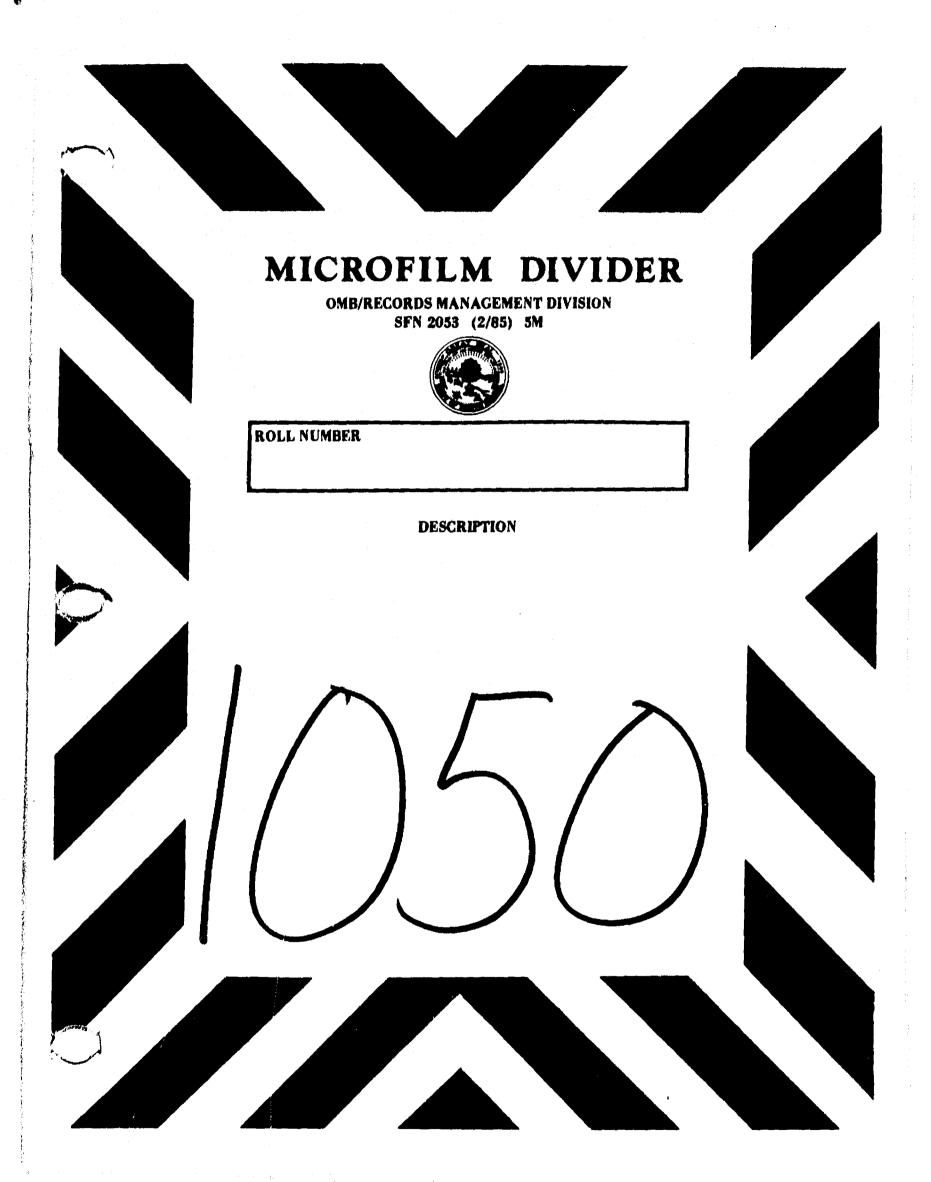
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Operator's Signature

2003 HOUSE NATURAL RESOURCES
HB 1050

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#### 2003 HOUSE STANDING COMMITTEE MINUTES

#### **BILL/RESOLUTION NO. 1050**

#### House Natural Resources Committee

☐ Conference Committee

Hearing Date January 16, 2003

Tape Number	Side A	Side B	Meter #
2	XX		all
3	XX		0-1900

Minutes:

Rep. Delamr: Chair of Judiciary B committee. Gave an overview of HB 1048, 1049, and 1050.

Tim Dawson: Legislative Council. Gave a Further overview of HB 1048, 1049, and 1050.

Rep. Porter: Introduced HB 1050 as the Author. Testified that the #200 of outfitters was arbitrarily arrived at by judiciary B expecting changes to get the bill moving.

Rep. DeKrey: What are we trying to solve with the number 200. We are creating a no compete clause in this bill.

Rep. Porter: It was arbitrarily Picked to keep the business worth something.

Rep. Nottestad: On section 8 pg. 17 concerning guide service on persons own property.

Rep. Porter: If you are an outfitter you are also a guide.

Rep. Keiser: Did the committee discuss the need to come up with an annual licensing. To allow

for new entries when people drop out.

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Rep. Porter: The current system is annual. That would take care of that.

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Page 2
House Natural Resources Committee
Bill/Resolution Number 1050
Hearing Date January 16, 2003

Rep. Klein: I have a question on line 17 the Person has to own the property. Why not land renters?

Rep. Porter: This was the cleanest definition for the legislation. Expansion beyond personal land would require licensing.

Rep. Klein: The problem the value is figured in to the price of the land.

Rep. Porter: That is between the landlord and tenant. The value is definitely being realized more and more into the price of agricultural land.

Chair Nelson: Owner/operator may be amended into the bill.

Rep. Drovdal: The example of the liquor store owner does not apply when you figure in the 5 year waiting period of the guide to become an outfitter.

Rep. Porter: We need to determine the arbitrarily portions of this bill.

Rep. Nottestad: License value w'' \_\_ \_ as outfitting grows.

Rep. Porter: I do not see that happening. The access the outfitter has to good hunting will be the key to the value of the business.

Rep. Keiser: Did the committee discuss multiple ownership or ownership by trust.

Rep. Porter: No, The other issue was the issue of limiting the number of acres under control by any one person.

Roger Rostvet (1980): North Dakota Game and Fish Department. Testified on behalf of HB 1050. (See Attached Testimony).

Rep. Klein: Page 18 line 7. Over the age of 18 and good tempered and high moral character may apply for an outfitters license. How are you going to check for these things?

Roger Rostvet: It was a recommend. This is rather difficult to prove in court.

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Page 3
House Natural Resources Committee
Bill/Resolution Number 1050
Hearing Date January 16, 2003

Kyle Blanchfield: Testified on behalf of HB 1050. (See Attached Testimony).

Harold Neamyer: Spoke out on behalf of HB1050 (see Attached Testimony).

Mike Donahue: Support of HB1050. However we do have a few disagreements over access umbrellas. We also disapprove of the \$200 dollar guide fee.

Jim Nagel: Intended to support 1050. However the access issue is a cause for concern. He has decided to oppose it. Do we need this bill? I hope we are not passing this bill to appease some lobbyist groups. We also need to include fishing guides in this bill.

Tape 3:

Terri Thiel: Dickinson CVB. (See Attached Testimony).

Rep. Hanson: The city of Dickinson does the same thing with liquor licenses.

Jeff Fields: Guide and Outfitter. I oppose HB 1050.

Troy Cunningham: Came in favor of HB 1050. Now opposes.

Chair Nelson closes the hearing.

Chair appoints Porter, Hunskor, and DeKrey to sub committee.

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10/2/03 Date

### 2003 HOUSE STANDING COMMITTEE MINUTES

#### **BILL/RESOLUTION NO. 1048**

House Natural Resources subcommittee 1048,1049 1050

☐ Conference Committee

Hearing Date January 23, 2003

Tape Number	Side A	Side B	Meter#
Committee Clerk Signatu	re		

Minutes:

Chairman Porter called the meeting to order.

Rep. Porter: Explained that the fishing provision which had caused concern in the hearing is explained in regulations already. A fishing outfitter is already a guide.

Rep. DeKrey: Change the fee to \$100.

Rep. Porter: Changing the owns or leases for primary persuit of agriculture.

Rep. DeKrey: We need to change this so landowners showing where hunters can hunt would not violate the law.

Rep. Froelich: We give an outfitter a liscense on a sliding scale of increasing rate for expansion.

Roger Rosvit: We should put a penalty in this for guiding without a liscense.

Rep. Porter: On a sliding scale. Depending on the severity of the crime.

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Page 2
House Natural Resources Committee
Bill/Resolution Number 1050
Hearing Date January 23, 2003

Roger Rosvit: We should change the and's to or's. This fixes the problem of someone recieving money under the table for guiding. They cannot just say they were doing it out of the goodness of thier hearts. That way we do not have to go through bank records.

Rep. Porter: Rep. Freelich would change the scale from number of employees to number of acres.

Adjourned.

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2003 HOUSE STANDING COMMITTEE MINUTES

#### **BILL/RESOLUTION NO. 1050**

**House Natural Resources Committee** 

☐ Conference Committee

Hearing Date January 30, 2003

Tape Number	Side A	Side B	Meter #	
2	xx		-4,26	
2		XX	0-1200	

Minutes:

Chair Nelson called the meeting to order.

Rep. Porter proposed an amendment.

Chair Nelson: Is a day lease required when there is no money changing hands?

Rep. Porter: That was brought up in the discussion. This would and should require a day lease.

Rep. Nottestad: How enforceable is this.

Rep. Porter: It is as enforceable as the part with the county maps. There should be enough teeth

in the law to avoid trouble.

Rep. DeKrey: There is something in this bill to hate for everyone. But, this is a good

compromise.

Chair Nelson: This would be an all lands posted bill.

Rep. Porter: No, the intent of the fee structure is to distribute the impact of outfitters. The

ncerns of both resident and nonresidents is the amount of lands tied up in

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Water Committee Committee

Page 2
House Natural Resources Committee
Bill/Resolution Number 1050
Hearing Date January 30, 2003

outfitting. We are talking about lands approaching 100,000 acres in some cases. The average would be in the neighborhood of 10,000 acres. When you think about 10,000 acres of land being tied up in a block. That block of land tied up with an outfitter outside that block of land tying up access.

Rep. Nelson: If money does not change hands. Now they would have to have that slip.

Rep. Porter: Yes

Rep. Keiser: Maybe we can have the subcommittee look into the day leasing program.

Chair Nelson adjourned the meeting on HD 1050.

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#### 2003 HOUSE STANDING COMMITTEE MINUTES

#### **BILL/RESOLUTION NO. 1050**

House Natural Resources Committee

☐ Conference Committee

Hearing Date January, 31, 2003

Tape Number	Side A	Side B	Meter #
1		XX	1,064-2395

Minutes:

Chair Nelson called the meeting to order on HB 1050.

Rep. Porter: The committee looked at the day leasing issue. (See Amendment).

Rep. Nottestad moved a do pass recommendation on HB 1050 seconded by Rep. Clark.

The motion carried by a vote of 11-1-2. Rep. Porter will carry.

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10/2/03 Date

#### FISCAL NOTE

#### Requested by Legislative Council 04/16/2003

Amendment to:

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**HB 1050** 

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to

funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-200	5 Blennium	2005-2007 Biennium		
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds	
Revenues				\$30,000	\$0	\$40,000	
Expenditures			-	\$0	\$0	\$0	
Appropriations				\$0	\$0	\$0	

1B. County, city, and school district fiscal effect: Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Blennium			2003-2005 Blennium		2005-2007 Blennium		nium	
Counties	Cities	School Districts	Countles	Cities	School Districts	Counties	Cities	School Districts

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

The increase in outfitter fees will provide some additional revenue. For 2003-2005 only about one and a half year of fees will be collected at the higher rate.

3. State fiscal effect detail: For information shown under state fiscal effect in 1A, please:

A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

New outfitter fees will produce some additional revenue.

