

**JOURNAL OF THE HOUSE - SPECIAL SESSION****Sixty-second Legislative Assembly**

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**Bismarck, November 8, 2011**

The House convened at 8:00 a.m., with Speaker Drovdal presiding.

The prayer was offered by Rev. Kari Bitz, Cord of Three Ministries, Bismarck.

The roll was called and all members were present except Representative Thoreson.

A quorum was declared by the Speaker.

**ANNOUNCEMENT**

**SPEAKER DROVDAL ANNOUNCED** that the House will stand at ease.

**THE HOUSE RECONVENED** with Speaker Drovdal presiding.

**MOTION**

**REP. VIGESAA MOVED** that a committee of two be appointed to escort Miss North Dakota 2011-2012, Ariana Walker, to the podium, which motion prevailed. The Speaker appointed Reps. Martinson and Karls to the escort committee.

**REMARKS OF ARIANA WALKER  
MISS NORTH DAKOTA**

It is an honor to address you this morning during your busy special session.

I know you have important work to do. I've been following the issues you will be dealing with this week and, to be honest, I don't envy you. It is a difficult task and I know I would not want to take this on, but that's why I'm doing into physical therapy and not politics!

However, as your Miss North Dakota, I am a state representative, and I have to be aware of what is going on.

In driving across our great state, I have seen, firsthand, the impact of flooding on my community, Minot, and others. Like you, I have hauled sandbags and moved people back and forth. I am glad you are considering funds to help them re-build their homes and make repairs to local infrastructure.

As the headquarters for the Miss North Dakota Scholarship Organization are in Williston, I have made many trips to the Western part of the state and seen the impact of the oil boom there, from the man camps popping up, to the roads wearing down.

I will also be interested in your decision on the federal health care exchange issue, as I am a pediatric PT student at University of Mary.

In my travels to eastern North Dakota, I have visited to the Ronald McDonald Houses there, and the Children's Miracle Network Hospital at Sanford.

These charities are near and dear to my heart. Ronald McDonald House is my platform, and I want to thank you for the state funding to help launch North Dakota's first dental Caremobile for children this January.

Children's Miracle Network Hospitals is the official charity of Miss America. If I'm fortunate to represent our country, I would promote BOTH organizations, because one helps sick and injured children; the other helps the families of these children by providing food and shelter during long hospital stays.

In closing, I would ask you to think "positive thoughts" for me during my week of competition in Las Vegas starting January 9th. I will compete live on ABC Saturday, January 14th.

We, as North Dakotans, have been in the news spotlight a lot this year. I'm ready to show them what we embody as a state: intelligence, character, hard work, community service, faith, values, and compassion for those in need.

Thank you very much for your time today.

#### MOTION

**REP. VIGESAA MOVED** that the remarks of Ariana Walker, Miss North Dakota, be printed in the Journal, which motion prevailed.

#### ANNOUNCEMENT

**SPEAKER DROVDAL ANNOUNCED** that the House will stand in recess until 12:45 p.m.

**THE HOUSE RECONVENED** pursuant to recess taken, with Speaker Drovdal presiding.

#### ANNOUNCEMENT

**SPEAKER DROVDAL ANNOUNCED** that the House will stand in recess until 6:30 p.m.

**THE HOUSE RECONVENED** pursuant to recess taken, with Speaker Drovdal presiding.

#### REPORT OF STANDING COMMITTEE

**HB 1473: Joint Legislative Redistricting Committee (Rep. Devlin, Co-Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1473 was placed on the Sixth order on the calendar.

Page 4, line 24, replace "twenty-sixth street northeast" with "United States highway 83"

Page 4, line 24, replace the second "twenty-sixth street" with "United States highway 83"

Page 6, line 5, remove "twenty-"

Page 6, line 6, replace "sixth street northeast" with "United States highway 83"

Page 6, line 6, replace "twenty-sixth street" with "United States highway 83"

Page 6, line 25, after "of" insert "business"

Page 6, line 25, after the underscored comma insert "also identified as main avenue."

Page 6, line 25, after "on" insert "business"

Page 7, line 22, remove "the centerline of third street"

Page 7, line 23, remove "southeast, then east on third street until its intersection with"

Page 7, line 24, replace the first "and" with an underscored comma

Page 7, line 24, after "west" insert ", east, and southwest"

Page 8, line 27, after "of" insert "business"

Page 8, line 28, after "94" insert ", also identified as main avenue."

