

JOURNAL OF THE SENATE

Fifty-eighth Legislative Assembly

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Bismarck, April 16, 2003

The Senate convened at 8:30 a.m., with President Dalrymple presiding.

The prayer was offered by Pastor Steve Sathre, Trinity Lutheran, Bismarck.

The roll was called and all members were present.

A quorum was declared by the President.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. J. LEE MOVED that the conference committee report on Engrossed HB 1245 as printed on SJ pages 1414-1421 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1245, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1245: A BILL for an Act to create and enact a new subsection to section 43-12.1-04 and four new sections to chapter 43-12.1 of the North Dakota Century Code, relating to nursing education, practice standards, licensure, and continuing education; to amend and reenact sections 43-12.1-01 and 43-12.1-02, subsection 2 of section 43-12.1-04, sections 43-12.1-06, 43-12.1-08, 43-12.1-09, 43-12.1-10, 43-12.1-11, and 43-12.1-15 of the North Dakota Century Code, relating to education and licensure of nurses; to provide a penalty; to provide for application; and to provide an expiration date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 26 YEAS, 21 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Christmann; Cook; Dever; Erbele; Every; Fischer; Freborg; Grindberg; Heitkamp; Klein; Krebsbach; Kringstad; Lee, J.; Lindaas; Mutch; O'Connell; Polovitz; Robinson; Schobinger; Stenehjem; Tallackson; Taylor; Thane; Trenbeath

NAYS: Bercier; Brown; Christenson; Espeguard; Fairfield; Flakoll; Holmberg; Kilzer; Krauter; Lee, G.; Lyson; Mathern; Nelson; Nothing; Nichols; Seymour; Syverson; Tollefson; Traynor; Urlacher; Wardner

Engrossed HB 1245, as amended, passed and the title was agreed to.

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

MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: HB 1245.

MOTION

SEN. CHRISTMANN MOVED that the Senate stand in recess until 12:30 p.m., which motion prevailed.

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

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. KLEIN MOVED that the conference committee report on Engrossed HB 1179 as printed on SJ pages 1413-1414 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1179, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1179: A BILL for an Act to amend and reenact section 26.1-02-27 of the North Dakota Century Code, relating to disclosing nonpublic personal information.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

Engrossed HB 1179, as amended, passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. KREBSBACH MOVED that the conference committee report on Engrossed SB 2030 as printed on SJ page 1413 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2030, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2030: A BILL for an Act to create and enact a new section to chapter 54-60 of the North Dakota Century Code, relating to a department of commerce career guidance and job opportunities internet web site; and to provide a continuing appropriation.

ROLL CALL

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

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

NAYS: Bercier

Reengrossed SB 2030 passed and the title was agreed to.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. WARDNER MOVED that the conference committee report on Engrossed SB 2403 as printed on SJ page 1413 be adopted, which motion prevailed on a voice vote.

Engrossed SB 2403, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2403: A BILL for an Act to create and enact three new sections to chapter 16.1-08.1 of the North Dakota Century Code, relating to campaign contribution statements; and to amend and reenact sections 16.1-08.1-01, 16.1-08.1-02, 16.1-08.1-03, 16.1-08.1-03.1, 16.1-08.1-03.2, 16.1-08.1-03.3, 16.1-08.1-03.5, 16.1-08.1-03.7, 16.1-08.1-03.8, 16.1-08.1-04, 16.1-08.1-05, and 16.1-08.1-06 of the North Dakota Century Code, relating to campaign contributions.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 31 YEAS, 16 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

NAYS: Bercier; Christenson; Every; Fairfield; Heitkamp; Krauter; Lindaas; Mathern; Nelson; Nichols; O'Connell; Polovitz; Robinson; Seymour; Tallackson; Taylor

Reengrossed SB 2403 passed and the title was agreed to.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: HB 1179.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The Senate has adopted the conference committee report and subsequently passed: SB 2030, SB 2403.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The President has signed and your signature is respectfully requested on: SB 2148, SB 2149, SB 2150, SB 2188, SB 2235, SB 2363, SB 2384.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)
MR. SPEAKER: The President has signed: HB 1037, HB 1079, HB 1086, HB 1092, HB 1116, HB 1190, HB 1197, HB 1223, HB 1236, HB 1255, HB 1269, HB 1291, HB 1292, HB 1309, HB 1391, HB 1414, HB 1425, HB 1461, HB 1486.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1245.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HB 1009, HB 1264, HB 1372, HB 1397, HB 1469.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The Speaker has signed and your signature is respectfully requested on: HCR 3037.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The House has not adopted the conference committee report: HB 1047.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)
MR. PRESIDENT: The House has adopted the conference committee report and subsequently passed: HB 1050, HB 1439.

