

## JOURNAL OF THE SENATE

## Sixty-third Legislative Assembly

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Bismarck, April 4, 2013

The Senate convened at 12:30 p.m., with President Wrigley presiding.

The prayer was offered by Reverend Cecil Stanton, Faith Center, Bismarck.

The roll was called and all members were present except Senators J. Lee and Mathern.

A quorum was declared by the President.

## CONSIDERATION OF AMENDMENTS

**HB 1422, as engrossed: SEN. J. LEE (Human Services Committee) MOVED** that the amendments be adopted and then be **REFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed on a voice vote.

## CONSIDERATION OF AMENDMENTS

**HB 1412, as engrossed: SEN. SITTE (Judiciary Committee) MOVED** that the amendments be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

## SECOND READING OF HOUSE BILL

**HB 1412:** A BILL for an Act to create and enact a new section to chapter 19-03.1 of the North Dakota Century Code, relating to immunity from criminal liability in medical emergencies involving controlled substances; and to amend and reenact sections 5-01-08, 5-01-09, and 14-10-06 of the North Dakota Century Code, relating to immunity from criminal liability in medical emergencies involving drugs or alcohol.

## 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 42 YEAS, 3 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Armstrong; Axness; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Luick; Marcellais; Miller; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**NAYS:** Berry; Hogue; Lyson

**ABSENT AND NOT VOTING:** Lee, J.; Mathern

Engrossed HB 1412, as amended, passed.

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## CONSIDERATION OF AMENDMENTS

**HB 1025, as engrossed: SEN. HOGUE (Judiciary Committee) MOVED** that the amendments be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

## SECOND READING OF HOUSE BILL

**HB 1025:** A BILL for an Act to amend and reenact subsections 3 and 4 of section 37-17.1-12 and sections 37-17.1-16, 37-17.1-17, and 40-22-01.1 of the North Dakota Century Code, relating to liability and immunity during disaster responses and financing of repairs.

**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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Armstrong; Axness; Berry; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Luick; Lyson; Marcellais; Miller; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Lee, J.; Mathern

Engrossed HB 1025, as amended, passed.

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**CONSIDERATION OF AMENDMENTS**

**HB 1451, as engrossed: SEN. SITTE (Judiciary Committee) MOVED** that the amendments be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

**SECOND READING OF HOUSE BILL**

**HB 1451:** A BILL for an Act to amend and reenact sections 16.1-08.1-03.1, 29-10.1-02, 29-10.1-21, and 29-10.1-22 of the North Dakota Century Code, relating to disclosure requirements for petition sponsors and the requirements for calling and the duties of a grand jury.

**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 30 YEAS, 15 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Armstrong; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Erbele; Flakoll; Grindberg; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Luick; Lyson; Miller; Oehlke; Poolman; Schaible; Sitte; Sorvaag; Unruh; Wanzek; Wardner

**NAYS:** Anderson; Axness; Berry; Dotzenrod; Grabinger; Heckaman; Marcellais; Murphy; Nelson; O'Connell; Robinson; Schneider; Sinner; Triplett; Warner

**ABSENT AND NOT VOTING:** Lee, J.; Mathern

Engrossed HB 1451, as amended, passed.

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**CONSIDERATION OF AMENDMENTS**

**HCR 3011, as engrossed: SEN. HOGUE (Judiciary Committee) MOVED** that the amendments be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

**SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3011:** A concurrent resolution to amend and reenact sections 2 and 3 of article III of the Constitution of North Dakota, relating to the circulation of petitions and the fiscal impact of initiated measures.

**ROLL CALL**

The question being on the final adoption of the amended resolution, which has been read, and has committee recommendation of DO PASS. The roll was called and there were 25 YEAS, 20 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Berry; Bowman; Burckhard; Campbell; Dever; Erbele; Flakoll; Grindberg; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Luick; Lyson;

Miller; Poolman; Schaible; Sitte; Sorvaag; Wardner

**NAYS:** Anderson; Armstrong; Axness; Carlisle; Cook; Dotzenrod; Grabinger; Heckaman; Marcellais; Murphy; Nelson; O'Connell; Oehlke; Robinson; Schneider; Sinner; Triplett; Unruh; Wanzek; Warner

**ABSENT AND NOT VOTING:** Lee, J.; Mathern

Engrossed HCR 3011, as amended, was declared adopted on a recorded roll call vote.

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### SECOND READING OF HOUSE BILL

**HB 1278:** A BILL for an Act to create and enact chapter 54-17.8 of the North Dakota Century Code, relating to the North Dakota outdoor heritage fund; to amend and reenact subsection 1 of section 57-51-15 of the North Dakota Century Code, relating to the oil and gas gross production tax; to provide an appropriation; and to provide a continuing appropriation.

### MOTION

**SEN. AXNESS MOVED** that Engrossed HB 1278 be amended as follows.

Page 1, line 1, replace "chapter 54-17.8" with "a new chapter to title 15"

Page 1, line 6, replace "Chapter 54-17.8" with "A new chapter to title 15"

Page 1, line 8, remove "**54-17.8-01.**"

Page 1, line 10, replace "Commission" with "Board"

Page 1, line 10, replace "industrial commission" with "board of university and school lands"

Page 1, line 12, remove "**54-17.8-02.**"

Page 1, line 13, replace "commission" with "board"

Page 1, line 14, replace "commission" with "board"

Page 1, line 16, replace "commission" with "board"

Page 1, line 18, remove "**54-17.8-03.**"

Page 1, line 19, replace "commission" with "board"

Page 2, line 8, replace "commission" with "board"

Page 2, line 18, replace "**54-17.8-04. Commission**" with "**Board**"

Page 2, line 19, replace "commission" with "board"

Page 2, line 21, remove "**54-17.8-05.**"

Page 3, line 1, remove "**54-17.8-06.**"

Page 3, line 24, after "the" insert "advisory"

Page 3, line 27, after "the" insert "advisory"

Page 4, line 3, replace "commission" with "board"

Page 4, line 7, remove "**54-17.8-07.**"

Renumber accordingly

**REQUEST**

**SEN. AXNESS REQUESTED** a recorded roll call vote on the motion to adopt the proposed amendments to Engrossed HB 1278, which request was granted.