Page 8, line 28, after "on" insert "business"

Page 12, line 20, after "and" insert "Northland."

Page 12, line 21, after "Coburn" insert ", Fort Ransom"

Page 12, line 21, after "Tuller" insert ", Hanson"

Page 12, line 21, remove "and"

Page 12, line 21, after "Elliott" insert ", and Isley"

Page 13, line 26, after the underscored semicolon insert "and"

Page 13, line 27, remove "": and Northland, Fort Ransom, Hanson, and Isley Townships in Ransom"

Page 13, line 28, remove "County"

Page 28, line 16, replace "December 1" with "November 25"

Page 28, line 17, replace "30" with "24"

Page 28, line 25, replace "December 1" with "November 25"

Renumber accordingly

#### **SIXTH ORDER OF BUSINESS**

**SPEAKER DROVDAL DEEMED** approval of the amendments to HB 1473.

HB 1473, as amended, was placed on the Eleventh order of business on today's calendar.

#### **SECOND READING OF HOUSE BILL**

**HB 1473:** A BILL for an Act to authorize the secretary of state to modify election deadlines and procedures; to create and enact two new sections to chapter 54-03 of the North Dakota Century Code, relating to legislative redistricting and staggering of terms of members of the legislative assembly; to repeal sections 54-03-01.8 and 54-03-01.10 of the North Dakota Century Code, relating to staggering of terms of members of the legislative assembly; to provide a statement of legislative intent; and to provide an effective date.

#### **ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 60 YEAS, 32 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Beadle; Bellew; Belter; Boehning; Brabandt; Brandenburg; Carlson; Clark; Dahl; Damschen; Delzer; Devlin; Dosch; Frantsvog; Grande; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Johnson, D.; Johnson, N.; Karls; Kasper; Kelsch, R.; Kempenich; Kingsbury; Klein; Koppelman; Kreidt; Kretschmar; Kreun; Louser; Maragos; Martinson; Monson; Nathe; Owens; Paur; Pietsch; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Trottier; Vigasaa; Wall; Weiler; Wieland; Wrangham; Speaker Drovda

**NAYS:** Amerman; Anderson; Boe; Conklin; DeKrey; Delmore; Froseth; Glassheim; Gruchalla; Guggisberg; Hanson; Hogan; Holman; Hunskor; Kaldor; Keiser; Kelsh, J.; Kelsh, S.; Kilichowski; Klemm; Kroeber; Metcalf; Meyer, S.; Mock; Mueller; Nelson, J.; Nelson, M.; Onstad; Weisz; Williams; Winrich; Zaiser

**ABSENT AND NOT VOTING:** Meier, L.; Thoreson

Engrossed HB 1473 passed.

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#### **FIRST READING OF HOUSE CONCURRENT RESOLUTION**

Reps. Kasper, Bellew, Drovda, Rust and Sens. Andrist, Nodland introduced:

(Approved by the Delayed Bills Committee)

**HCR 3053:** A concurrent resolution urging Congress to clearly limit United States Environmental Protection Agency regulation of hydraulic fracturing under the Safe Drinking Water Act to well stimulation treatments that use diesel fuel as the primary constituent--more than 50 percent diesel fuel by volume--of hydraulic fracturing fluid.

Was read the first time.

#### **MOTION**

**REP. VIGASAA MOVED** that the rules be suspended, that HCR 3053 not be printed, not be referred to committee, but be read in title only, be printed in the Journal, and placed on the

calendar for immediate second reading and final passage, which motion prevailed.

Reps. Kasper, Bellew, Drovdal, Rust and Sens. Andrist, Nodland introduced:  
(Approved by the Delayed Bills Committee)

#### **HOUSE CONCURRENT RESOLUTION NO. 3053**

A concurrent resolution urging Congress to clearly limit United States Environmental Protection Agency regulation of hydraulic fracturing under the Safe Drinking Water Act to well stimulation treatments that use diesel fuel as the primary constituent--more than 50 percent diesel fuel by volume--of hydraulic fracturing fluid.