MOTION

SEN. CHRISTMANN MOVED that the Senate stand in recess until 4:30 p.m., which motion prevailed.

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

REPORT OF CONFERENCE COMMITTEE

SB 2033, as engrossed: Your conference committee (Sens. Krebsbach, Brown, Nelson and Reps. Grande, Devlin, Williams) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1032-1041 and place SB 2033 on the Seventh order.

Engrossed SB 2033 was placed on the Seventh order of business on the calendar.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. KREBSBACH MOVED that the conference committee report on Engrossed SB 2033 be adopted, which motion prevailed on a voice vote.

REPORT OF CONFERENCE COMMITTEE

SB 2311, as reengrossed: Your conference committee (Sens. Wardner, Urlacher, Nichols and Reps. Rennerfeldt, Wald, Warner) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1088-1089, adopt amendments as follows, and place SB 2311 on the Seventh order:

That the House recede from its amendments as printed on pages 1088 and 1089 of the Senate Journal and pages 1192 and 1193 of the House Journal and that Reengrossed Senate Bill No. 2311 be amended as follows:

Page 1, remove lines 10 and 11

Page 2, line 16, remove "- Governor to appoint"

Page 2, line 17, replace "governor shall appoint an oil and gas research council composed of nine" with "oil and gas research council is composed of seven members, four of whom must currently be engaged in and have at least five years of active experience in the oil and natural gas exploration and production industry. The council consists of:

- a. Four members appointed by the governor from a list provided by the North Dakota oil and gas association. The governor may reject the list and request the association to submit a new list until the appointments are made.
- b. One member appointed by the governor from a list provided by the North Dakota association of oil and gas producing counties. The governor may reject the list and request the association to submit a new list until the appointment is made.
- c. The executive director of the North Dakota petroleum council, or the executive director's designee.
- d. A county commissioner from an oil producing county appointed by the governor.
- e. The director of the oil and gas division and the state geologist shall serve on the council as advisory nonvoting members."

Page 2, remove lines 18 through 21

Page 2, line 23, replace the first "three" with "two" and replace the second "three" with "two"

Page 2, line 29, replace "Six" with "Four"

Page 3, line 5, replace "A member" with "Members" and replace "serves" with "appointed by the governor serve"

Page 4, line 12, replace "if the estimates for the oil and gas gross production tax and the oil" with "the first fifty thousand dollars of revenue from the state's share of the oil and gas production tax and oil extraction tax"

Page 4, remove line 13

Page 4, line 14, remove "hundred fifty-nine dollars, the excess, up to four thousand nine hundred dollars,"

Page 4, line 15, replace "as provided in this" with ". In the 2003-05 biennium, if actual revenues for the 2001-03 biennium from the state general fund share of the oil and gas production tax and oil extraction tax exceeded seventy-one million sixty-four thousand dollars, the excess up to five hundred thousand dollars must be deposited in a special fund known as the oil and gas research fund, as provided in this section"

Page 4, remove lines 16 through 22

Page 4, line 23, remove "thousand six hundred fifty-nine dollars or less, transfers to the fund shall cease"

Page 4, line 24, replace "three" with "two"

Page 4, line 25, replace "two" with "one" and after "million" insert "three hundred thousand"

Page 4, line 27, replace "three" with "two"

Renumber accordingly

Reengrossed SB 2311 was placed on the Seventh order of business on the calendar.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. WARDNER MOVED that the conference committee report on Reengrossed SB 2311 be adopted, which motion prevailed on a voice vote.

Reengrossed SB 2311, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2311: A BILL for an Act to create and enact a new chapter to title 54 and a new section to chapter 57-51.1 of the North Dakota Century Code, relating to creating and establishing an oil and gas research council and oil and gas research fund; and to provide a continuing appropriation.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 42 YEAS, 5 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Andrist; Bowman; Brown; Christenson; Christmann; Cook; Dever; Erbele; Espegard; Every; Fairfield; Fischer; Flakoll; Freborg; Grindberg; Holmberg; Kilzer; Klein; Krauter; Krebsbach; Kringstad; Lee, G.; Lee, J.; Lindaas; Lyson; Mathern; Nelson; Nothing; Nichols; O'Connell; Polovitz; Robinson; Schobinger; Seymour; Syverson; Tallackson; Taylor; Thane; Tollefson; Traynor; Urlacher; Wardner

NAYS: Bercier; Heitkamp; Mutch; Stenehjem; Trenbeath

Reengrossed SB 2311 passed and the title was agreed to.