**ROLL CALL**

The question being on the motion to adopt the proposed amendments to Engrossed HB 1278, the roll was called and there were 13 YEAS, 32 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Axness; Dotzenrod; Grabinger; Heckaman; Marcellais; Murphy; Nelson; O'Connell; Robinson; Schneider; Sinner; Triplett; Warner

**NAYS:** Anderson; Andrist; Armstrong; Berry; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Erbele; Flakoll; Grindberg; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Luick; Lyson; Miller; Oehlke; Poolman; Schaible; Sitte; Sorvaag; Unruh; Wanzek; Wardner

**ABSENT AND NOT VOTING:** Lee, J.; Mathern

The proposed amendments to Engrossed HB 1278 failed on a recorded roll call vote.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 33 YEAS, 12 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Armstrong; Berry; Burckhard; Campbell; Carlisle; Cook; Dever; Dotzenrod; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Krebsbach; Laffen; Lee, G.; Lyson; Marcellais; Murphy; Nelson; Oehlke; Poolman; Robinson; Schneider; Sinner; Sitte; Sorvaag; Unruh; Wardner; Warner

**NAYS:** Andrist; Axness; Bowman; Erbele; Klein; Larsen; Luick; Miller; O'Connell; Schaible; Triplett; Wanzek

**ABSENT AND NOT VOTING:** Lee, J.; Mathern

Engrossed HB 1278 passed.

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**THE SENATE RECOGNIZED THE PRESENCE OF:**

Former Senator Ben Tollefson

**SECOND READING OF HOUSE BILL**

**HB 1274:** A BILL for an Act to amend and reenact section 23-01-38 of the North Dakota Century Code, relating to electronic drug prior authorization.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Armstrong; Axness; Berry; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Luick; Lyson; Marcellais; Miller; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Lee, J.; Mathern

Engrossed HB 1274 passed.

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**SECOND READING OF HOUSE BILL**

**HB 1464:** A BILL for an Act to amend and reenact subsection 1 of section 57-39.2-12.1 and subsection 1 of section 57-40.2-07.1 of the North Dakota Century Code, relating to the deduction to allow retailer reimbursement for administrative expenses of collecting sales and use taxes; and to provide an effective date.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Armstrong; Axness; Berry; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Luick; Lyson; Marcellais; Miller; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Lee, J.; Mathern

Engrossed HB 1464 passed.

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**SECOND READING OF HOUSE BILL**

**HB 1424:** A BILL for an Act to provide for a legislative management study of the feasibility and desirability of participating in the provision of nontraditional healing therapies for posttraumatic stress, traumatic brain injury, and other neurological conditions for North Dakota veterans and their families.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 44 YEAS, 1 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Armstrong; Axness; Berry; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Luick; Lyson; Marcellais; Miller; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**NAYS:** Kilzer

**ABSENT AND NOT VOTING:** Lee, J.; Mathern

Reengrossed HB 1424 passed.

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**SECOND READING OF HOUSE BILL**

**HB 1130:** A BILL for an Act to amend and reenact section 20.1-03-17 of the North Dakota Century Code, relating to computerized issuance of game and fish licenses.

**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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Armstrong; Axness; Berry; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Luick; Lyson; Marcellais; Miller; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson;

Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Lee, J.; Mathern

Engrossed HB 1130, as amended, passed.

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

**HCR 3039:** A concurrent resolution to create and enact a new section to article IV of the Constitution of North Dakota, relating to consideration by the legislative assembly of amendments to the United States Constitution.

#### **ROLL CALL**

The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO NOT PASS. The roll was called and there were 4 YEAS, 41 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Armstrong; Berry; Larsen; Miller

**NAYS:** Anderson; Andrist; Axness; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Lee, G.; Luick; Lyson; Marcellais; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Lee, J.; Mathern

Engrossed HCR 3039 was declared lost on a recorded roll call vote.

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

**HCR 3033:** A concurrent resolution directing the Legislative Management to study opportunities to reduce the risk of death and disease among smokers who will not quit smoking, by considering tobacco harm reduction strategies that encourage smokers to switch from cigarettes to less risky tobacco products and by accurately informing the public of the health risks posed by smokeless tobacco products, vapor products, and tobacco-derived products relative to cigarettes.

#### **REQUEST**

**SEN. HECKAMAN REQUESTED** a recorded roll call vote on the adoption of HCR 3033, which request was granted.

#### **ROLL CALL**

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

**YEAS:** Armstrong; Cook; Dever; Hogue; Krebsbach; Larsen; O'Connell

**NAYS:** Anderson; Andrist; Axness; Berry; Bowman; Burckhard; Campbell; Carlisle; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Holmberg; Kilzer; Klein; Laffen; Lee, G.; Luick; Lyson; Marcellais; Miller; Murphy; Nelson; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Lee, J.; Mathern

HCR 3033 was declared lost on a recorded roll call vote.

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**SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3003:** A concurrent resolution to amend and reenact section 24 of article X of the Constitution of North Dakota, relating to allocation of revenue from oil extraction taxes.

**ROLL CALL**

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

**YEAS:** Anderson; Laffen; Larsen; Lee, G.; Miller; Schaible; Sitte

**NAYS:** Andrist; Armstrong; Axness; Berry; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Luick; Lyson; Marcellais; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Schneider; Sinner; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Lee, J.; Mathern

Engrossed HCR 3003 was declared lost on a recorded roll call vote.