- B. Expenditures: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line Item, and fund affected and the number of FTE positions affected.
- C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Name:	Paul Schadewald	Agency:	ND Game and Fish Department
Phone Number:	328-6328	Date Prepared:	04/16/2003

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## **FISCAL NOTE** Requested by Legislative Council

Amendment to:

**HB 1050** 

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Blennlum		2003-2005 Biennlum		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$30,000	\$0	\$40,000
Expenditures				\$0	\$0	\$0
Appropriations				\$0	\$0	\$0

1B. County, city, and school district fiscal effect: Identify the fiscal effect on the appropriate political subdivision. 2001-2003 Biennium 2003-2005 Biennium 2005-2007 Biennium School School School Countles Cities **Districts** Counties Citles Districts Countles Cities **Districts** 

your analysis.

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to

The increase in outfitter fees will provide some additional revenue. For 2003-2005 only about one and a half year of fees will be collected at the higher rate.

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New outfitter fees will produce some additional revenue.

- B. Expenditures: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.
- C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

ND Game and Fish Department Paul T. Schadewald Agency: Name: Date Prepared: 04/14/2003 Phone Number: 328-6328

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#### **FISCAL NOTE**

## Requested by Legislative Council 03/31/2003

Amendment to:

**HB 1050** 

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to

funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Blennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$60,000	\$0	\$80,000
Expenditures				\$0	\$0	\$0
Appropriations				\$0	\$0	\$0

1B. County.	city, and s	chool district	fiscal effect:	Identify th	e fiscal effect	on the approp	riate politica	al subdivision.
	-2003 Bien		2003-2005 Biennium 2005-2007 Biennium				nlum	
Countles	Cities	School Districts	Counties	Citles	School Districts	Counties	Cities	School Districts
	4							

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

The license fees for hunting guides and out illers will increase. Those for fishing guides and outfitters do not increase. For 2003-2005 only about one and a half year of fees will be collected at the higher rate.

3. State fiscal effect detail: For information shown under state fiscal effect in 1A, please:

A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

Approximately 400 hunting guides will pay higher fees. New outfitter fees will also produce additional revenue.

- B. Expenditures: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.
- C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

			ND Game and Fish Department
Name:	Paul Schadewald	Agency:	ND Game and Fish Department
Phone Number:	328-6328	Date Prepared:	03/31/2003
Phone Number:	320-0320	Date i topalout	

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#### **FISCAL NOTE**

#### Requested by Legislative Council 03/25/2003

Amendment in

**HB 1050** 

1A. State listed effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

ariang revolution	2001-2003 Blennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$40,000	\$0	\$40,000
Expenditures				\$0	\$0	\$0
Appropriations				\$0	\$0	\$0

1B. County, city, and school district fiscal effect: Identify the fiscal effect on the appropriate political subdivision.

200	1-2003 Blenr	ium	2003-2005 Blennium 200			05-2007 Blennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Countles	Cities	School Districts
					<u> </u>	المستناجين المالي		<u>l</u>

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

The license fees for hunting outfitters will increase.

- 3. State fiscal effect detail: For information shown under state fiscal effect in 1A, please:
  - A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

New higher hunting outfitter fees will produce a small amount of additional revenue.

- B. Expenditures: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.
- C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the blennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Name:	Paul T. Schadewald	Agency:	ND Game and Fish Department
Phone Number:	328-6328	Date Prepared:	03/25/2003

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#### FISCAL NOTE

## Requested by Legislative Council 02/10/2003

Amendment to:

HB 1050

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to

funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-200	5 Biennium	2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$80,000	\$0	\$80,000
Expenditures				\$0	\$0	\$0
Appropriations				\$0	\$0	\$0

1B. County, city, and school district fiscal effect: Identify the fiscal effect on the appropriate political subdivision.

200	1-2003 Bleni	Biennium		3-2005 Bien	nium	2005-2007 Blennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
							*	

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

The license fees for hunting outfitters will increase. There is a new license fee structure based upon the amount of land the outfitter leases.

3. State fiscal effect detail: For information shown under state fiscal effect in 1A, please:

A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

New outfitter fees will produce additional revenue. It is difficult to estimate the amount of additional revenue because we do not have current leasing information. It is estimated that it will be about \$40 000 per year.

- B. Expenditures: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.
- C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amount shown for expenditures and appropriations.

Name:	Paul Schadewald	Agency:	ND Game and Fish Department
Phone Number	328-6328	Date Prepared:	02/10/2003

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#### **FISCAL NOTE** Requested by Legislative Council 12/16/2002

Bill/Resolution No.:

**HB 1050** 

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to

funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-200	5 Biennium	2005-2007	Biennium	
	General Fund	Other Funds	General Fund	Öther Funds	General Fund	Other Funds	
Revenues				\$60,000	\$0	\$80,000	
Expenditures			:	\$0	\$0	\$0	
Appropriations				\$0	\$0	\$0	

200	2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Countles	Cities	School Districts	

1B. County, city, and school district fiscal effect: Identify the fiscal effect on the appropriate political subdivision.

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

The license fees for hunting guides and outfitters will increase. Those for fishing guides and outfitters do not increase. For 2003-2005 only about one and a half year of fees will be collected at the higher rate.

3. State fiscal effect detail: For Information shown under state fiscal effect in 1A, please: A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and

fund affected and any amounts included in the executive budget.

Approximately 400 hunting guides will pay higher fees. New outfitter fees will also produce additional revenue.

- B. Expenditures: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line Item, and fund affected and the number of FTE positions affected.
- C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the blennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

ND Game and Fish Department Paul Schadewald Agency: Name: 701-328-6328 12/19/2002 Phone Number: Date Prepared:

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30105.\_\_\_\_ Title. Adopted by the Natural Resources Committee February \_\_\_\_, 2003

#### PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1050

- Page 4, line 12, replace "a person" with "an individual"
- Page 4, line 13, replace "that person" with "the individual or the individual's business operation"
- Page 4, line 18, after the period insert "The term does not include a person holding title or 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 "an individual"
- Page 17, line 18, after "dollars" insert "for a resident and two thousand dollars for a nonresident"
- Page 18, line 5, remove "Before January first of each year, each licensed guide and outfitter shall pay the" and insert "Guide and outfitter licenses expire on December thirty-first of each year unless revoked at an earlier date."
- 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" with "individual and the individual's business operation"
- 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 No. 1

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- Page 19, line 10, after "revocation," insert "As used in this chapter, "conviction" means a finding of quilt, a quilty plea, a plea of no contest, a plea of nolo contendere, a judgment of conviction even though the court suspended execution of 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 including a finding of quilt overturned 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 "outfitters." insert "If the director requests 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 to not identify any guide, outfitter, or client."
- Page 19, line 31, after "laws." 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 21, lines 7, replace "Another" with "Notwithstanding the provisions of chapter 45-11 and 47-25, another" and after "name," insert "business name, fictitious name, trade name, Internet address, world wide web uniform resource identifier (web site address)."
- 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 "person" with "individual"
- Page 21, line 25, replace "a person" with "an individual"

Renumber accordingly

Page No. 2

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10/2/03 Date

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30105.0301 Title.0400

# Adopted by the Natural Resources Committee

January 31, 2003

VR 2/5/03

BOUSE

AMENDMENTS TO HOUSE BILL NO. 1050 WAT RES 2-06-03

Page 1, line 5, after "penalty" insert "; to provide for application"

HOUSE ANEXIMENTS TO HIS 1050 MAT RES 2-06-03
Page 2, line 7, after "7." insert "Consideration" means something of value given or done in exchange for something of value given or done by another.

8. "Day leasing" means the practice of an outfitter entering a short-term lease agreement that is intended to and does last less than twenty-four hours.

9."

Page 2. line 8, overstrike "8." and insert immediately thereafter "10."

Page 2, line 9, overstrike "9." and insert immediately thereafter "11,"

Page 2, line 10, overstrike "10." and insert immediately thereafter "12."

Page 2, line 20, overstrike "11." and insert immediately thereafter "13."

Page 2, line 24, overstrike "12." and insert immediately thereafter "14."

Page 2, line 27, overstrike "13." and insert immediately thereafter "15."

Page 2, line 30, overstrike "14." and insert immediately thereafter "16."

HOUSE AMENDMENTS TO HE 1050 WAY RES 2-06-03

Page 3, line 5, after "by" insert "or contracts with" and after "to" insert "help the outfitter"

Page 3, line 8, overstrike "15." and insert immediately thereafter "17."

Page 3, line 9, overstrike "16." and insert immediately thereafter "18."

Page 3, line 10, overstrike "17." and insert immediately thereafter "19."

Page 3, line 12, overstrike "18." and insert immediately thereafter "20."

Page 3, line 20, overstrike "19." and insert immediately thereafter "21,"

Page 3, line 27, overstrike "20." and insert immediately thereafter "22."

HOUSE AMENDMENTS TO HB 1050 NAT RES 2-06-03

Page 4, line 1, overstrike "21." and insert immediately thereafter "23."

Page 4, line 3, overstrike "22." and insert immediately thereafter "24."

Page 4, line 4, overstrike "23." and insert immediately thereafter "25."

Page 4, line 6, after "hire" insert "or consideration" and replace "and" with "or"

Page No. 1

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Page 4, line 7, replace "compensation" with "consideration"

Page 4, line 10, replace "24," with "26."

Page 4, line 14, after the period insert "The term does not include a person holding title or 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 15, replace "25." with "27."

Page 4, line 24, replace "26," with "28."

Page 4, line 28, replace "27," with "29,"

HOUSE AMENDMENTS TO HB 1050 KAT RES 2-06-03

Page 5, line 1, replace "28." with "30."

Page 5, line 3, replace "29," with "31."

Page 5, line 11, replace "30" with "32."

Page 5, line 12, replace "31." with "33."

Page 5, line 16, replace "32." with "34."

Page 5, line 18, replace "33." with "35."

Page 5, line 19, replace "34." with "36."

Page 5, line 21, replace "35." with "37." Page 5, line 24, replace "36." with "38."

Page 5, line 27, replace "37," with "39,"

Page 5, line 29, replace "38." with "40."

HOUE AMENDENTS TO HE 1050 NAT RES 2-06-03

Page 6, line 1, replace "39." with "41."

Page 6, line 4, replace "40." with "42."

Page 6, line 7, replace "41." with "43."

Page 6, line 9, replace "42." with "44."

Page 6, line 11, replace "43," with "45."

Page 6, line 12, replace "44." with "46."

Page 6, line 15, replace "46," with "48,"

30105.0301

Page No. 2

HOUSE AMENDMENT

**HB** 1050

**NAT RES 2-06-03** 

Page 16, line 31, replace "two" with "one"

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HOUSE AMENIMENTS TO HB 1050 RAT RES 2-06-03

Page 17, line 4, replace "dollars if the" with "fifty dollars for the first five thousand acres [2023.43 hectares] and one hundred dollars for every additional five thousand acres [2023.43 hectares] on which the outfitter guides. Federal lands held by permit to outfitters are exempt from the fees assessed by this section. The acreage must be presented and legally defined in every application for outfitter lice@sure. For the purposes of this section. "legally defined" includes a copied county atlas map that identifies the subject land by distinguishing outline. The annual permit fee for day leasing is two hundred dollars."

Page 17, remove lines 5 through 7

Page 17, line 8, replace "there is not a" with "A" and replace "fee" with "is not required"

Page 17, line 9, after "owns" insert "or leases" and after "interests" insert "or for a nonprofit organization registered with the secretary of state"

Page 17, line 15, replace "A hunting" with "Hunting", replace "or outfitter license or" with "and", and replace "license is" with "licenses are"

Page 17, line 16, after "3." insert "A hunting outfitter license may be transferable upon approval of the director.

4."

HOUSE AMENDMENTS TO HB 1050 NAT RES 2-06-03

Page 18, line 7, remove "and of good moral character and temperate"

Page 18, line 8, remove "habits"

Page 18, line 17, replace "five" with "two"

Page 18, line 20, after "years" insert "or whose license to hunt or fish is under suspension or revocation"

Page 18, line 27, replace "shall" with "may"

HOUSE AMENDMENTS TO HB 1050 NAT RES 2-06-03

Page 19, remove lines 1 through 7

Page 19, line 8, replace "3." with "2."