**WHEREAS**, hydraulic fracturing, a mechanical method of increasing the permeability of rock, thus increasing the amount of oil or gas produced from the rock, has greatly enhanced oil and gas production in this state; and

**WHEREAS**, oil and gas production increases in this state have led to growth in employment and economic development as well as promotion of energy independence for the United States; and

**WHEREAS**, the Energy Policy Act of 2005 uses the term "diesel fuel" more than 40 times and defines "diesel fuel" according to the American Society for Testing and Materials standard specifications for fuel oils; and

**WHEREAS**, the Environmental Protection Agency is being urged to define "diesel fuel" in Section 322 of the Energy Policy Act of 2005 in a different and broader manner than the definition of "diesel fuel" used elsewhere in the Act; and

**WHEREAS**, Section 322 of the Energy Policy Act of 2005 was never intended to subject injection of hydraulic fracturing fluids that contain minute amounts of diesel fuel, typically less than one-tenth of 1 percent by volume, to Safe Drinking Water Act regulation;

**NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:**

That the Sixty-second Legislative Assembly urges the Congress of the United States to clearly limit Environmental Protection Agency regulation of hydraulic fracturing under the Safe Drinking Water Act to well stimulation treatments that use diesel fuel as the primary constituent--more than 50 percent by volume--of the hydraulic fracturing fluid; and

**BE IT FURTHER RESOLVED**, that the Secretary of State forward copies of this resolution to the administrator of the Environmental Protection Agency and to each member of the North Dakota Congressional Delegation.

#### **SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3053:** A concurrent resolution urging Congress to clearly limit United States Environmental Protection Agency regulation of hydraulic fracturing under the Safe Drinking Water Act to well stimulation treatments that use diesel fuel as the primary constituent--more than 50 percent diesel fuel by volume--of hydraulic fracturing fluid.

#### **REQUEST**

**REP. GRANDE REQUESTED** a recorded roll call vote on the adoption of HCR 3053, which request was granted.

#### **ROLL CALL**

The question being on the final adoption of the resolution, which has been read, the roll was called and there were 87 YEAS, 5 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Bellew; Belter; Boe; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Frantsovog; Froseth; Glassheim; Grande; Guggisberg; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kempenich; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Metcalf; Meyer, S.; Mock; Monson; Mueller; Nathe; Nelson, J.; Nelson, M.; Onstad; Owens; Paur; Pietsch; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Trottier; Vigesaa; Wall; Weiler; Weisz; Wieland; Williams; Wrangham; Speaker Drovdal

**NAYS:** Gruchalla; Hogan; Kelsh, S.; Winrich; Zaiser

**ABSENT AND NOT VOTING:** Meier, L.; Thoreson

HCR 3053 was declared adopted on a recorded roll call vote.

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#### FIRST READING OF HOUSE CONCURRENT RESOLUTION

Reps. Kasper, Delzer, Dosch, Wrangham and Sens. Cook, Dever introduced:  
(Approved by the Delayed Bills Committee)

**HCR 3054:** A concurrent resolution urging the United States Environmental Protection Agency to approve North Dakota's plan for addressing regional haze and urging Congress to clearly delegate responsibility for the regulation of regional haze and minor source air permitting to the states.

Was read the first time.

#### MOTION

**REP. VIGESAA MOVED** that the rules be suspended, that HCR 3054 not be printed, not be referred to committee, but be read in title only, be printed in the Journal, and placed on the calendar for immediate second reading and final passage, which motion prevailed.

Reps. Kasper, Delzer, Dosch, Wrangham and Sens. Cook, Dever introduced:  
(Approved by the Delayed Bills Committee)

#### HOUSE CONCURRENT RESOLUTION NO. 3054

A concurrent resolution urging the United States Environmental Protection Agency to approve North Dakota's plan for addressing regional haze and urging Congress to clearly delegate responsibility for the regulation of regional haze and minor source air permitting to the states.

**WHEREAS**, in Section 101 of the Clean Air Act, Congress determined that preventing and controlling air pollution "is the primary responsibility of States and local governments" and the Act is designed to prevent the federal government from substituting its inflexible judgment for a state's superior knowledge of local conditions and needs; and

**WHEREAS**, in *American Corn Growers Association v. E.P.A.*, 291 F.3d 1, 2 (D.C. Cir. 2002), the United States Court of Appeals for the District of Columbia Circuit held that the Clean Air Act "calls for states to play the lead role in designing and implementing regional haze programs"; and