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**MOTION**

**SEN. KLEIN MOVED** that Senate Rule 329 be amended replacing "sixtieth legislative day" with "sixty-first legislative day", which motion prevailed.

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

**MR. SPEAKER:** The Senate has passed, unchanged: HB 1197, HB 1327, HB 1378, HB 1428, HB 1429, HCR 3028.

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

**MR. SPEAKER:** The Senate has passed, unchanged: HB 1274, HB 1278, HB 1424, HB 1464.

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

**MR. SPEAKER:** The Senate has passed, the emergency clause carried, unchanged: HB 1131.

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

**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1138, HB 1171, HB 1180, HB 1332.

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

**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1025, HB 1130, HB 1412, HB 1451, HCR 3011.

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

**MR. SPEAKER:** The Senate has failed to pass, unchanged: HB 1093, HB 1287, HCR 3035.

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

**MR. SPEAKER:** The Senate has failed to pass, unchanged: HCR 3003, HCR 3033, HCR 3039.

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

**MR. PRESIDENT:** The House has passed, unchanged: SB 2060.

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

**MR. PRESIDENT:** The House has passed, unchanged: SB 2076.

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

**MR. PRESIDENT:** The House has amended and subsequently passed: SB 2072, SB 2074,

SB 2108, SB 2131, SB 2211, SB 2227, SB 2229, SB 2251, SB 2257, SB 2345, SB 2364.

### HOUSE AMENDMENTS TO SENATE BILL NO. 2072

Page 1, line 1, after "to" insert "create and enact a new subsection to section 4-30-01 and three new sections to chapter 4-30 of the North Dakota Century Code, relating to shared animal ownership agreements; and to"

Page 1, line 1, replace "subsection" with "subsections 7 and"

Page 1, line 1, after "sections" insert "4-30-36,"

Page 1, after line 4, insert:

**"SECTION 1. AMENDMENT.** Subsection 7 of section 4-30-01 of the North Dakota Century Code is amended and reenacted as follows:

7. "Dairy or dairy farm" means a place where one or more dairy animals are kept, a part or all of the milk or milk products from which is sold or offered for sale, or transferred in accordance with a shared animal ownership agreement."

Page 1, after line 9, insert:

**"SECTION 3.** A new subsection to section 4-30-01 of the North Dakota Century Code is created and enacted as follows:

"Shared animal ownership agreement" means any contractual arrangement under which an individual:

- a. Acquires an ownership interest in a milk-producing animal;
- b. Agrees to pay another for, reimburse another for, or otherwise accept financial responsibility for the care and boarding of the milk-producing animal at the dairy farm; and
- c. Is entitled to receive a proportionate share of the animal's raw milk production as a condition of the contractual arrangement.

**SECTION 4. AMENDMENT.** Section 4-30-36 of the North Dakota Century Code is amended and reenacted as follows:

#### **4-30-36. Standards for grade A milk and milk products - Adoption of amendments.**

1. Only grade A milk may be sold as fluid beverage for human consumption. The minimum standards for milk and milk products designated as grade A are the same as the minimum requirements of the Pasteurized Milk Ordinance which includes provisions from the "Grade A Condensed and Dry Milk Products and Condensed and Dry Whey - Supplement 1 to the Grade A PMO". The commissioner may adopt ~~as regulations~~ other standards in the interest of public safety, wholesomeness of product, consumer interest, sanitation, good supply, salability, and promotion of grade A milk and milk products.
2. It is not a violation of this section to transfer or obtain raw milk under a shared animal ownership agreement. However, a person may not resell raw milk or raw milk products obtained under a shared animal ownership agreement."

Page 2, after line 10, insert:

**"SECTION 8.** A new section to chapter 4-30 of the North Dakota Century Code is created and enacted as follows:



**Shared animal ownership agreement - Dairy farm registration.**

The owner of a dairy farm that participates in a shared animal ownership agreement shall register with the commissioner by providing a written document that includes:

1. The name of the dairy farm; and
2. The address of the dairy farm.

**SECTION 9.** A new section to chapter 4-30 of the North Dakota Century Code is created and enacted as follows:

**Shared animal ownership agreement - Requirements.**

A person that transfers an animal's raw milk production in accordance with a shared animal ownership agreement does not violate this chapter if:

1. The dairy farm is registered under section 8 of this Act;
2. The milk is transferred at the dairy farm where the milk-producing animal is located or delivered to another location in accordance with a shared animal ownership agreement;
3. The individual receiving milk has entered a shared animal ownership agreement with the owner of the dairy farm and is receiving milk on the individual's own behalf or on the behalf of another who has entered a shared animal ownership agreement with the owner of the dairy farm;
4. The shared animal ownership agreement contains a prominent statement warning that:
  - a. The milk is not pasteurized;
  - b. Potential pathogens may be present in the milk; and
  - c. There are potential health concerns associated with the consumption of raw milk or raw milk products; and
5. Annually, the owner of the dairy farm provides to individuals who have entered shared animal ownership agreements with the owner:
  - a. The standards used to ensure the health of the milk-producing animals that are part of the shared animal ownership agreement;
  - b. The standards used to ensure the production of milk;
  - c. The results of any tests performed on the milk-producing animals, together with an explanation of the test results; and
  - d. The results of any tests performed on the milk from the milk-producing animals, together with an explanation of the test results.

**SECTION 10.** A new section to chapter 4-30 of the North Dakota Century Code is created and enacted as follows:

**Shared animal ownership agreement - Prohibition.**

A person may not publish any statement that asserts or implies the approval or endorsement by the commissioner of shared animal ownership agreements and the acquisition of raw milk under such agreements."

Renumber accordingly

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2074**

Page 1, line 6, after "1." insert:

"a."