Page 19, line 9, after the underscored period insert "All records, facilities, and equipment kept or used by the outfitter are open to inspection by the director or a game warden."

Page 19, line 10, replace "4." with "3."

Page 19, line 12, replace "5." with "4."

Page 19, line 17, replace "6." with "5.", replace "license" with "issue", after "more" insert "hunting outfitter licenses", and replace "two hundred hunting outfitters at one time" with "are issued in the fifth annual issuance of licenses under this Act."

Page 19, line 22, after "probation" insert "by the director"

Page No. 3

30105.0301

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#### **MAT RES 2-06-03** 1050 HOUSE AMENDMENTS TO

Page 20, line 1, remove "habitual"

Page 20, line 6, replace "must" with "may"

Page 20, line 8, remove "while afield"

Page 20, line 14, replace "for the violation of" with "if"

Page 20, line 15, replace "or for which a guide is liable" with "intentionally violates a state or federal criminal law pertaining to hunting, fishing, or trapping

Page 20, line 16, replace "and" with "but"

Page 20, line 17, replace "for the violation of" with "if" and after "client" insert "violates a state or federal criminal law pertaining to hunting, fishing, or trapping"

Page 20, line 18, replace "fails" with "the guide or client fail"

Page 20, line 27, after the underscored period insert "Each client guided is subject to separate and distinct offenses."

Page 20, line 30, after the underscored period insert "Any person guiding or outfitting while under suspension, revocation, or denial is guilty of a class A misdemeanor. Any individual who commits for remuneration or compensation an act of fraud involving hunting or fishing or any individual who illegally takes or causes death to fish or wildlife for remuneration or compensation may be prosecuted for theft, fraud, or conspiracy under title 12.1 and is, upon conviction, liable for the higher amount between the actual compensation received or the value of the fish or wildlife illegally taken or killed."

HOUSE AMENDMENTS TO HB 1050 NAT RES 2-06-03

Page 21, after line 4, insert:

"SECTION 13. APPLICATION. The second through fifth issuances of hunting outfitter licenses under this Act may not exceed the number of licenses issued in the previous year."

Renumber accordingly

30105.0301

Page No. 4

# 2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. 1050

House House Natural Resource	CS			Com	mittee
Check here for Conference C	ommittee				
Legislative Council Amendment	Number _				·
Action Taken	Pass	A5	Arrended		
Motion Made By Notes	t rd	Seco	nded By <u>Cla-M</u>	·	
Representatives	Yes	No	Representatives	Yes	No
Chairman Jon O. Nelson	<u> </u>				
Vice-Chairman Todd Porter	-				
Rep. Byron Clark	-				
Rep. Duane DeKrey	14		<del></del>		
Rep. David Drovdal					
Rep. Lyle Hanson	14				
Rep. Bob Hunskor	14				
Rep. Dennis Johnson	10	<del></del>		_	
Rep. George Keiser					
Rep. Scott Kelsh					
Rep. Frank Klein	121				
Rep. Mike Norland	1//			<del>- </del>	
Rep. Darrell Nottestad					
Rep. Dorvan Solberg					
Total (Yes)		No _	1	<del></del>	
Absent Z		<del></del>			<del></del>
Floor Assignment Port	N	<u> </u>			<del></del>
If the vote is on an amendment, brid	efly indicat	e intent:			

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Operator's Signature

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REPORT OF STANDING COMMITTEE (410) February 6, 2003 6:31 p.m.

Module No: HR-23-1929 Carrier: Porter

Insert LC: 30105.0301 Title: .0400

REPORT OF STANDING COMMITTEE

HB 1050: Natural Resources Committee (Rep. Nelson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (11 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). HB 1050 was placed on the Sixth order on the calendar.

Page 1, line 5, after "penalty" insert "; to provide for application"

Page 2, line 7, after "7." insert "Consideration" means something of value given or done in exchange for something of value given or done by another.

8. "Day leasing" means the practice of an outfitter entering a short-term lease agreement that is intended to and does last less than twenty-four hours.

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Page No. 1

HR-23-1929

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Page 6, line 12, replace "44." with "46."

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HR-23-1929

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Page No. 3

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10/2/03 Date

REPORT OF STANDING COMMITTEE (410) February 6, 2003 6:31 p.m.

Module No: HR-23-1929

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Page 20, line 17, replace "for the violation of" with "if" and after "client" insert "violates a state or federal criminal law pertaining to hunting, fishing, or trapping"

Page 20, line 18, replace "fails" with "the guide or client fail"

Page 20, line 27, after the underscored period insert "Each client guided is subject to separate and distinct offenses."

Page 20, line 30, after the underscored period insert "Any person guiding or outfitting while under suspension, revocation, or denial is guilty of a class A misdemeanor. Any individual who commits for remuneration or compensation an act of fraud involving hunting or fishing or any individual who illegally takes or causes death to fish or wildlife for remuneration or compensation may be prosecuted for theft, fraud, or conspiracy under title 12.1 and is, upon conviction, liable for the higher amount between the actual compensation received or the value of the fish or wildlife illegally taken or killed."

Page 21, after line 4, insert:

"SECTION 13. APPLICATION. The second through fifth issuances of hunting outfitter licenses under this Act may not exceed the number of licenses issued in the previous year."

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Page No. 4

HF1-23-1929

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2003 SENATE NATURAL RESOURCES
HB 1050

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## 2003 SENATE STANDING COMMITTEE MINUTES

#### **BILL/RESOLUTION NO. HB 1050**

Senate Natural Resources Committee

☐ Conference Committee

Hearing Date 3-13-03

Tape Number	Side A	Side B	Meter #
1	X		1.5 - end
		X	0.0 - 27.0
2	X		11.9 - 12.3

Minutes:

Senator Thomas Fischer, Chairman of the Senate Natural Resources Committee opened the hearing on HB 1050 relating to guides and outfitters; to provide a penalty; to provide for application; and to provide an effective date.

All members of the Committee were present.

Tim Dawson of the Legislative Council presented the engrossed version of HB 1050 not in support or opposition of the bill but to explain it. He stated the bill will create a comprehensive licensing system for guides and outfitters under the North Dakota Game & Fish Department.

There were two other bills that interrelated with HB 1050 and they were HB 1048 that has been killed and HB 1049 has interaction with HB 1050. He further explained the amendments line by line (refer to tape).

Senator Michael Every asked who has the authority to decide if conduct is deppremental to the conduct of the industry.

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Page 2
Senate Natural Resources Committee
Bill/Resolution Number HB 1050
Hearing Date 3-13-03

Tim Dawson answered that it is the director of the Game & Fish who decides that.

Senator Fischer commented that after the House made amendments, he had received a letter from the Attorney General's office commenting they had some concerns as to the need to make the bill legal on behalf of their client the North Dakota Game & Fish Department.

Paul Germolus, Assistant Attorney General with the Natural Resources Division of the Office of the Attorney General appeared on behalf of the North Dakota Game & Fish Department in a neutral position on HB 1050 (See attached testimony and proposed amendment).

Senator Fischer asked if on Page 19, Line 10 it incorporates HB 1049 into HB 1050.

Paul Germolus confirmed that.

<u>Senator John Traynor</u> asked for clarification and if it is lawful to charge a fee of \$100.00 for a resident guide and a nonresident is charged \$400.00.

Paul Germolus stated that there was a wealth of case law about the issue, but the North Dakota Game & Fish Department can justify the difference in fees so is confident if a challenge does arise.

Roger Rostvet. (35.6) Deputy Director of the North Dakota Game & Fish Department testified on HB 1050. He stated he was asked by the sub committee appointed by Senator Fischer to present the amendment that was submitted by that committee. (See attached testimony and amendment.

Senator Every asked how the testing would be administered.

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Roger Rostvet responded that the testing would have to be flexible the first year as all guides and outfitters would need to be tested so they will be held at the regional offices. After that

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Page 3
Senate Natural Resources Committee
Bill/Resolution Number HB 1050
Hearing Date 3-13-03

retests might be held in Bismarck. The test itself would be developed with input from the guide and outfitter association.

Senator Traynor asked if there was anything in the bill about land lease fees.

Roger Rostvet commented that the only thing in the bill was if the landowner is guiding or outfitting and leases more acreage his license fee would go up just any other guide or outfitter.

Pat Candrian of the Cannonball Co. (53.5) testified in support of HB 1050 stating he did have some concerns. He thinks the fees are too high and to charge fees according to the leased acres will be very cumbersome. A non resident will be able to lease the whole state and his fee will remain the same. He stated no other business has to make reports that will now be required by the guides and outfitters. He likes the fact the bill will give a lot of professionalism to the professional services that they are providing.

Arnold Leno presenting the North Dakota Professional Guides and Outfitters Association testified in support of HB 1050 (See attached testimony).

Mike Donahue presenting the North Dakota Wildlife Federation and the United Sportsmen of North Dakota testified in support of HB 1050 (See attached testimony which includes amendments).

Senator Joel Heitkamp asked Mike Donahue to look at the amendments and then his opinion to the committee.

Orlan Mertz speaking on behalf of guides and outfitters testified in support of HB 1050. He told the committee how he has contacted many people about leasing land for hunting and was surprised as to how much land really is not leased.

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Date

Page 4
Senate Natural Resources Committee
Bill/Resolution Number HB 1050
Hearing Date 3-13-03

Harold Neameyer presenting the Cass County Wildlife Club testified in support of HB 1050 (see attached testimony). He would also like to see the bill as it is amended and make his opinion.

Senator Fischer stated he was going to speak to leadership for an extension as HB 1050 has a fiscal note which has a deadline soon. The amendments will also change the amount on the fiscal note.

Senator Heitkamp stated the land owners or "Mom & Pop" guides will also have to comply with same rules as the professional guides and won't this reduce the number of guides.

<u>Senator Fischer</u> stated that one of the concerns he has always had with the "Mom & Pop" guides was the fact they weren't not covered with adequate insurance and they could lose their farms by them just trying to make a few extra dollars.

Dennis Daniel testified in support of HB 1050 stating he had two concerns. 1). he feels there should be a graduated fee and 2).maybe drop the fee a little bit. He also suggested an outfitter could only lease deeded land.

<u>David Munsch</u> testified in opposition of HB 1050 stating violations would be on computer systems so they could be tracked. He also thinks there should be a separation between guides for fishing and wildlife.

There was no neutral testimony of HB 1050

Senator Fischer closed the hearing on HB 1050.

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Senate Natural Resources Committee
Bill/Resolution Number HB 1050
Hearing Date 3-13-03

Tape 2, Side A 11.9 - 12.3

Discussion was held as to the caps of guides and outfitters and if amendments were needed. The committee will need to go through all the amendments that were presented in order create the bill in its best form.

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#### 2003 SENATE STANDING COMMITTEE MINUTES

#### **BILL/RESOLUTION NO. HB 1050**

Senate Natural Resources Committee

☐ Conference Committee

Hearing Date 3-21-03 Discussion and Action

1				
A·	X		42.8 - end	
		X	0.0 - 10.5	

Minutes:

Senator Thomas Fischer opened the discussion on HB 1050.

All members of the committee were present except Senator Michael Every.

Senator Fischer stated that there are three sets of amendments

- 1. #50401 proposed by Game and Fish Department with Senator Fischer name on them
- 2. proposed by the Attorney General's office to make things legal (on Page 19. Line 10 change "include" language)
- 3. Donahue amendments which are not needed because they are covered by the others.

Discussion was held to work the amendments so that all members of the committee understood the amendments.

<u>Senator Joel Heitkamp</u> questioned the raise in guides and outfitters fees and discussion was held.