REPORT OF CONFERENCE COMMITTEE

SB 2065, as reengrossed: Your conference committee (Sens. Cook, G. Lee, Christenson and Reps. R. Kelsch, Haas, Mueller) recommends that the **HOUSE RECEDE** from the House amendments on SJ page 1007, adopt amendments as follows, and place SB 2065 on the Seventh order:

That the House recede from its amendments as printed on page 1007 of the Senate Journal and pages 921 and 922 of the House Journal and that Reengrossed Senate Bill No. 2065 be amended as follows:

Page 1, line 1, replace "section" with "sections" and after "15.1-21-08" insert "and 15.1-21-10"

Page 1, line 2, after "to" insert "the"

Page 1, line 8, remove "all"

Page 1, line 10, after "to" insert "all public school students in"

Page 1, line 14, after "test" insert "to all public school students"

Page 1, line 17, remove "to all public school students"

Page 1, line 19, after "to" insert "all public school students in"

Page 1, line 20, replace the first "to" with "in" and replace the second "to" with "in"

Page 1, line 22, replace "November" with "December"

Page 1, after line 22, insert:

"SECTION 2. AMENDMENT. Section 15.1-21-10 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-10. Test scores - Publication. Upon receiving notice that the compilation of test scores has been completed, the superintendent of public instruction shall inform the legislative council. The superintendent shall present the test scores publicly for the first time at a meeting of a legislative committee designated by the legislative council. At the meeting, the superintendent and representatives of the testing service that created the tests shall provide detailed testimony regarding the testing instrument, the methodology used to test and assess the students, the established cut scores, the methodology used to determine the cut scores, the validation of all test products, and the significance of the test scores."

Page 2, remove lines 1 through 6

ReNUMBER accordingly

Reengrossed SB 2065 was placed on the Seventh order of business on the calendar.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. COOK MOVED that the conference committee report on Reengrossed SB 2065 be adopted, which motion prevailed on a voice vote.

Reengrossed SB 2065, as amended, was placed on the Eleventh order.

SECOND READING OF SENATE BILL

SB 2065: A BILL for an Act to amend and reenact sections 15.1-21-08 and 15.1-21-10 of the North Dakota Century Code, relating to the state assessment of public school students in reading, mathematics, and science.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

Reengrossed SB 2065 passed and the title was agreed to.

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

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 consecutive 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."

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 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."

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."

Page 18, replace lines 4 and 5 with:

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

4.

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

Page 18, line 26, remove "a resident"

Page 18, line 27, remove "and"

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

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

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

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

Page 19, after line 13, insert:

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

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

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

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

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

Page 20, remove lines 1 and 2

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

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

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

CONSIDERATION OF CONFERENCE COMMITTEE REPORT

SEN. FISCHER MOVED that the conference committee report on Engrossed HB 1050 be adopted, which motion prevailed on a voice vote.

Engrossed HB 1050, as amended, was placed on the Fourteenth order.

SECOND READING OF HOUSE BILL

HB 1050: A BILL for an Act to create and enact sections 20.1-03-36.1, 20.1-03-36.2, 20.1-03-38, 20.1-03-39, and 20.1-03-40 of the North Dakota Century Code, relating to the licensing of guides and outfitters; to amend and reenact sections 20.1-01-02, 20.1-02-05, 20.1-03-07.1, 20.1-03-11.2, 20.1-03-12, 20.1-03-36, and 20.1-03-37 of the North Dakota Century Code, relating to guides and outfitters and nonresident waterfowl hunters; to provide a penalty; to provide for application; and to provide an effective date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, the roll was called and there were 41 YEAS, 6 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

NAYS: Andrist; Bowman; Christmann; Erbele; Kilzer; Mutch

Engrossed HB 1050, as amended, passed and the title was agreed to.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**MR. SPEAKER:** The President has signed: HB 1245.**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)****MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: SB 2065, SB 2311.**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)****MR. SPEAKER:** The Senate has adopted the conference committee report and subsequently passed: HB 1050.**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)****MR. SPEAKER:** The Senate has adopted the conference committee report: SB 2033.**MOTION****SEN. CHRISTMANN MOVED** that the Senate be on the Fourth, Fifth, and Seventh orders of business and at the conclusion of those orders, the Senate stand adjourned until 8:30 a.m., Thursday, April 17, 2003, which motion prevailed.**COMMUNICATION FROM GOVERNOR JOHN HOEVEN**

This is to inform you that on April 16, 2003, I have signed the following: SB 2394, SB 2407, and SB 2409.