Page 1, line 6, overstrike "a" and insert immediately thereafter ":

(1) A class A felony if the value of any property or services retained or involved exceeds fifty thousand dollars;

(2) A"

Page 1, line 7, after "retained" insert "or involved"

Page 1, line 7, replace "a" with "but does not exceed fifty thousand dollars;

(3) A"

Page 1, line 8, after "retained" insert "or involved"

Page 1, line 8, overstrike "five" and insert immediately thereafter "one"

Page 1, line 8, replace the underscored comma with "but does not exceed ten thousand dollars;"

Page 1, line 8, overstrike "a" and insert immediately thereafter:

"(4) A"

Page 1, after line 9, insert:

"b."

Page 1, line 10, overstrike "subsection 6 of"

Renumber accordingly

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2108**

Page 2, line 19, remove "The director may appoint an additional current commissioner"

Page 2, line 20, remove "to serve in lieu of the current county social service board member."

Renumber accordingly

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2131**

Page 3, line 8, after "2." insert "Genetic testing may be provided by a licensed genetic counselor only when ordered by a North Dakota licensed health care provider acting within the provider's scope of practice and privileged to do so. The referring or primary provider shall maintain supervision of patient care and the licensed genetic counselor shall provide reports to the referring or primary health care provider ordering such testing.

3."

Renumber accordingly

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2211**

Page 1, line 1, replace "a" with "three"

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, after the second "and" insert "a new section to"

Page 1, line 5, remove "and"

Page 1, line 5, after "penalty" insert "; and to provide for reports to the legislative management"

Page 1, line 15, replace the second "or" with "purposes."

Page 1, line 15, after "purposes" insert ", or temporary exhibitions"

Page 1, after line 15, insert:

**"SECTION 2.** A new section to chapter 36-01 of the North Dakota Century Code is created and enacted as follows:

**Assistance in criminal investigations.**

The board shall maintain and make available to any law enforcement agency a list of veterinarians who are licensed in this state and trained to provide assistance in any criminal investigation pertaining to this state's animal laws.

**SECTION 3.** A new section to chapter 36-01 of the North Dakota Century Code is created and enacted as follows:

**Reporting of violations - Biennial reports to legislative management.**

The board shall work with law enforcement representatives to develop a reporting mechanism and compile information regarding violations of chapter 36-21.2. The board shall report its findings to the legislative management biennially."

Page 1, remove line 20

Page 1, line 21, remove "occurring within ten years"

Page 1, line 22, after ""neglect"" insert "with respect to dogs and cats."

Page 2, replace lines 11 through 24 with:

"3. For purposes of this chapter, "neglect" with respect to all animals other than those included in subsection 2, means the failure to provide:

a. Food and water that is:

(1) Appropriate for the species and the breed; and

(2) Sufficient to sustain the animal's health;

b. Minimal protection from adverse weather conditions, as appropriate for the species and the breed; and

c. Medical attention in the event of an injury or illness, as appropriate for the species and the breed.

4. The following do not constitute violations of this section:

a. Any usual and customary practice in:

(1) The production of food, feed, fiber, or ornament;

(2) The boarding, breeding, competition, exhibition, feeding, raising, showing, and training of animals;

(3) The sport of rodeo;

- (4) Animal racing;
  - (5) The use of animals by exhibitors licensed under the Animal Welfare Act, 7 U.S.C. 2131, et seq;
  - (6) Fishing, hunting, and trapping;
  - (7) Wildlife management;
  - (8) The culinary arts;
  - (9) Lawful research and educational activities; and
  - (10) Pest, vermin, predator, unwelcome animal, and animal damage control;
- b. The humane or swift destruction of an animal for cause; and
  - c. Services provided by or under the direction of a licensed veterinarian."

Page 2, line 29, replace "the physical abuse of" with "any act or omission that results in physical injury to an animal or that causes the death of"

Page 2, line 30, remove "or omission"

Page 3, replace lines 1 through 16 with:

- "3. The following do not constitute violations of this section:
- a. Any usual and customary practice in:
    - (1) The production of food, feed, fiber, or ornament;
    - (2) The boarding, breeding, competition, exhibition, feeding, raising, showing, and training of animals;
    - (3) The sport of rodeo;
    - (4) Animal racing;
    - (5) The use of animals by exhibitors licensed under the Animal Welfare Act, 7 U.S.C. 2131, et seq;
    - (6) Fishing, hunting, and trapping;
    - (7) Wildlife management;
    - (8) The culinary arts;
    - (9) Lawful research and educational activities; and
    - (10) Pest, vermin, predator, unwelcome animal, and animal damage control;
  - b. Any action taken by an individual against an animal that is attacking or is about to attack a human, a companion animal, or livestock;
  - c. The humane or swift destruction of an animal for cause; and
  - d. Services provided by or under the direction of a licensed veterinarian."

Page 3, line 18, replace "willfully" with "intentionally"

Page 3, remove lines 20 through 31

Page 4, replace lines 1 through 10 with:

- "a. Breaking an animal's bones;
  - b. Causing an animal extreme pain;
  - c. Causing the prolonged impairment of an animal's health;
  - d. Mutilating an animal; or
  - e. Physically torturing an animal.
3. The following do not constitute violations of this section:
- a. Any usual and customary practice in:
    - (1) The production of food, feed, fiber, or ornament;
    - (2) The boarding, breeding, competition, exhibition, feeding, raising, showing, and training of animals;
    - (3) The sport of rodeo;
    - (4) Animal racing;
    - (5) The use of animals by exhibitors licensed under the Animal Welfare Act, 7 U.S.C. 2131, et seq;
    - (6) Fishing, hunting, and trapping;
    - (7) Wildlife management;
    - (8) The culinary arts;
    - (9) Lawful research and educational activities; and
    - (10) Pest, vermin, predator, unwelcome animal, and animal damage control;
  - b. Any action taken by an individual against an animal that is attacking or is about to attack a human, a companion animal, or livestock;
  - c. The humane or swift destruction of an animal for cause; and
  - d. Services provided by or under the direction of a licensed veterinarian."