Senator Ben Tollefson made a motion to accept the 50401, the Fischer Amendment

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Page 2
Senate Natural Resources Committee
Bill/Resolution Number HB 1050
Hearing Date 3-21-03

Senator Stanley Lyson second the motion.

Roll call vote #1 was taken indicating 6 YEAS, 0 NAYS AND 1 ABSENT OR NOT VOTING.

Senator Heitkamp made a motion to accept the amendment as presented by the Attorney General's Office.

Senator Tollefson second the motion.

Roll call vote #2 was taken indicating 6 YEAS, 0 NAYS AND 1 ABSENT OR NOT VOTING.

Senator Heitkamp made a motion to amend on Page 2. Line 10 of the Attorney General's Office to change "including" to "include" and remove Line 4, Section 3 on Page 18 of the engrossed bill.

Senator Layton Freborg second the motion.

Roll call vote #3 was taken indicating 6 YEAS, 0 NAYS AND 1 ABSENT OR NOT VOTING.

Senator Heitkamp made a motion for a Do Pass as Amended of HB 1050.

Senator Lyson second the motion.

Roll call vote #4 was taken indicating 6 YEAS, 0 NAYS AND 1 ABSENT OR NOT VOTING.

Senator Heitkamp will carry HB 1050.

Discussion was held about professional license fees.

Senator Heitkamp made a motion to reconsider the action on HB 1050.

Senator Lyson second the motion.

A voice vote #5 was taken to indicate so.

Operator

Senator Heitkamp made a motion for a Do Pass as Amended and Rereferred to Appropriations.

Senator Lyson second the motion.

Roll call vote # 6 was taken indicating 6 YEAS, 0 NAYS AND 1 ABSENT OR NOT VOTING.

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Page 3
Senate Natural Resources Committee
Bill/Resolution Number HB 1050
Hearing Date 3-21-03

Senetor Heitkamp will carry HB 1050.

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Operator's Signature

30105.0401 Title.

Prepared by the Legislative Council staff for Senator Fischer March 11, 2003

### PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1050

Page 1, line 5, remove "to provide for application;"

Page 17, remove lines 26 through 28

Page 20, remove lines 1 and 2

Page 21, remove lines 28 and 29

Renumber accordingly

Page No. 1

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Date: 3-3/-03
Roll Cali Vote #: 7

### 2003 SENATE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. 1050

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tion Taken C ACCet 50401 Filtion Made By Toll, Seconded By Yes Seconded By Yes Senators  Senators Yes No Senators  mator Thomas Fischer Senator Michael A. Every mator Ben Tollefson Senator Joel C. Heitkemp mator Layton Freborg mator Stanley W. Lyson mator John T. Traynor	's her	
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Operator's Signature

30105.0402 Title.0500

#### Adopted by the Natural Resources Committee

March 21, 2003

#### PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1050

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:

Guide and outlitter 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 No. 1

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- 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 quilt, a guilty plea, a plea of no contest, a plea of noio 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:

- "Z. 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

Page No. 2

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Date:
Roll Call Vote #: 2

# 2003 SENATE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. 10.50

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Date: 3-3/ Roll Call Vote #: 3

#### 2003 SENATE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO.

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Date: 3-31-03
Roll Call Vote #: 4

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. 1050

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Date: 3.21-03
Roll Call Vote #: 5

## 2003 SENATE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. / 0.50

Senate Senate Natural Resource	S	·		Com	mitte
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Date: 5">1"03
Roll Call Vote #: 4

### 2003 SENATE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. /050

Senate Senate Natural Resource	3			_ Com	mittee
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REPORT OF STANDING COMMITTEE (410)
March 24, 2003 10:59 a.m.

Module No: SR-52-5494 Carrier: Heitkamp Insert LC: 30105.0402 Title: .0500

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 "<u>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."</u>

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"

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

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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."

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

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SR-52-5494

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REPORT OF STANDING COMMITTEE (410) March 24, 2003 10:59 a.m.

Module No: SR-52-5494 **Carrier: Heltkamp** Insert LC: 30105.0402 Title: .0500

Page 19, line 10, after the underscored period insert "As used in this chapter, "conviction" means a finding of quilt, 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:

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."

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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,"

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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

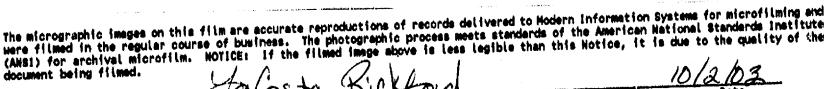
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2003 SENATE APPROPRIATIONS

HB 1050

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Operator's Signature

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## 2003 SENATE STANDING COMMITTEE MINUTES BILL/RESOLUTION NO. HB 1050

Senate Appropriations Committee

☐ Conference Committee

Hearing Date March 26, 2003

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Minutes:

Meeting was called to order by Senator Holmberg, chairman. Roll was called.

Hearing on HB 1050 was opened.

Tim Dawson, Legislative Council is the staff person for this bill. A call was put in to see if Lois

Delmore from House Judiciary would like to come to the hearing and speak. (Neither one came
to the hearing)

Roger Ross, Deputy Director of Game & Fish (#300). No written testimony. He stated that this bill was developed in Judiciary B last summer, in a study on different hunting issues. Bill is 20 pages long, it provides for several different things, one of the amendments, that was late, that probably did not come out of Judiciary B was an allowance for non resident guides and outfitters. Current law do not allow any non resident to guide or outfit in the state. That law is now being challenged in the courts. This bill does provide for non residents to guide and outfit in the state. The other thing in the bill is there are a number of changes in the fee structures,

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Page 2 Senate Appropriations Committee Bill/Resolution Number HB 1050 Hearing Date March 26, 2003

meaning that very little is done with the fee structure for fishing, guides and outfitters, in fact the fee structure is the same, however, the fees for hunting guides and outfitters are based on a base level of \$250 with increments of \$100 for every 5,000 acres that they operate upon. There is also some bills in there dealing with the professional part of the guides and outfitters, this was strongly supported in the other hearings by the guides and outfitters themselves, who felt this would bring their professional standards up, which meant CPR, insurance, their conduct, violations, suspension, etc. Senator Mathern (#527) How much money would be raised if this bill was passed, and where the money would be spent? Roger: The total fiscal note is about \$20,000 blennium and that money would go into the general game & fish revenue. Senator Mathern wanted to know if Game & Fish was supportive of this bill. Paul stated they were. Senator Andrist (#625): He wanted to know if he didn't read someplace that there is an amendment to increase the fees from \$100 to \$400? Senator Holmberg stated that was in the amendments that were adopted yesterday on the Senate floor. Roger explained that Senator Andrist might be referred to the non resident fee of \$400, which is a totally new licensing structure that would allow a non resident guide to operate in the state. Senator Andrist wanted to know what the theory behind raising it to \$400, just to punish them for coming into the state, or is the money needed for something? Roger replied that the testimony that the Attorney General office and the Game & Fish gave to the other sections on the hearing of this bill, were that the reason for the higher costs is for the amount of work that will be required in order to allow out of state outfitters, such as background checks, violation checks. This types of checks are usually higher because they are out of state. Senator Andrist continued and wanted to know t would cost \$300 more to do a background check from Eureka, S.D. than someone from

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Page 3
Senate Appropriations Committee
Bill/Resolution Number HB 1050
Hearing Date March 26, 2003

Linton. Roger stated that he could give a perfect example, right now there is a guide who is from Louisiana, who came to ND. last fall and did some illegal hunting, not in violation of licensing but doing basically illegal hunts. So far the bill for the investigation is over \$20,000 (this is between North Dakota and the US Fish & Wildlife Service). Had that individual been based in North Dakota that cost would have been minimal. Senator Holmberg stated that the other part of this language is that the fact that you mention, on page 17, line 14, the annual fee for a hunting guide is \$100 (which is how it came from the House), the Senate added if you are a nonresident it is \$400. Roger was saying before what is current law is that you can't be a non resident and be a hunting guide in North Dakota, that is constitutional suspect. So that is why the Senate Natural Resources committee, on the advice of the Attorney General's office said they would create this new class of out of state guides, but their fee would be higher. What is the annual fee for hunting guide license? Roger replied it was \$100.00 right now. Senator Holmberg stated that fee had not changed. Paul stated that had not changed, but what had changed is that it splits out of the two different classes of license, one is a outfitter who does all the booking and runs the business, the other person is the guide who the outfitter hires to work for him. Senator Bowman (#980) If you are an outfitter and you hire a guide to go out there and tell them where the land is they can hunt on, only take you on the land they have leased, you are going to charge some guy to do that, for what? What is the purpose, he is a North Dakota citizen and works in the area, for example, there is an outfit that hires young men to go and show them where the land is, and that person now has to be registered and checked and all of this. Roger was not sure he understood Senator Bowman's question. Senator Bowman clarified his questions, If he had 10,000 acres and he hires 3 local people to come, you are going to charge

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Page 4
Senate Appropriations Committee
Bill/Resolution Number HB 1050
Hearing Date March 26, 2003

somebody for those 3 people to help that outfitter? You are going to charge them a fee? Roger responded that he thought Senator Bowman was separating out who is a guide and outfitter and who is simply a fee operator. People are not going to pay for a service if they don't get it. If they are just buying access to land, such as a farmer has, a quarter section of land and says just go out to my land, \$20 a gun a day, he is not a guide or outfitter. If he takes a guy out there and shows him where to hunt, how to gather birds up and provides a legitimate useful service then he is a guide. Simply charging an access fee for land is not a guide or outfitter. Senator Grindberg: (#1141) He wanted to know what marketing conditions might exist for a non resident guide? He gave the following scenario: He comes up from Louisiana one fall and knock on a door and establish a relationship with the land owner who has primo duck land for hunting and they have dinner and cocktails over one or two years and the next season I come back and tell the landowner that I could market you to my buddles in Louisiana and now I become an outfitter and I will be a marketing agent for you. In essence he is putting groups of folks together in Louisiana to bring with him to North Dakota, technically he could be an outfitter, non resident, bring these people with him because he has access and has a relationship in North Dakota. What would be the difference between, if he was truly a non resident guide and outfitter, with that group in Louisiana, it seems like a network that would help that landowner promote his resources, or is it a issue, why wouldn't that landowner just say, you bring your buddles up and I will charge you "x" and there is no formal arrangement with a guide and outfitter service. - responded that you have to hold yourself out to the public according to the bill and the next is there has to be some compensation. If you don't expect to be compensated at the end of the hunt, then you are not a guide or outfitter. Senator Grindberg continued that a guide or outfitter from out of state, could

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Page 5
Senate Appropriations Committee
Bill/Resolution Number HB 1050
Hearing Date March 26, 2003

get around not having to pay the fees, if he came out and made friends with the landowner first. Roger said he certainly could, if the person is just paying for access to the land and no other services, then that is probably would not be considered being a guide or outfitter. Senator Grindberg said that the point of contact in Louisiana could be doing all the stuff and you wouldn't know it, how could you enforce that. He stated that he could bring 20 guys with him from Louisiana and they all pay a fee to hunt that on that land, I am doing all of those services for those guys and how are you going to enforce that, we are all a bunch of buddies. Paul stated that he was right, if it is not detectable, it is not enforceable. Senator Holmberg stated that under current law that person couldn't hold himself out for an outfitter in North Dakota, but under the amendments they could if they so chose. Roger replied that was correct. Senator Krauter (#1451) He stated that the things that Roger was telling the committee were not the things that he had heard from the Senate Natural Resources. He referred to page 2, line 9, number 7 -consideration, services, etc.--. He gave a scenario regarding someone driving into his yard and wanting to do some bird hunting and I tell them on the home 2 quarters they can hunt and at the end of the day we are going to go fix fence. That is considered consideration and then I have to report that and then I am in violation, because I don't have a guide license. Roger replied that you had to go down farther on the bill to give the definition of an outfitter, what you are talking about is a definition of consideration. On page 3 describes guides -- an guide is an individual who is employed or contracted by licensed outfitter who helps the outfitter furnish personal services for the conduct of outdoor recreational activities directly related to the conduct of activities for which the employing outfitter is licensed. On page 4 is the definition of an outfitter -- an outfitter means an individual who will engage in any acts enumerated in this section in any manner

