emergency operations plan, and the ability of state agencies and local governments to carry out that plan and"

Page 1, line 10, remove "government to"

Page 1, line 14, after the second "the" insert "state's" and replace "powers of the executive branch" with "management system, the impact of federal emergency management reorganization on the state's emergency operations plan, and the emergency management preparedness of state agencies and local governments"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HCR 3055: Political Subdivisions Committee (Sen. Cook, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3055 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3056, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HCR 3056 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3063: Industry, Business and Labor Committee (Sen. Mutch, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3063 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3076: Education Committee (Sen. Freborg, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3076 was placed on the Fourteenth order on the calendar.

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

**WILLIAM R. HORTON, Secretary**