Page 4, line 13, remove "for a first or a second offense and a class C felony for a third or"

Page 4, line 14, remove "subsequent offense occurring within ten years"

Page 4, remove lines 24 through 31

Page 5, replace lines 1 through 6 with:

- "3. The following do not constitute violations of this section:
- a. Any usual and customary practice in:
    - (1) The production of food, feed, fiber, or ornament;
    - (2) The boarding, breeding, competition, exhibition, feeding, raising, showing, and training of animals;

- (3) The sport of rodeo;
  - (4) Animal racing;
  - (5) The use of animals by exhibitors licensed under the Animal Welfare Act, 7 U.S.C. 2131, et seq;
  - (6) Fishing, hunting, and trapping;
  - (7) Wildlife management;
  - (8) The culinary arts;
  - (9) Lawful research and educational activities; and
  - (10) Pest, vermin, predator, unwelcome animal, and animal damage control;
- b. The humane or swift destruction of an animal for cause; and
  - c. Services provided by or under the direction of a licensed veterinarian."

Page 6, line 15, replace "The" with "If convicted of violating this chapter, the"

Page 6, line 20, after "seizure" insert "and conviction"

Page 8, line 26, after the underscored semicolon insert "or"

Page 8, remove line 27

Page 8, line 28, replace "d." with "c."

Page 8, line 28, replace the underscored semicolon with an underscored period

Page 8, remove lines 29 through 31

Page 9, replace lines 1 through 12 with:

- "4. The following do not constitute violations of this section:
- a. Any usual and customary practice in:
    - (1) The production of food, feed, fiber, or ornament;
    - (2) The boarding, breeding, competition, exhibition, feeding, raising, showing, and training of animals;
    - (3) The sport of rodeo;
    - (4) Animal racing;
    - (5) The use of animals by exhibitors licensed under the Animal Welfare Act, 7 U.S.C. 2131, et seq;
    - (6) Fishing, hunting, and trapping;
    - (7) Wildlife management;
    - (8) The culinary arts;
    - (9) Lawful research and educational activities; and
    - (10) Pest, vermin, predator, unwelcome animal, and animal damage control;

- b. Any action taken by an individual against an animal that is attacking or is about to attack a human, a companion animal, or livestock;
- c. The humane or swift destruction of an animal for cause; and
- d. Services provided by or under the direction of a licensed veterinarian."

Page 9, line 14, replace "A person" with "An individual"

Page 9, line 16, replace "Any person that" with "An individual who"

Page 9, line 26, replace "**Collectives**" with "**Multiple animals**"

Page 9, line 26, replace "**Status**" with "**Enhancement**"

Page 9, replace lines 27 through 29 with:

"If a violation of this chapter involves multiple animals, whether of the same species or not, the violation is deemed to be a singular offense for purposes of enhancement."

**SECTION 5. REPRESENTATIVES OF AGRICULTURAL PRODUCTION GROUPS - REPORT TO LEGISLATIVE MANAGEMENT.** Before July 1, 2014, representatives of agricultural production groups, including representatives of this state's livestock industry, shall compile information regarding the effects of this Act on the various sectors of the agricultural industry. The compiled information must be presented to the legislative management for review, together with any suggestions for potential statutory changes."

Renumber accordingly

#### **HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2227**

Page 2, line 8, replace "one year" with "two years"

Page 2, line 28, replace "one year" with "two years"

Renumber accordingly

#### **HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2229**

In lieu of the amendments as printed on pages 1089 and 1090 of the House Journal, Engrossed Senate Bill No. 2229 is amended as follows:

Page 1, line 2, remove "an appropriation for early childhood"

Page 1, line 3, replace "education grants" with "for a superintendent of public instruction study of early childhood care and early childhood education"

Page 1, remove lines 16 through 24

Page 2, replace lines 1 through 14 with:

#### **"SECTION 2. EARLY CHILDHOOD CARE AND EARLY CHILDHOOD EDUCATION - STUDY BY SUPERINTENDENT OF PUBLIC INSTRUCTION - REPORT TO LEGISLATIVE MANAGEMENT.**

1. The superintendent of public instruction shall study the development, delivery, and administration of comprehensive early childhood care and early childhood education in this state. The study must include an examination of the availability, quality, and cost of services offered by existing public and private sector providers, the projected need for services during the coming ten to twenty years, and the ability of public

and private sector providers to address the expansion of facilities or the creation of additional facilities.

2. The superintendent of public instruction may appoint a committee, work groups, task forces, and subcommittees, as necessary, to provide or obtain information required in conjunction with this study.
3. Before June 1, 2014, the superintendent of public instruction shall provide a final report, together with recommendations, to the legislative management."

Renumber accordingly

#### HOUSE AMENDMENTS TO SENATE BILL NO. 2251

Page 1, line 2, remove "12.1-21-04,"

Page 1, line 3, after the fourth comma insert "12.1-32-01, 12.1-32-01.1,"

Page 2, remove lines 18 through 30

Page 3, remove lines 1 and 2

Page 8, line 10, remove the overstrike over "one"

Page 8, line 10, remove "five"

Page 8, line 10, overstrike "hundred" and insert immediately thereafter "thousand"

Page 8, line 19, overstrike the first "a" and insert immediately thereafter ":

a.    A"

Page 8, line 21, overstrike "The offense is a" and insert immediately thereafter:

"b.    A"

Page 8, line 22, overstrike "a." and insert immediately thereafter:

"(1)"

Page 8, line 25, overstrike "b." and insert immediately thereafter:

"(2)"

Page 8, line 26, remove the overstrike over "one"

Page 8, line 26, remove "five"

Page 8, line 26, overstrike "hundred" and insert immediately thereafter "thousand"

Page 8, line 27, overstrike "Otherwise it is a" and insert immediately thereafter:

"c.    A"

Page 8, line 27, after "misdemeanor" insert "in all other cases"

Page 8, after line 27, insert:

**"SECTION 11. AMENDMENT.** Section 12.1-32-01 of the North Dakota Century Code is amended and reenacted as follows:



**12.1-32-01. Classification of offenses - Penalties.**

Offenses are divided into seven classes, which are denominated and subject to maximum penalties, as follows:

1. Class AA felony, for which a maximum penalty of life imprisonment without parole may be imposed. The court must designate whether the life imprisonment sentence imposed is with or without an opportunity for parole. Notwithstanding the provisions of section 12-59-05, a person found guilty of a class AA felony and who receives a sentence of life imprisonment with parole, shall not be eligible to have that person's sentence considered by the parole board for thirty years, less sentence reduction earned for good conduct, after that person's admission to the penitentiary.
2. Class A felony, for which a maximum penalty of twenty years' imprisonment, a fine of ~~ten~~twenty thousand dollars, or both, may be imposed.
3. Class B felony, for which a maximum penalty of ten years' imprisonment, a fine of ~~ten~~twenty thousand dollars, or both, may be imposed.
4. Class C felony, for which a maximum penalty of five years' imprisonment, a fine of ~~five~~ten thousand dollars, or both, may be imposed.
5. Class A misdemeanor, for which a maximum penalty of one year's imprisonment, a fine of ~~two~~three thousand dollars, or both, may be imposed.
6. Class B misdemeanor, for which a maximum penalty of thirty days' imprisonment, a fine of one thousand five hundred dollars, or both, may be imposed.
7. Infraction, for which a maximum fine of ~~five hundred one thousand~~ dollars may be imposed. Any person convicted of an infraction who has, within one year prior to commission of the infraction of which the person was convicted, been previously convicted of an offense classified as an infraction may be sentenced as though convicted of a class B misdemeanor. If the prosecution contends that the infraction is punishable as a class B misdemeanor, the complaint shall specify that the offense is a misdemeanor.

This section shall not be construed to forbid sentencing under section 12.1-32-09, relating to extended sentences.

**SECTION 12. AMENDMENT.** Section 12.1-32-01.1 of the North Dakota Century Code is amended and reenacted as follows:

**12.1-32-01.1. Organizational fines.**

Any organization, as defined in section 12.1-03-04, shall, upon conviction, be subject to a maximum fine in accordance with the following classification:

1. For a class A felony, a maximum fine of ~~fifty~~one hundred thousand dollars.
2. For a class B felony, a maximum fine of ~~thirty-five~~seventy thousand dollars.
3. For a class C felony, a maximum fine of ~~twenty-five~~fifty thousand dollars.
4. For a class A misdemeanor, a maximum fine of ~~fifteen~~thirty thousand dollars.

5. For a class B misdemeanor, a maximum fine of ~~ten~~twenty thousand dollars.

Nothing in this section shall be construed as preventing the imposition of the sanction provided for in section 12.1-32-03, nor as preventing the prosecution of agents of the organization under section 12.1-03-03."

Renumber accordingly

#### **HOUSE AMENDMENTS TO SENATE BILL NO. 2257**

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study of the state hospital's program for the evaluation and treatment of civilly committed sexually dangerous individuals."

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

##### **SECTION 1. LEGISLATIVE MANAGEMENT STUDY - STATE HOSPITAL'S PROGRAM FOR CIVILLY COMMITTED SEXUALLY DANGEROUS INDIVIDUALS.**

During the 2013-14 interim the legislative management shall consider studying the state hospital's program for the evaluation and treatment of civilly committed sexually dangerous individuals. The study must include a review of the program's history, progress, costs, policies and procedures, and the impact of the program on the families of individuals who are civilly committed to the program. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly."

Renumber accordingly

#### **HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2345**

Page 2, line 5, remove the overstrike over "~~one thousand~~"

Page 2, line 5, remove "five hundred"

Page 2, after line 6, insert:

"d. A class A misdemeanor if the value of the exploited funds, assets, or property does not exceed one thousand dollars."

Renumber accordingly

#### **HOUSE AMENDMENTS TO REENGROSSED SENATE BILL NO. 2364**

Page 1, line 9, after the first comma insert "and"

Page 1, line 9, remove ", and section"

Page 1, line 10, remove "57-39.2-26.1"

Page 1, line 12, remove "state aid distribution fund allocations to"

Page 1, line 13, remove "political subdivisions,"

Page 6, remove lines 6 through 30

Page 7, remove lines 1 through 24

Page 7, line 27, remove ", except section 18 of this Act, which is effective for taxable events occurring"

Page 7, line 28, remove "after June 30, 2014"

Renumber accordingly

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has amended and subsequently passed: SB 2125, SB 2175.

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2125**

Page 1, line 12, after the underscored period insert "Caretaker" does not include an individual who is charged with the enforcement of compulsory attendance provisions under section 15.1-20-03."

Page 1, line 15, after "hours" insert "after the caretaker knows or reasonably should have known the child is missing"

Page 1, line 16, remove "or negligently"

Page 1, line 17, replace "immediately" with "within a reasonable time"

Page 1, line 21, after "hours" insert "after the caretaker knows or reasonably should have known the child is missing"

Page 1, line 21, remove "or negligently"

Page 1, line 22, replace "immediately" with "within a reasonable time"

Page 2, line 5, after "caretaker" insert "willfully"

Renumber accordingly

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2175**

Page 1, line 6, remove the overstrike over ~~"Separate and mutual rights"~~

Page 1, line 6, remove "Rights"

Page 1, line 7, remove the overstrike over ~~"separate and"~~

Page 1, line 9, after "The" insert "Except for necessary expenses as provided in subsection 3, the"

Page 1, line 9, remove the overstrike over ~~"earnings of one spouse are not liable for the debts of the other spouse, and the"~~

Page 1, remove the overstrike over lines 10 through 12

Page 1, line 13, remove the overstrike over ~~"3."~~

Page 1, line 14, remove the overstrike over ~~","while living together,"~~

Page 1, line 17, remove the overstrike over ~~"4."~~

Page 1, line 17, remove "3."