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Page 6 Senate Appropriations Committee Bill/Resolution Number HB 1050 Hearing Date March 26, 2003

advises or otherwise holds the individual business operation out to the public for hire for consideration (doesn't necessary have to be cash--could be something else). First of all you have to hold yourself out (business operating to the public) for hire, for consideration meaning there is a charge for it. Senator Krauter continued with questions regarding the guides and outfitters charges and the changes. Roger continued to explain the differences and what consideration means, the new license fees and how they are broken up. He also continued to explain that a guide/outfitter had to advertise and charge for his services before he has to purchase a license. A landowner that is just showing a hunter where to hunt, etc, is not considered a guide/outfitter unless he has advertised and is charging the person to use his land, etc. If you (the landowner) does not ask for any payment, but the individual using the land offers the landowner something then the landowner is not considered a guide/outfitter, the landowner would have to ask for payment in order to be considered a guide/landowner. Senator Krauter wanted to know how this would be enforced and Roger explained that there were ways of finding out if they were charging or not by bank records, etc. Senator Krauter (#1938) wanted to know on Page 19, line 6, item number 4. He wanted to know about the wording--"a person must hold a hunting guide license for 2 years to be eligible to apply for a hunting outfitter license." You stated that I could get one, I have to wait two years before I can get one. Roger replied that there is a provision that allows you to make a one time election as soon as the law goes into effect whether they want to be a guide/outfitter without having to wait the 2 year. Question asked if this is a grandfather clause and the answer was yes. Senator Bowman (#2106) He expressed fears on this bill since everyone here seems to be reading it differently and he wondered how the Game and Fish would be able to regulate it. He also expressed fears that this bill would make so many regulations that

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Page 7
Senate Appropriations Committee
Bill/Resolution Number HB 1050
Hearing Date March 26, 2003

it would run guides/outfitters out of the state. He was also afraid that too many would become angry at the Game & Fish, because they might read the law one way and others read it another, the idea is to grow the state, but if there are too many laws and regulations., then he was afraid that would make people not want to come to the state. Roger replied that the bill originated with the guides and outfitters, this has been worked on by them with the Judiciary B to put this bill together, and the recommended amendment were proposed by the Guides and Outfitters Association, they wanted a more professional outfit and more standards, elevate and create an atmosphere that outfitting and guides was a strong profession, not a fly by night operation. Senator Bowman continued wanting to know if it was the Guides/Outfitters that recommended the \$400.00 for out of states to come in? Roger answered that the state guides and outfitters don't want out of states coming in, certainly because they will be taking their business, but working with the Attorney General they came up with fees according to the constitution. Senator Holmberg (#2466) wanted to continue on the fiscal impact of the bill. Guides and outfitters were together under old bill and they paid \$100.00 and now under the new bill they separated them out and suggesting that an outfitter will pay \$250.00 (that is an increase) and if you are a guide and want to remain a guide, you can continue to pay the \$100.00 and you work under an outfitter who has paid the \$250.00. He wanted to know what other impacts? Roger responded that the fiscal impact would involve the license for the outfitter, base fee is \$250 for 5,000 acres., for every additional 5,000 acres that he has in his operation, he pays an additional \$100.00. Senator Holmberg asked if the fiscal note 3/25/03 says there is \$40,000 impact during the biennium which includes the amendments that were put on by the House, so an impact of \$40,000 of revenue that goes into the general fund of Game & Fish. Questions continued regarding guides

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Page 8
Senate Appropriations Committee
Bill/Resolution Number HB 1050
Hearing Date March 26, 2003

and outfitters and the fees charged and when you are a guide/outfitter and when you are not considered one. If you charge money for your services you are considered a guide and/or outfitter, otherwise you are not.

David Munsch (#2988) landowner from Morton County, no written testimony. He spoke in favor of HB 1050. He thought part of the bill should include a coast-guard license. He also stated that some of these guys charge \$3000 plus or minus to shoot a deer in this state, outfitters or guides, whatever you want to call them. South Dakota has the same problem, most hunters can't afford the fees to hunt. There is a outfitter in Montrail County who has people who will pay \$5,000 or \$6,000 to shoot pheasants. He didn't think \$400 was too much to charge for out of states, he thought that amount was pocket change to them. Senator Holmberg clarified David's testimony in that the coat-guard license would be another committee's responsibility and that the \$400 out of state fee was really pocket change to them and not a wall to keep people out. David agreed, especially when they charge such high fees to shoot a deer.

Senator Lindaas (#3440) Are there some who can't afford those fees, are we building a fence so that only the wealthy can hunt? David responded that there is public land that they can hunt on. Dennis Daniel (#3532), written testimony, is in favor of HB 1050. He has done most of his big game hunting in Montana, because of family. In Montana, if you use the services of a guide who is not registered, you run the risk of being in violation, Montana does not allow anyone who is not registered and licensed by the state to operate there. This is also stated on the licenses to hunt that it is against the law and that if you use those services who do not have a license you are in violation also. You have to pass the requirements in Montana to get a license to be a guide or outfitter which are pretty tough.

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Page 9
Senate Appropriations Committee
Bill/Resolution Number HB 1050
Hearing Date March 26, 2003

Senator Bowman (#3914) Is there a statewide organization for the guides and outfitters?

Dennis replied that he didn't know, he was just a citizen. He gets some magazines, etc that have lists of guides and outfitters across the country. He feels that the state is trying to be just like all of the others.

Hearing on HB 1050 was closed: (#4279)

Motion by Senator Mathern, seconded by Senator Thane for a DO PASS on HB 1050.

Discussion:

Senator Krauter (#4305) Concern expressed regarding the people in his area regarding the licensing.

Senator Bowman expressed his concerns regarding the principals of the bill..

Senator Andrist expressed his concerns regarding the money.

Senator Kilzer expressed his concerns about the local people who might put an ad in the paper for his farm and hunting.

Motion by Senator Mathern for a DO PASS, seconded by Senator Thane. Roll call vote taken, which is attached. Vote was 7 for and 7 against. Motion by Senator Thane seconded by Senator Grindberg for a WITHOUT COMMITTEE RECOMMENDATION. Roll call vote taken, 10 y 4 n and 0 absent. Motion carried. Floor assignment will be Sen. Heitkemp.

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Poli Call Vote #: /

### 2003 SENATE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. /050

Senate Appropriations				Com	mittee
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Date: 3/26
Roll Call Vote #: 2

## 2003 SENATE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. /050

Senate Appropriations		···		Committee
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f the vote is on an amendment, brief	Iv indicat	e intent:		

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REPORT OF STANDING COMMITTEE (410) March 26, 2003 10:24 a.m.

Module No: SR-54-5787 Carrier: Heltkamp insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1050, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING), Engrossed HB 1050, as amended, was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-54-5787

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2003 HOUSE NATURAL RESCURCES

Conference committee

HB 1050

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#### 2003 HOUSE STANDING COMMITTEE MINUTES

#### **BILL/RESOLUTION NO. 1050**

House Natural Resources Committee

Conference Committee

Hearing Date April 3, 2003

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#### Minutes:

Chair Nelson called the conference committee to order.

Sen. Fischer: We took out the landowner as an exception and returned it to an outfitter. The idea was to go to conference committee and figure out how to address the landowner so they have protection in case of liability. I took the language out in order to let you define it. How do we prevent losing the farm. We did amended the bill and put the Attorney General's language in.

Rep. Norland: We have the hunters sign a contract so I am free and clear of all liability. It helps but, it still does not matter.

Sen. Fischer: It does not protect the insurance company.

Chair Nelson: The question is do we give them a full exemption or a requirement for proof of insurance.

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House Natural Resources Committee Bill/Resolution Number 1050 Hearing Date April 3, 2003

Sen. Fischer: Farmers know they have liability insurance, but it is farm liability.

Chair Nelson: That is a valid concern because some people believe that they have a policy, that it is all encompassing. They need to check on weather or not fee hunting is excluded. The next section has changed rather substantially. The definition between resident and nonresident.

Rep. Norland: Originally we would have made it illegal for guides licenses to be purchased by nonresidents.

Sen. Fischer: That was unconstitutional. We felt that nonresidents should pay significantly higher fees than residents.

Chair Nelson: Asked about changes in the requirements to guides and outfitters. The change would be to require them to have hunted.

Sen. Fischer: The persons and individual part is just cleaning up the language. Persons can be made to mean groups.

Chair Nelson: You amended the bill to put language from HB 1048 back into the bill concerning written examinations. The bill was killed in the house.

Sen. Every: I like that language. Why did the house kill it?

Chair Nelson: I think the reason was that we were satisfied with the reporting requirements, background search, and the bonding.

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Page 3 **House Natural Resources Committee** Bill/Resolution Number 1050 Hearing Date April 3, 2003

Rep. Norland: I think one concern was that we issue many state licenses and do not require proof that they are experienced in doing it. We do not require liquor license holders to prove they can pour drinks etc.

Sen. Every: Those do not have to keep up with a yearly proclamation.

Sen. Fischer: I would like to know that they know what they are doing. We are talking firearms.

Sen. Every: Those operators that have integrity will not have a problem with it. It is the fly by night operators that will.

Roger Rosvitt: Clarified the game and fish position concerning retesting. We only want to test them once and have a renewal process.

Adjourned.

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#### 2003 HOUSE STANDING COMMITTEE MINUTES

#### **BILL/RESOLUTION NO. 1050**

House Natural Resources Committee

☐ Conference Committee

Hearing Date April 8, 2003

Tape Number	Side A	Side B	Meter#
1	xx		574-end
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nittee Clerk Signature	you My	-	

Minutes:

Chair Nelson reconvenes the Conference Committee on HB 1050.

Chair Nelson: Proposed adding another \$250 to a license if there is more than 10,000 acres. In addition have them report to the county the number of acres they lease.

Sen. Fischer: Introduced an Amendment to strike on pg. 17 line 18-25. Seconded by Sen.

Tollefson. Passed by Voice Vote.

Chair Nelson: The day leasing part of the bill is an important issue our vice-chairman put a great deal of effort into.

Rep. Porter: Pointed out the intent to look at the bill from the position impact. Pointed out the number of owners buying up blocks of land. We are looking at a way to measure at the impact of any one operator. The day leasing permit is a one time purchase.

Chair Nelson: How do we handle reporting for the landowner?

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Page 2 House Natural Resources Committee **Bill/Resolution Number 1050** Hearing Date April 8, 2003

Sen. Fischer: The problem is enforcement is going to be impossible. Some will be honest with us other will not.

Dean Hildebrand: Commented that the only concern the department has is trying to measure the amount of land being tied up.

Sen. Every: Expressed concern over the burden being placed on landowners.

Sen. Fischer: Maybe the only thing we need to do is ask the outfitter how many acres they leased in any one year.

Chair Nelson: Question changes made to the provisions for transferring licenses.

Sen. Fischer: We took the transferability of the licenses out. Because we do not need it after taking the cap off.

Sen. Fischer (5600: We did do some research and the insurance companies do have provisions for hunting.

Chair Nelson: Brought up the 7 day statewide license and will propose an amendment next meeting.

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#### 2003 HOUSE STANDING COMMITTEE MINUTES

#### **BILL/RESOLUTION NO. 1050**

House Natural Resources Committee

Conference Committee

Hearing Date April 10, 2003

Tape Number	Side A	Side B	Meter#
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nmittee Clerk Signa	ture Cau Mya		

Minutes:

Chair Nelson called the conference committee on HB 1050 to order. Introduced an amendment.

The amendment would remove the seven day license. The amendment would also changes the fee for acreage leased over 10,000.

Sen. Fischer moved the amendment, seconded by Sen. Tollefson.