REPORT OF CONFERENCE COMMITTEE**HB 1439, as engrossed:** Your conference committee (Sens. Trenbeath, Nething, Bercier and Reps. Weisz, Weiler, Zaiser) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1038-1041, adopt amendments as follows, and place HB 1439 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1038-1041 of the House Journal and pages 885-887 of the Senate Journal and that Engrossed House Bill No. 1439 be amended as follows:

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

Page 1, line 2, remove "section 39-06.1-10; to" and replace "sections" with "section 39-20-04"

Page 1, line 3, remove "39-08-01 and 39-09-02"

Page 1, line 4, remove "speed limits and"

Page 1, line 5, replace "a penalty" with "for a legislative council study"

Page 1, remove lines 7 through 13

Page 1, line 21, replace "sixteen" with "eighteen"Page 1, line 22, remove ". The director shall waive the"

Page 1, remove line 23

Page 2, remove line 1

Page 2, line 2, remove "vehicle"Page 2, line 5, remove the second "last"Page 2, line 6, replace "sixteen" with "eighteen"Page 2, line 9, remove "last"Page 2, line 10, replace "sixteen" with "eighteen"Page 2, line 13, remove "last"Page 2, line 14, replace "sixteen" with "eighteen"

Page 2, line 17, remove "last"

Page 2, line 18, replace "sixteen" with "eighteen"

Page 2, line 22, remove the second "last"

Page 2, line 23, replace "sixteen" with "eighteen"

Page 2, replace lines 24 through 30 with:

"SECTION 2. AMENDMENT. Section 39-20-04 of the North Dakota Century Code is amended and reenacted as follows:

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

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

violation of section 39-08-01 or equivalent ordinance, or any combination ~~thereof of the same~~, and the suspensions, revocations, or denials resulted from at least two separate arrests.

2. A person's driving privileges are not subject to revocation under ~~this section~~ subdivision a of subsection 1 if all of the following criteria are met:
 - a. ~~No~~ An administrative hearing is not held under section 39-20-05;
 - b. The person mails an affidavit to the director within twenty-five days after the temporary operator's permit is issued. The affidavit must state that the person:
 - (1) Intends to voluntarily plead guilty to violating section 39-08-01 or equivalent ordinance within twenty-five days after the temporary operator's permit is issued;
 - (2) Agrees that the person's driving privileges must be suspended as provided under section 39-06.1-10;
 - (3) Acknowledges the right to a section 39-20-05 administrative hearing and section 39-20-06 judicial review and voluntarily and knowingly waives these rights; and
 - (4) Agrees that the person's driving privileges must be revoked as provided under this section without an administrative hearing or judicial review, if the person does not plead guilty within twenty-five days after the temporary operator's permit is issued, or the court does not accept the guilty plea, or the guilty plea is withdrawn;
 - c. The person pleads guilty to violating section 39-08-01 or equivalent ordinance within twenty-five days after the temporary operator's permit is issued;
 - d. The court accepts the person's guilty plea and a notice of that fact is mailed to the director within twenty-five days after the temporary operator's permit is issued; ~~and~~
 - e. A copy of the final order or judgment of conviction evidencing the acceptance of the person's guilty plea is received by the director prior to the return or reinstatement of the person's driving privileges; and
 - f. The person has never been convicted under section 39-08-01.
3. The court must mail a copy of an order granting a withdrawal of a guilty plea to violating section 39-08-01, or equivalent ordinance, to the director within ten days after it is ordered. Upon receipt of the order, the director shall immediately revoke the person's driving privileges as provided under this section without providing an administrative hearing."

Page 3, remove lines 1 through 31

Page 4, remove lines 1 through 31

Page 5, remove lines 1 through 30

Page 6, remove lines 1 through 31

Page 7, remove lines 1 through 31

Page 8, remove lines 1 through 31

Page 9, remove lines 1 through 30

Page 10, remove lines 1 through 26

Page 11, line 15, replace "sixteen" with "eighteen"

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

Page 11, remove line 17

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

Page 11, line 22, replace "sixteen" with "eighteen"

Page 11, line 28, replace "sixteen" with "eighteen"

Page 12, line 1, overstrike the second ", or"

Page 12, overstrike line 2

Page 12, line 3, overstrike "resulted from at least two separate arrests" and remove "with the last violation or"

Page 12, line 4, remove "suspension" and replace "sixteen" with "eighteen"

Page 12, line 11, replace "sixteen" with "eighteen"

Page 12, line 19, replace "sixteen" with "eighteen"

Page 12, after line 20, insert:

"SECTION 4. LEGISLATIVE COUNCIL STUDY - PERSONS UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR ANY DRUGS OR SUBSTANCES NOT TO OPERATE VEHICLE. The legislative council shall consider studying, during the 2003-04 interim, the administrative and criminal laws of driving under the influence of intoxicating liquor, the effects of adopting and implementing a graduated penalty for offenders with a high level of blood alcohol content and repeat offenders, as well as other general deterrents to driving under the influence. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-ninth legislative assembly."

Renumber accordingly

Engrossed HB 1439 was placed on the Seventh order of business on the calendar.

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

WILLIAM R. HORTON, Secretary