Renumber accordingly

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has failed to pass, unchanged: SB 2212, SB 2319.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has appointed as a conference committee to act with a like committee from the Senate on:

**SB 2094:** Reps. Heilman; Meier; Mock

**SB 2095:** Reps. Rust; Heller; Mock

**SB 2339:** Reps. Beadle; Kreun; Gruchalla

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

**MR. PRESIDENT:** The House has appointed as a conference committee to act with a like committee from the Senate on:

**SB 2129:** Reps. Sukut; Louser; M. Nelson

**SB 2160:** Reps. Schatz; Wall; J. Kelsh

**SB 2223:** Reps. Kreun; Becker; Gruchalla

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

**MR. PRESIDENT:** The House has concurred in the Senate amendments and subsequently passed: HB 1028, HB 1030, HB 1060, HB 1079, and HB 1103.

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

**MR. PRESIDENT:** The House has concurred in the Senate amendments and subsequently passed: HB 1113, HB 1125, HB 1149, HB 1168, HB 1175, HB 1196, HB 1201, HB 1207, HB 1236, HB 1276, HB 1316, HB 1333, HB 1336, HB 1360, and HCR 3031.

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

**MR. PRESIDENT:** The House does not concur in the Senate amendments to HB 1112, HB 1126, HB 1157, and HB 1163, and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

**HB 1112:** Reps. Vigesaa; Kasper; Amerman

**HB 1126:** Reps. Owens; Sukut; Gruchalla

**HB 1157:** Reps. Beadle; Klein; Hanson

**HB 1163:** Reps. Ruby; Keiser; M. Nelson

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

**MR. SPEAKER:** Your signature is respectfully requested on: SB 2041, SB 2140, SB 2166, SB 2306, SCR 4017.

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

**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1028, HB 1030, HB 1060, HB 1079, HB 1103, HB 1193, HB 1200, HB 1246, HB 1310.

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

**MR. PRESIDENT:** The Speaker has signed: SB 2041, SB 2140, SB 2166, SB 2306, SCR 4017.

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

**MR. SPEAKER:** The President has signed: SB 2199, SB 2272, SB 2292.

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

**MR. SPEAKER:** The President has signed: HB 1028, HB 1030, HB 1060, HB 1079, HB 1103, HB 1193, HB 1200, HB 1246, HB 1310.

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

**MR. PRESIDENT:** The Speaker has signed: HB 1024, HB 1059, HB 1118, HB 1119, HB 1206, HB 1361, HB 1401, HB 1467.

**MOTION**

**SEN. KLEIN MOVED** that the absent members be excused, which motion prevailed.

**MOTION**

**SEN. KLEIN MOVED** that the Senate be on the Fourth, Fifth, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 12:30 p.m., Friday, April 5, 2013, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**HB 1004, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)**  
recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).  
Engrossed HB 1004 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1027: Transportation Committee (Sen. Oehlke, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1027 was placed on the Sixth order on the calendar.

Page 4, line 4, overstrike "subsection 5 of section 39-06-17 or"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1029, as engrossed: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1029 was placed on the Sixth order on the calendar.

Page 2, line 13, remove the overstrike over "At least"

Page 2, line 13, after "fifty" insert "seventy-five"

Page 2, line 13, remove the overstrike over "percent"

Page 2, line 13, remove "A portion"

Page 2, line 13, replace "as determined" with "must be designated"

Page 2, line 14, overstrike "must" and insert immediately thereafter "to"

Page 2, line 16, after "income" insert "as defined by the most recently published federal fair market rent volume"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1048, as engrossed: Transportation Committee (Sen. Oehlke, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1048 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "and subsection 2 of section"

Page 1, line 2, remove "40-05-06"

Page 2, line 16, after "of" insert "a dollar amount equal to the posted limit plus"

Page 4, remove lines 4 through 18

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1121, as engrossed: Transportation Committee (Sen. Oehlke, Chairman)** recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1121 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1128: Judiciary Committee (Sen. Hogue, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1128 was placed on the Sixth order on the calendar.

Page 1, line 2, after "Act" insert "and the abrogation of common law regarding premarital and marital agreements"

Page 2, line 31, replace "anticipated or pending" with "commenced"

Page 3, replace lines 13 and 14 with "Principles of law and equity may not:

1. Supplement an agreement executed in accordance with this chapter; or
2. Be used to alter a material term in an agreement executed in accordance with this chapter."

Renumber accordingly

#### **REPORT OF STANDING COMMITTEE**

**HB 1170, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1170 was placed on the Fourteenth order on the calendar.

#### **REPORT OF STANDING COMMITTEE**

**HB 1192, as engrossed: Transportation Committee (Sen. Oehlke, Chairman)** recommends **DO PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1192 was placed on the Fourteenth order on the calendar.

#### **REPORT OF STANDING COMMITTEE**

**HB 1198, as reengrossed: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1198 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact two new sections to chapter 57-38 and two new subdivisions to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to a homestead income tax credit and a commercial property income tax credit; and to provide an effective date.