Sen. Every: Expressed concern about striking the 7-day license. In addition expressed concerns about the landowner reports.

Chair Nelson closed the hearing.

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Prepared by the Legislative Council staff for Representative Nelson April 9, 2003

#### Conference Committee Amendments to Engrossed HB 1050 - 04/10/2003

That the Sensie recede from its amendments as printed on pages 1099 and 1100 of the House Journal and pages 974 and 975 of the Senate Journal and that Engrossed House Bill No. 1050 be amended as follows:

Page 1, line 3, after the second comma insert "20.1-03-07.1,"

Page 1, line 5, after "outfitters" insert "and nonresident waterfowl hunters"

#### Conference Committee Amendments to Engrossed HB 1050 - 04/10/2003

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

Page 4, line 13, replace "the 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

#### Conference Committee Amendments to Engressed HB 1050 - 04/10/2003

Page 12, after line 19, insert:

"SECTION 3. AMENDMENT. Section 20.1-03-07.1 of the North Dakota Century Code is amended and reenacted as follows:

20.1-03-07.1. Nonresident waterfowl hunting license required. Except as provided in sections 20.1-03-07.2 and 20.1-03-07.3, a nonresident may not hunt waterfowl unless that person individual first obtains a nonresident waterfowl hunting license, in addition to a nonresident small game hunting license. The nonresident waterfowl hunting license entitles the nonresident to hunt waterfowl for any period of fourteen consecutive days, any period of seven consocutive days, or any two periods of seven consecutive days each. A license authorizing the fourteen-day hunting period allows hunting in a specified waterfowl hunting zone. A license authorizing one 7 day hunting period allows hunting statewide. A license authorizing two 7-day hunting periods allows hunting in a specified zone during each period. The governor, in the governor's proclamation, shall specify various waterfowl hunting zones for which nonresident waterfowl hunting licenses will be available, and may specify the number of licenses which may be issued in each zone and the manner in which they are to be issued. A nonresident is entitled to purchase only one nonresident waterfowl hunting license per year.

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Conference Committee Amendments to Engrossed HB 1050 - 04/10/2003

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

Page 17, line 19, replace "the first five" with "under ten", replace "2023.43" with "4046.86", replace "one" with "five", and remove "every"

Page 17, line 20, replace "additional five" with "ten", replace "2023.43" with "4046.86", after the closing bracket insert "and over", and replace "guides" with "provides services"

Page 17, remove line 21

page 17, line 22, remove "this section," and replace "and legally defined" with "by the county with a list of lessors by county"

Page 17, line 23, remove "For the purposes of this section, "legally defined""

Page 17, remove line 24

Page 17, line 25, remove "outline." and after the second underscored period insert "The acreage day leased by county for the preceding year must be provided to receive a day leasing permit."

Page 17, line 28, after the underscored period insert "The director shall determine the number of acres by county exempted from licensure by this subsection and shall publish the results. The director shall provide written information to the public on the possible liability exposure for outfitting under this subsection and on the benefits of liability insurance and proper training."

#### Conference Committee Amendments to Engrossed HB 1050 - 04/10/2003

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 78, line 26, remove "a resident"

Page 18, line 27, remove "and"

2 of 4

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Conference Committee Amendments to Engrossed HB 1050 - 04/10/2003

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 quilt 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."

Conference Committee Amendments to Engrossed HB 1050 - 04/10/2003

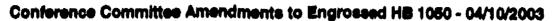
Page 20, remove lines 1 and 2

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document being filmed.



Page 21, line 7, replace "Another" with "Notwithstanding chapters 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"

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Page 21, remove lines 28 and 29

Renumber accordingly

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Adopted by the Conference Committee April 14, 2003

## Conference Committee Amendments to Engrossed HB 1050 - 04/15/2003

That the Senate recede from its amendments as printed on pages 1099 and 1100 of the House Journal and pages 974 and 975 of the Senate Journal and that Engrossed House Bill No. 1050 be amended as follows:

Page 1, line 3, after the second comma insert "20.1-03-07.1,"

Page 1, line 5, after "outfitters" insert "and nonresident waterfowl hunters"

## Conference Committee Amendments to Engrossed HB 1050 - 04/15/2003

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

## Conference Committee Amendments to Engrossed HB 1050 - 04/15/2003

Page 12, after line 19, insert:

"SECTION 3. AMENDMENT. Section 20.1-03-07.1 of the North Dakota Century Code is amended and reenacted as follows:

20.1-03-07.1. Nonresident waterfowl hunting license required. Except as provided in sections 20.1-03-07.2 and 20.1-03-07.3, a nonresident may not hunt waterfowl unless that person individual first obtains a nonresident waterfowl hunting license, in addition to a nonresident small game hunting license. The nonresident waterfowl hunting license entities the nonresident to hunt waterfowl for any period of fourteen consecutive days; any period of seven consecutive days each. A license authorizing the fourteen-day hunting period allows hunting in a specified waterfowl hunting zone. A license authorizing two 7-day hunting periods allows hunting in a specified zone during each period. The governor, in the governor's proclamation, shall specify various waterfowl hunting zones for which nonresident waterfowl hunting licenses will be available, and may specify the number of licenses which may be issued in each zone and the manner in which they are to be issued. A nonresident is entitled to purchase only one nonresident waterfowl hunting license per year."

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## Conference Committee Amendments to Engrossed HB 1050 - 04/15/2003

- 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 "fee" insert 'for a resident"
- Page 17, line 19, replace "the first live" with "under ten", replace "2023.43" with "4046.86", replace "one" with "five", and remove "every"
- Page 17, line 20, replace "additional five" with "ten", replace "2023.43" with "4046.86", after the closing bracket insert "and over", replace "quides" with "provides services", and after the underscored period insert "The annual fee for a nonresident to receive a hunting outfitter license is two thousand dollars."
- Page 17, remove line 21
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- Page 17, line 28, after the underscored period insert "The director shall determine the number of acres by county exempted from licensure by this subsection and shall publish the results. The director shall provide written information to the public on the possible liability expressed or outfitting under this subsection and on the benefits of liability insurance and proper training."

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Operator's Signature Kickford

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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 quilt, a guilty plea, a plea of no contest, a plea of noto 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."

Conference Committee Amendments to Engrossed HB 1050 - 04/15/2003

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Orderátor's Signature



## Conference Committee Amendments to Engrossed HB 1050 - 04/15/2003

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

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

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Renumber accordingly

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REPORT OF CONFERENCE COMMITTEE (420) April 15, 2003 1:20 p.m.

Module No: HR-68-7761

Insert LC: 30105.0405

REPORT OF CONFERENCE COMMITTEE

HB 1050, as engrossed: Your conference committee (Sens. Fischer, Tollefson, Every and Reps. Nelson, Norland, Hunskor) recommends that the SENATE RECEDE from the Senate amendments on HJ pages 1099-1100, adopt amendments as follows, and place HB 1050 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1099 and 1100 of the House Journal and pages 974 and 975 of the Senate Journal and that Engrossed House Bill No. 1050 be amended as follows:

Page 1, line 3, after the second comma insert "20.1-03-07.1,"

Page 1, line 5, after "outfitters" insert "and nonresident waterfowl hunters"

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

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

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Page No. 1

HR-68-7761

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REPORT OF CONFERENCE COMMITTEE (420) April 15, 2003 1:20 p.m.

Module No: HR-68-7761

Insert LC: 30105.0405

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 "fee" insert "for a resident"

Page 17, line 19, replace "the first five" with "under ten", replace "2023.43" with "4046.86", replace "one" with "five", and remove "every"

Page 17, line 20, replace "additional five" with "ten", replace "2023,43" with "4046,86", after the closing bracket insert "and over", replace "guides" with "provides services", and after the underscored period insert "The annual fee for a nonresident to receive a hunting outfitter license is two thousand dollars."

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Page 18, line 26, remove "a resident"

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Page No. 2

HR-68-7761

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10/2/03 Date

REPORT OF CONFERENCE COMMITTEE (420) April 15, 2003 1:20 p.m. Module No: HR-68-7761

Insert LC: 30105.0405

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

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Page 21, remove lines 28 and 29

Renumber accordingly

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Engrossed HB 1050 was placed on the Seventh order of business on the calendar.

Page No. 3

HR-68-7761

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10/2/03 Date

2003 TESTIMONY

HB 1050

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Operator's Signature

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# Cass County WILDLIFE CLUB

Box 336 Casselton, ND 58012



TESTIMONY OF HAROLD NEAMEYER

CASS COUNTY WILDLIFE CLUB

PRESENTED TO THE HOUSE NATURAL RESOURCE COMMITTEE

ON HB 1050, JANUARY 16, 2003

Mr. Chairman and Nambers of the Committee:

I am Harold Neameyer speaking on behalf of the Cass County Wildlife Club. The Cass County Wildlife Club supports HB 1050. This bill sets out limits on the number of guides and outfitters - action we feel is necessary. It also puts into place rules and regulations to make guides and outfitters responsible for their actions.

This Bill provides for stricter compliance and increased enforcement of these laws.

Separating guides and outfitters is supported in that reputable outfitters must hire guides of good moral character. Questionable behaving guides can be released for cause. Outfitters operating shoddy businesses can lose their license. No one can act as a guide/outfitter without a license.

Overall, the Cass County Wildlife Club supports HB 1050 as an improvement for the benefit of all interested in wildlife, hunting and fishing.



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"VARIETY IN HUNTING AND FIGHING

100 NORTH BISMARCK EXPRESSWAY BISMARCK, NORTH DAKOTA 58501-5065 PHONE 701-329-6300 FAX 701-328-6362

# HOUSE BILL NO. 1050 HOUSE NATURAL RESOURSE COMMITEE January 16, 2003

The guiding and outfitting industry has experienced tremendous growth during the past decade. This rapid growth has pointed out the need for at least minimal requirements and regulations for those involved. This is not because, as a whole the industry run rampant with misconduct and someone needs to be punished, but because this is a growing industry that is conducted using a public resource, wildlife; and because it is held out to the public as a legitimate activity with a certain level of expected services.

It appears the public wants certain assurances of the guiding and outfitting industry: 1. That the game laws of this State are followed. 2. That if those laws are not followed, then reasonable actions will be taken to assure that these activities do not become repetitious activities. 3. That those individuals using these services, including guests from across the nation are treated fairly and honestly. And finally, the assurance that those engaged in this activity are at least minimally skilled, regulated, and governed by professional standards. We believe that this bill addresses these issues.

This Bill is quite long and deals with numerous sections of law, so it is not unexpected that, upon close scrutiny that minor clarifications and rewording may be necessary. These suggestions are attached and we would be glad to provide further clarifications if desired. The North Dakota Game and Fish Department urges a **DO PASS** recommendation on HB 1050.

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### HB 1050

Page 2 after line 6 insert "Consideration" means something of value given or done in exchange for something of value given or done by another.

Page 3 line 5 after employed insert " or contacted"

Page 4 line 6 after hire "or consideration or" before maintains change and to "or".

Page 4 line 7 after compensation "or consideration"

Page 4 line 8 change and to "or"

Page 4 line 4 This definition should not include motels, bed and breakfast operations whose main business is offering food and lodging to the general public; chamber of commerce activities, travel agencies or others that offer information free to attract outdoor recreation use of their communities.

Page 18 line 4 eliminate fee

Page 18 line 7 after and delete "of good moral character and temperate habits" insert "and not otherwise prohibited"

Page 18 line 20 after years" add, or whose license to hunt or fish is under suspension or revocation"

Page 18 line 27 change shall to may

Page 19 line 9 after business. "All records, facilities, and equipment kept or used by the outfitter shall be open to inspection by the director or game warden.

Page 19 line 22 after probation "by the Director"

Page 20 line 1 delete "habitual"

document being filmed.

Page 20 line 8 delete "while afield"

Page 20 line 27 after misdemeanor. "Each client guided is a separate and distinct offense."