**WHEREAS**, the North Dakota State Department of Health developed a reasonable plan for addressing regional haze and this state's air is among the nation's cleanest in the nation with the 2010 American Lung Association ranking Mercer County, home to several coal-based power plants, as one of the 25 cleanest counties in the United States and ranking Billings County, home to Theodore Roosevelt National Park and significant oil and gas development, as the third cleanest; and

**WHEREAS**, the United States Environmental Protection Agency has noticed its intention in the Federal Register to disapprove a portion of this state's plan for addressing regional haze and impose a federal plan in its place that mandates an inappropriate technology, selective catalytic reduction, that is not proven on boilers using this state's high-sodium lignite and which when tested through a pilot study, the technology failed after two months; and

**WHEREAS**, when one compares the United States Environmental Protection Agency's plan to this state's plan there is no significant improvement in visibility under the United States Environmental Protection Agency's plan, so much so that the visibility improvements the United States Environmental Protection Agency claims would result from its plan are not even humanly perceptible; and

**WHEREAS**, the North Dakota State Department of Health found that international and out-of-state sources are the most significant cause of impaired visibility in the state's national parks and wilderness areas, and that even if every coal plant and oil drilling rig in the state were shut down, the Environmental Protection Agency's visibility goals could not be met because the problem is caused by sources outside this state; and

**WHEREAS**, this state has crafted an implementation plan that takes into account the various technology options available to oil and gas operators to reduce emissions of volatile organic compounds; and

**WHEREAS**, this state's natural gas gathering and processing industry has committed more than \$3 billion to build infrastructure that will capture and market flared gas; and

**WHEREAS**, the United States Environmental Protection Agency is ignoring this state's authority and local knowledge and the Environmental Protection Agency's proposed action would unnecessarily jeopardize this state's sovereignty and economic well-being;

**NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:**

That the Sixty-second Legislative Assembly urges the United States Environmental Protection Agency to approve North Dakota's plan for addressing regional haze and urges Congress to clearly delegate responsibility for the regulation of regional haze and minor source air permitting to the states; and

**BE IT FURTHER RESOLVED**, that the Secretary of State forward copies of this resolution to the administrator of the United States Environmental Protection Agency and to each member of the North Dakota Congressional Delegation.

**SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3054:** A concurrent resolution urging the United States Environmental Protection Agency to approve North Dakota's plan for addressing regional haze and urging Congress to clearly delegate responsibility for the regulation of regional haze and minor source air permitting to the states.

**REQUEST**

**REP. HELLER REQUESTED** a recorded roll call vote on the adoption of HCR 3054, which request was granted.

**ROLL CALL**

The question being on the final adoption of the resolution, which has been read, the roll was called and there were 90 YEAS, 2 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Bellew; Belter; Boe; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Frantsvog; Froseth; Glassheim; Grande; Guggisberg; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Holman; Hunsakor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kilichowski; Kingsbury; Klein; Klemm; Koppelman; Kreidt; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Metcalf; Meyer, S.; Mock; Monson; Mueller; Nathe; Nelson, J.; Nelson, M.; Onstad; Owens; Paur; Pietsch; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Trottier; Vigasaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovda

**NAYS:** Gruchalla; Hogan

**ABSENT AND NOT VOTING:** Meier, L.; Thoreson

HCR 3054 was declared adopted on a recorded roll call vote.

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**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** The House has passed, and your favorable consideration is requested on: HB 1473, HCR 3053, HCR 3054.

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

**MR. SPEAKER:** The Senate has passed, and your favorable consideration is requested on: SB 2370.

**MOTION**

**REP. VIGESAA MOVED** that the absent members be excused, which motion prevailed.

**MOTION**

**REP. VIGESAA MOVED** that the House be on the Fourth, Fifth, Seventh, Ninth, and Thirteenth orders of business and at the conclusion of those orders, the House stand adjourned until 8:00 a.m., Wednesday, November 9, 2011, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**HB 1475: Joint Health Care Reform Committee (Rep. Keiser, Chairman)** recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (18 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1475 was rereferred to the **Appropriations Committee**.

**FIRST READING OF SENATE BILL**

**SB 2370:** A BILL for an Act relating to adoption of a nickname and logo for the university of North Dakota athletic teams; to repeal section 15-10-46 of the North Dakota Century Code, relating to the university of North Dakota fighting Sioux nickname and logo; and to provide an effective date.

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

The House stood adjourned pursuant to Representative Vigesaa's motion.

**Buell J. Reich, Chief Clerk**