Page 20 line 30 after person. "Any person guiding or outfitting while under suspension, revocation, or denial is guilty of a class A misdemeanor. Any individual that for remuneration or compensation commits a fraud against another involving hunting or fishing, or illegally takes or causes the death of fish or wildlife for remuneration or compensation may be prosecuted under 12.1 NDCC for theft, fraud or conspiracy based on the actual money or compensation received or the value of the fish or wildlife illegally killed or taken, whichever is higher.

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# North Dakota Professional Guides and Outfitters Association

January 16, 2003

## **House Natural Resource Committee**

Positions of the North Dakota Guides and Outfitters Association regarding HB 1048, HB 1049, and HB 1050.

- HB 1048

NDPGOA Supports a do pass recommendation. It is in our belief that additional testing will help ensure that licensed guides are knowledgeable in Game and Fish laws, a significant aspect to conducting a professional guide service.

We do ask, why is fishing guiding not included?

-HB 1049

NDPGOA supports a do pass recommendations. We strongly believe that all records needed with important information regarding the business client list and contract information is private and damaging if able to be viewed by others under the open record laws.

<u>-HB 1050</u>

NDPGOA supports a do pass recomadation, if certain segments of the bill were better defined and amended as follows:

Page 4, line 4, section 23: Better define outfitter as to not include motel owners, etc.

Page 16, line 31: We request Hunting guide annual fee to remain at \$100.00

Page 17, line 1: replace fishing guide, with fishing outfitter.

Page 17, line 8: Replace fee with required.

Page 17, line 15: We believe that this entire bill hinges of the value of becoming an Outfitter. Thus, we strongly oppose not allowing outfitter licenses to be transferable. Establishing a well run profitable outfitting business should have the opportunity to be sold to others. We agree that the buyer must qualify as per rules to become an outfitter.

Page 18, line 9, section 2: Add fishing outfitter.

Page 18, line 19, section 5: Add to section, any one under suspension.

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10/2/03 Date

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Page 19, lines 1, section 2: delete or better define "including each transaction" What does the director need this information for?

Page 19, line 12, section 5: Addition of fishing outfitters? Do fishing outfitters need to take a test?

Page 19, line 17, section 6: We request this section deleted, our organization oppose any cap on outfitters.

Page 20, line 6, section 2: Replace "must", with "may".

Page 20, line 14, section 3: remove due to the unfairness and enforcement issues.

Thank you for your time and consideration on these important issues and legislation

I can be reached at 701-739-9616 or 701-662-5996 if the committee members need any assistance from our association.

Kyle Blanchfield President, NDPGOA Lobbyist, NDPGOA

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## Convention & Visitors Bureau

January 16, 2003

Mr. Chairman and members of the committee:

My name is Terri Thiel and I am the Executive Director of the Dickinson Convention & Visitors Bureau.

I am not in favor of House Bill No. 1050. While the Dickinson Convention & Visitors Bureau does support the regulation of any professional organization or agency, it does not support the idea of applicant limitations of any sort pertaining to a profession.

This society is founded on supply and demand, whether it is goods or services. Earl Nightingale related the story of a couple that found a community that they wanted to live in. They looked for work, but no one would give them a job. Instead of thinking of what service they could provide to their community, they wanted someone to give them a job. Here in North Dakota, we have individuals who also want to live in their rural communities that have used their heads and have decided that they would provide a service that would allow them to stay. They have become the energetic entrepreneurs that our local and state leaders are trying to encourage to sustain and grow our state.

To limit the number of professional individuals providing a service within our private economic sector is offensive. And I would think it would be offensive to any veteran who has served in our armed forces.

I wonder what a father would tell his son who is contemplating opening his own private business? "Son, I think you need to first check with the State to see if they have any openings in that profession." The idea you can be anything you want to be when you grow up would need to be rephrased in North Dakota.

There are many excellent ideas in this bill that assist the guides and outfitters in becoming a recognized professional organization. However, limitation of licensing is not one of them.

Sincerely,

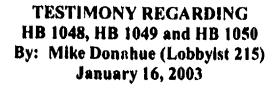
Terri Thiel

**Executive Director** 

72 East Museum Drive Dickinson, North Dakota 58601 Web Site: www.dickinsoncyb.com Phone: (701) 483-4988 (800) 279-7391 Fax: (701) 483-9261 E-mail: cvb @ dickinsoncvb.com

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## ND House Natural Resource Committee

On behalf of the United Sportsmen of North Dakota and the ND Wildlife Federation, we would like to thank the Judiciary Interim B committee for their dedication and hard work on these matters.

The organizations support the objective of HB 1048. Please note that "fishing" must be included. We support a DO PASS.

HB 1049: We support a DO PASS. We agree with the Guides and Outfitters Association.

We generally concur with the Guides and Outfitters support of this bill however, bear in mind that "access" is the umbrella to many of these issues. The more commercialization of the taking of fish and game – the more limiting access to the general (taxpayer) hunting public. The resource belongs to the public.

Exceptions we have with the G&O position are:

- 1. Page 16, line 31: The guide license fee should remain \$200.00 (two hundred).
- 2. Page 17, line 8: We suggested and the G&O's concurred that the word "Fee" should be replaced with the word "Required".
- 3. Page 19, line 17: The two hundred should be reduced to one hundred or one hundred and fifty. We are also willing to re-look at a sliding scale.
- 4. Page 20, lines 14-19: Leave them in the bill. It may be possible to expand this portion so that low-level misdemeanors are excluded.
- 5. Page 20, line 6: Change the word "must" to "may".
- 6. Pages 15 and 16: All license fees should be increased.

## Further Comment:

We believe that capping the number of outfitters and acreage that can be leased is necessary. For example, if 200 outfitters leased 20,000 acres each, the four million acres will be generally locked out of the reach of average income hunters.

Also, last session, there was discussion of G&O's not carrying a weapon when afield with clients. We do not see the necessity of a guide carrying a weapon while afield with a client.

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## PROPOSED AMENDMENT TO HB 1050

Page 2, after line 6, insert

- "7. "Consideration" means something of value given or done in exchange for something of value given or done by another
- 8. "Day leasing" means the practice of an outfitter entering a short-term lease agreement that is intended to and does last less than twenty-four hours.

<u>9."</u>

Note: NDCC 41-03-29 says:

"Consideration" means any consideration sufficient to support a simple contract. The drawer or maker of an instrument has a defense if the instrument is issued without consideration. If an instrument is issued for a promise of performance, the issuer has a defense to the extent performance of the promise is due and the promise has not been performed. If an instrument is issued for value as stated in subsection 1, the instrument is also issued for consideration."

Page 3, line 5 after "employed" insert "or contracted"

Page 3, line 5, after "to" insert "help the outfitter", remove "to"

Page 4, line 6, after "hire" insert "or consideration", replace "and" with "or"

Page 4, line 7, replace "compensation" with "consideration"

Page 4, line 8, replace "and" with "or"

Page 4, line 14, after period insert "Owner does not include those holding title or equitable interest in business operations whose primary purpose 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 16, line 31, replace "two" with "one"

Page 17, line 4, replace "two hundred dollars if the" with "two hundred fifty dollars for the first five thousand acres and one hundred dollars for every additional five thousand acres on which the outfitter guides. Said acreage must be presented and legally defined in every application for outfitter licensure. For the purposes of this section, "legally defined" includes a copied county atlas map that identifies the subject land by a distinguishing outline. The permit fee for a day lease is twenty-five dollars that shall accompany a form provided by the department. A day permit is required for each hunting group."

Page 17 remove lines 5 through 7

Page 17, line 8, replace "fee" with "required"

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Page 17, line 9, after "owns" insert "or leases" and after "interests" insert "or a nonprofit organization registered with the secretary of state"

Page 17, line 15, replace "is not" with "may be" and after "transferable" insert "upon approval of the director"

Page 18, line 7, remove "and of good moral character and temperate"

Page 18, line 8, remove "habits"

Page 18, line 17, replace "five" with "two"

Page 18, line 20, after "years" insert "or whose license to hunt or fish is under suspension or revocation"

Page 18, line 27, replace "shall" with "may"

Page 19, remove lines 1 through 7

Page 19, line 9, after the period insert "All records, facilities, and equipment kept or used by the outfitter shall be open to inspection by the director or game warden."

Page 19, line 17, replace "license" with "issue", after "more" insert "licenses", after "than" insert "the number of applications received the previous year so that the number of licenses provided in the fourth annual issuing following the year that this statute is enacted shall be established as the number of licenses that may annually be provided for future years"

Page 19, line 17, remove "two hundred hunting outfitters at one time"

Page 19, line 22, after "probation" insert "by the director"

Page 20, line 1, remove "habitual"

Page 20, line 6, replace "must" with "may"

Page 20, line 8, remove "while afield"

Page 20, line 14, after the second "the" insert "intentional", after the second "of" insert "state or federal criminal law pertaining to hunting, fishing, or trapping"

Page 20, line 15, replace "or" with "and", remove "the violation"

Page 20, line 16, after "knows" insert "that a guide has knowingly violated a state or federal criminal law pertaining to hunting, fishing, or trapping"

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Page 20, line 27, after the period insert "Each client guided is subject to separate and distinct offense."

Page 20, line 30, after the period insert "Any person guiding or outfitting while under suspension, revocation, or denial is guilty of a class A misdemeanor. Any individual who commits for remuneration or compensation an act of fraud involving hunting or fishing and any individual who illegally takes or causes death to fish or wildlife for renumeration or compensation may be prosecuted for theft, fraud, or conspiracy under title 12.1 of the North Dakota Century Code and is upon conviction liable for the higher amount between the actual compensation received or value of the fish or wildlife illegally taken or killed.

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## TESTIMONY BEFORE THE SENATE NATURAL RESOURCES COMMITTEE REGARDING ENGROSSED HOUSE BILL 1050

Paul C. Germolus, Assistant Attorney General, Natural Resources and Indian Affairs Division Office of Attorney General

March 13, 2003

My name is Paul Germolus. I am an Assistant Attorney General with the Natural Resources Division of the Office of Attorney General. I appear today on behalf of the North Dakota Game and Fish Department, and not on behalf of the Attorney General. I testify on the Department's behalf in a neutral position on Engrossed House Bill No. 1050. I have provided proposed amendments to the Committee and will provide a summary of the proposed amendments.

Page 4, Line 12. This proposed amendment changes the definition of outfitter to require that it be an "individual" rather than a "person". "Person" is already defined in section 1 of the Act, and includes not only natural persons or "individuals", but also corporations, limited liability companies and other forms of business structure. No doubt that at least some outfitters will choose to do business as an organized business structure, but the proposed amendment reflects only an "individual" or natural person may be a licensee. This intention is further reflected by the fact that only an individual seeking licensure would be able to meet the experience requirement, pass a proficiency examination on hunting or fishing laws, or possess the requisite criminal culpability for prosecution of a violation of the Act. The proposed amendments contain additional changes from "person" to "individual" that are intended to have the same affect. For purposes of brevity, I will not discuss those similar changes.

Page 4, Line 18. This proposed amendment is a technical correction that corrects an error made during the engrossing process. On February 10, 2003, the House Natural Resources Committee adopted proposed amendments to House Bill 1050 that included an addition to the definition of "outfitter". The amendment was inadvertently added to the definition of "owner" rather than "outfitter".

Page 17, Lines 14-18. These proposed amendments would amend section 6 of the Bill relating to license fees for guides and outfitters. The amendments do not change guiding or outfitting license fees for residents, but add new license fees for nonresidents. A nonresident hunting guide license would be \$400.00. A nonresident fishing outfitter license would be \$400.00. If an individual seeking a nonresident fishing cutfitter license were already licensed as a hunting guide or outfitter for that same year, then the nonresident fishing outfitter license would be \$200.00. The annual fee to receive a nonresident hunting outfitter license would be \$2,000.00.

Page 18, Lines 5-6. This proposed amendment would remove the requirement that each licensed guide and outfitter must pay the Department a renewal fee before January 1<sup>st</sup> of each year. As the Bill is written, no penalty exists for filing a license application after January 1<sup>st</sup>, and the renewal fee is equal to the fee for a new license. As a practical matter, outfitters and especially seasonal guides working for them may not know by January 1<sup>st</sup> of each year whether they will be providing guiding or outfitting services during the following fall hunting season. This amendment would further allow the Department to spread out the licensing application and background check process,

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and further avoid processing a large amount of applications during the busy fall-winter hunting and holiday season.

Page 18, Lines 26-27. This proposed amendment would alter section 8 of the Bill relating to a licensee's qualifications by removing the requirement that an applicant be a resident of the State of North Dakota. While removing only 3 words from the Bill, this proposed amendment is a substantive change with the greatest impact. Although not all 50 states require a license for guiding and outfitting activities, North Dakota remains only 1 of only 2 states that renders nonresidents ineligible for a guide or outfitter's license. Two other states, Montana and Wyoming, previously did not allow nonresidents to provide guiding or outfitting services. Those states' laws have since been struck down by their respective state supreme courts. While those decisions are not binding on North Dakota, the Game and Fish Department is presently a party in a declaratory judgment action seeking to uphold the constitutionality of North Dakota's restriction on nonresident guides and outfitters. It is the policy and practice of the Attorney General's Office not to discuss matters related to active litigation. But the Game and Fish Department would ask the Committee to consider the effect of an adverse court decision as a means to resolve issues related to the active litigation, the Department further asks that the Committee consider proactive legislation to license and regulate both residents and nonresidents should the court ultimately conclude that nonresidents are eligible for licensure.

Page 19, Lines 8-10. Engrossed House Bill 1050 presently provides that the Director may not issue a license to a person who has had a criminal game or fish "violation" in the last 3 years, or whose license to hunt or fish is under suspension or revocation. The proposed amendment seeks to clarify what triggers the Director's requirement to refuse a license when a person has "had a criminal violation". As the amendment proposes, the Director would not be able to issue a license to an individual who has been "convicted" of a criminal game or fish violation. "Conviction" is further defined by the proposed amendment to mean a finding of guilt, a guilty plea, a plea of no contest or nolo contendere, a judgment of conviction with a suspended execution of sentence or a deferred imposition of sentence. The term does not include a finding of guilt overturned on appeal. This proposed amendment would provide clarity for the Department when conducting criminal background searches of license applicants as required by section 9 of the Act.

Page 19, after Line 13. This proposed amendment would insert a new subsection in section 8 of the act relating to eligibility of license applicants. The amendment would require that an applicant for a hunting guide license must have legally hunted for part of each of any 3 years in a manner directly contributing to the individual's experience and competency as a guide. The 3 years of relevant hunting experience need not have necessarily occurred in North Dakota. The purpose of the proposed amendment is to provide for the public safety of guiding and outfitting clients by requiring that guides, who may be as young as 18, have at least some practical field experience in the handling of firearms, hunting, field preparation of meat and trophies and related guiding activities for the species being pursued with paying members of the public. This proposed amendment is similar in purpose to language at Page 19, Lines 6-7 of the Engrossed Bill requiring an individual to hold a hunting guide license for 2 years to be eligible to apply for a hunting outfitter license.

Page 19, Line 17. This proposed amendment is a technical correction that corrects an error that occurred during the engrossing process of House Bill 1050.

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Page 19, Line 18. This proposed amendment incorporates the changes presently proposed in House Bill 1049. It further alleviates potential reconciliation problems between House Bills 1049 and 1050 since the amendments in HB 1049 would be placed in a subsection of the Century Code being repealed by HB 1050. The proposed amendment would protect trade secret or proprietary information that the Director may request for guides and outfitters, and require that such information be provided on separate forms.

Page 19, Line 31. This proposed amendment would qualify the requirement for testing or examination of hunting guides and outfitters. The Director would be required to administer a proficiency examination at least twice a year. However, the examination may not be given within 90 days after the previous examination. This would provide the Department with sufficient time to score examinations and provide test results to applicants, and further alleviate pressure on the Department to re-administer an examination if an applicant failed the last examination given prior to the primary guiding and outfitting season.

Page 21, Line 7. The Act presently prohibits a person from using the "name, place of business, or telephone number" of an outfitter who has committed a violation in the past 3 years, except with permission from the Director. The proposed amendment seeks to broaden the scope of the prohibition. The "name" of an outfitter is ambiguous, and may simply refer to the individual's name rather than the name of the individual outfitters business operation. "Name" could also refer to the identity of an outfitter's corporation as on file with the North Dakota Secretary of State. But such an interpretation would not prohibit another outfitter from using a well-known business "name" if the outfitter committing the violation was doing business as, or holding out to the public under, a fictitious name or trade name. Finally, a prospective outfitter may also be able to assume a well-known internet address or website of an outfitter who has been convicted of a violation. The proposed amendments seek to better capture the intent by broadening the prohibition.

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## ENGROSSED HOUSE BILL 1050 SENATE NATURAL RESOURCES COMMITTEE

Roger Rosvet, Deputy Director North Dakota Game & Fish Department

March 13, 2003

The guiding and outfitting industry has experienced tremendous growth during the past decade. This rapid growth has brought about the need for additional requirements and regulations for those involved. This is not because the industry as a whole runs rampant with misconduct, but because this industry sustains itself by using a limited public resource — wildlife; and because it is held out to the public as a legitimate activity with a certain level of expected services.

Wildlife, as a limited natural resource, is owned by the State in trust for the benefit of the public. Because of this, the public needs certain assurances from the guiding and outfitting industry: 1. that the game and fish laws of this State are followed; 2. that if those laws are not followed, reasonable enforcement action will be taken to assure protection of this public resource, and to discourage similar conduct by others; 3. that individuals paying for these services, including guests from across the nation, are treated fairly and honestly; and finally, to insure that licensees seeking to benefit from our natural resources are skilled, regulated, and governed by professional standards. HB 1050 addresses these issues.

Nonresident are currently ineligible under North Dakota law and HB 1050 to be guides or outfitters. But a new twist has been added to North Dakota's regulation of guides and outfitters. The Department is presently a party in a State district court lawsuit seeking to uphold the constitutionality of the nonresident restriction. The lawsuit involves two nonresidents who own and operate outfitting businesses. Because the nonresident issue is presently in active litigation, it's not appropriate for me to discuss more about the case. If the Committee does have questions, I will defer to the Department's attorney who will also be offering testimony. But as a means to potentially resolve this issue and avoid further litigation, the Department has prepared amendments that would make nonresidents eligible for licensure as guides or outfitters in North Dakota.

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The draft amendments contain differential license fees for residents and nonresidents. The cost of a nonresident guide license is \$400.00, a nonresident fishing outfitter license is \$400.00, and a nonresident hunting outfitter license is \$2,000.00. The differential cost of these licenses versus a resident license is necessary and substantially justified to cover the additional administration and enforcement costs.

As for licensing costs, we know that certain requirements in HB 1050, such as doing a criminal background search and a search for multi-state wildlife violations will cause additional agency expense for fees and considerable staff time. Nonresidents, particularly those that have guided for some time, may have lived, hunted, fished, trapped, and provided guiding or outfitting services in numerous States. Checking and verifying the qualifications and criminal and wildlife violation status will be substantially higher for nonresidents versus residents. For each State listed on an applicant's license application, the Department must check the Federal and State criminal history, and contact that State's wildlife enforcement agency. Even the cost of doing inspections of nonresident outfitters with no permanent North Dakota operations base will require extra manpower costs. These same verifications and background checks for residents can be done instate at minimal cost to the Department.

Although nonresident guides and outfitters are not currently licensed by the State, we do have law enforcement experience dealing with illegal activity by nonresident guides and outfitters. This past fall, a joint State-Federal investigation of a waterfowl outfitter and his guides from a southern State have already cost in excess of \$20,000. And these costs are expected to climb before formal charges are filed. These nonresidents are not being investigated merely for being unlicensed, but for game and fish violations committed by themselves and their clients. Had the individuals involved been located in North Dakota, the costs would have been significantly lower.

In summary, HB 1050 with the Department's proposed amendments will provide safeguards that the public must demand of its natural resource, increase the professionalism that the industry seeks, and try to resolve pending issues regarding current nonresident restrictions. The North Dakota Game and Fish Department urges a "DO PASS"

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## RE: ENGROSSED HOUSE BILL NO. 1050

My name is Arnold Leno. I am here is today on behalf of the North Dakota Professional Guides and Outfitters Association.

The North Dakota Professional Guides and Outfitters Support HB 1050 with a few exceptions.

The proposed fee schedule, which was not presented by the Judiciary B committee, was introduced in sub committee of the Natural Resource Committee on the House side. This schedule appears to pennalize the small and large outfitter. If that small outfitter was able to secure a outfitters license and takes only 7 or 8 clients afield, his cost would be \$450. There are such outfitters in the state.

As for the larger outfitter, what other business in the state of North Dakota pays these kind of fees on a yearly basis. A majority of these outfitters spend many winter weekends traveling the United States and advertising the beauty and resourses of this fine state at a fairly great expense. This is a means of encouraging and promoting economic development in this state. Not to mention the amount of dollars that show up in spending of fees, travel and sales tax. We would propose that the fee schedule in the previous code be the guide line for guides and outfitters.

HB1050 also contains language making it a requirement for guides and outfitters to secure their license prior to Jan. 1 of each year. Since there is presently a bill in the House and Natural Resource Comm. {SB2048} that may not release information concerning non-resident hunter numbers or zones, if it comes to that, until June or July.

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These circumstances would make it difficult to make intellegent business decisions concerning his operations and scope of his fall season. We would propose a later date for such requirement perhaps late spring or early summer.

Another burden placed on the outfitters is the legal land discription list needed to obtain an outfitters license. I guess we are not sure of the function of this list. Trying to compile this list prior to Jan 1 which is the date required to file for the license makes it difficult once again to make proper preparation for business.

These records could be kept by the outfitter since Game and Fish will be able to obtain these records under other new changes to the century code.

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# Testimony HB 1050 Engrossed Senate Natural Resources Committee by Mike Donahue (Lobbyist 215) March 13, 2003

The North Dakota Wildlife Federation and the United Sportsmen of ND support the intent of this bill and recommend a **Do Pass**.

We understand that the bill needs an amendment for the following:

1. Add language that allows nonresident outfitters and guides.

2. Add language that sets a higher cost for licenses for nonresident outfitters and guides.

3. At Page 17, line 26/27/28, add language stating that the owner/lessee of property, whose actions meet the definition of an outfitter, must get an outfitter's license.

4. At Page 19, lines 22/23/24, incorporate the language of HB 1049. Then get rid of HB 1049.

5. Considering the limitation on the number of outfitter licenses after a period of time, we would like to see the following:

a. Strike lines 28 and 29 at Page 21.

b. Keep lines 1 and 2 at Page 20.

Please, a Do Pass as amended for this bill.

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Jalosta Kickford

10/2/03 Date





# Cass County WILDLIFE CLUB

Box 336 Casselton, ND 58012



# TESTIMONY OF HAROLD NEAMEYER CASS COUNTY WILDLIFE CLUB PRESENTED TO THE SENATE NATURAL RESOURCE COMMITTEE ON HB 1050, MARCH 13, 2003

Mr. Chairman and Members of the Committee:

The Cass County Wildlife Club is supportive of HB 1050. The bill in general is positive action to put regulation and enforcement into the business of guides and outfitters. We support the new rules for guides and outfitters and the authority of the director to inspect the business. We believe that overall the outfitter business will be more reputable and respected by customers and the public if this bill passes.

We have mixed emotions about lack of limits on the number of outfitters. We fear the proliferation of outfitters will only speed up the commercialization of the wildlife in North Dakota.

The club suggests that every effort be made to minimize the nonresident outfitters doing business in North Dakota.

All things considered, the Cass County wildlife Club does support the bill.



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