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

**SECTION 1.** A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

##### **Homestead income tax credit.**

1. An individual who has a homestead in this state is entitled to a credit against the tax imposed under section 57-38-30.3 for taxable years 2013 and 2014 in the amount of ten percent of property taxes or mobile home taxes that became due during the income tax taxable year and are paid which were levied against the individual's homestead, residential, or agricultural property in this state.
2. For purposes of this section:
  - a. "Homestead" means the dwelling occupied by the individual as the individual's primary residence in this state.
  - b. "Property taxes or mobile home taxes" includes taxes assessed by a local political subdivision but does not include special assessments.
3. The amount of the credit under this section may not exceed one thousand dollars for married persons filing a joint return or for a single individual, or five hundred dollars for married individuals filing separate returns. The amount of the credit under this section may not exceed the taxpayer's tax liability under this chapter.
4. a. If the credit exceeds the taxpayer's tax liability, the tax commissioner shall issue to the taxpayer a certificate in the amount of the excess credit.

- b. The taxpayer may redeem the certificate by delivering it to the county treasurer in any county in which the taxpayer paid property or mobile home taxes. If the taxpayer owns multiple parcels of property or mobile homes that are located in different counties, only one certificate will be issued.
  - c. At the time the certificate is redeemed, the county treasurer shall issue monetary payment to the taxpayer for the amount of the certificate.
  - d. The county treasurer shall forward redeemed certificates to the tax commissioner, who shall issue payment to the county in the amount of the certificates.
- 5. If a parcel of property is owned by more than one taxpayer, each taxpayer is entitled to a share of the credit allowed with respect to the property or mobile home taxes levied on the parcel based on the taxpayer's respective ownership interests.
- 6. If an individual does not meet the filing requirements under section 57-38-31, the individual is entitled to receive a certificate in an amount calculated in the same manner as provided in subsections 1, 2, and 3. The individual shall file the certificate request form with the tax commissioner by the due date prescribed by the tax commissioner. The individual may redeem the certificate with the county treasurer as provided in subsection 4.
- 7. A person, estate, or trust owning agricultural property in this state is entitled to a credit under this section in the amount of ten percent of property taxes that became due during the income tax taxable year and are paid. Agricultural property that is used as the basis for the credit under subsections 1, 2, and 3 may not be used to calculate the credit under this subsection. The property tax must be passed through to the partners, shareholders, or members in proportion to their respective interest in the passthrough entity. The credit amount under this subsection is determined at the taxpayer level. The amount of the credit in excess of the taxpayer's tax liability may be carried forward for up to five taxable years unless the individual with an ownership interest in the entity has a homestead in the state as defined under subsection 2. If an individual has a homestead in this state, the individual shall receive a property tax certificate provided in subsection 4.
- 8. The tax commissioner may prescribe the forms, procedures, and guidelines necessary for the administration of this section.

**SECTION 2.** A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

**Commercial property income tax credit.**

- 1. A taxpayer is entitled to a credit against the tax imposed under section 57-38-30 or 57-38-30.3 for taxable years 2013 and 2014 in the amount of ten percent of property taxes or mobile home taxes that became due during the income tax taxable year and are paid which were levied against commercial property in this state. For purposes of this section, "property taxes" does not include any special assessments.
  - a. The amount of the credit under this section may not exceed one thousand dollars for any taxpayer.
  - b. The amount of the credit under this section may not exceed the taxpayer's tax liability under this chapter.
  - c. In the case of married individuals filing separately, the credit may not exceed five hundred dollars.

2. The amount of the credit under subsection 1 in excess of the taxpayer's tax liability may be carried forward for up to five taxable years.
3. If a parcel of property is owned by more than one taxpayer, each taxpayer is entitled to a share of the credit allowed with respect to the property or mobile home taxes levied on the parcel based on the taxpayer's respective ownership interests.
4. A person, estate, trust, or any passthrough entity owning commercial property in this state is entitled to a credit under this section in the amount of ten percent of property taxes that became due during the income tax taxable year and are paid. Commercial property that is used as the basis for the credit under subsections 1, 2, and 3 may not be used to calculate the credit under this subsection. The total amount of property tax paid by a passthrough entity must be allocated to the partners, shareholders, or members in proportion to their respective interest in the passthrough entity. The credit amount under this subsection must be calculated on the partners', shareholders', or members' allocated share, subject to the limitations in subsection 1.
5. The tax commissioner may prescribe the forms, procedures, and guidelines necessary for the administration of this section.

**SECTION 3.** Two new subdivisions to subsection 7 of section 57-38-30.3 of the North Dakota Century Code are created and enacted as follows:

A taxpayer filing a return under this section is entitled to the credit provided under section 1 of this Act.

A taxpayer filing a return under this section is entitled to the credit provided under section 2 of this Act.

**SECTION 4. EFFECTIVE DATE.** This Act is effective for the first two taxable years beginning after December 31, 2012."

Renumber accordingly

#### **REPORT OF STANDING COMMITTEE**

**HB 1217, as engrossed: Education Committee (Sen. Flakoll, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1217 was placed on the Fourteenth order on the calendar.

#### **REPORT OF STANDING COMMITTEE**

**HB 1231, as engrossed: Transportation Committee (Sen. Oehlke, Chairman)** recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1231 was placed on the Fourteenth order on the calendar.

#### **REPORT OF STANDING COMMITTEE**

**HB 1250: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1250 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact three new sections to chapter 57-38, a new subdivision to subsection 7 of section 57-38-30.3, subsections 7 and 8 to section 57-38-34, subsection 11 to section 57-38-38, and subsection 16 to section 57-38-40 of the North Dakota Century Code, relating to corporate and individual income tax credits and transition of financial institutions to corporate income tax treatment; to amend and reenact subsection 5 of section 11-37-08, subsection 8 of section 40-63-01, subsection 5 of section 40-63-04, section 40-63-06, subsections 3 and 4 of section 40-63-07, subsection 3 of section 57-38-01.3, subsection 3 of section 57-38-01.26, subsections



5 and 7 of section 57-38-01.32, section 57-38-30, subsection 1 and subdivisions c, d, and f of subsection 2 of section 57-38-30.3, and section 57-39.2-26.1 of the North Dakota Century Code, relating to authorized investments of an angel fund for income tax credit purposes, reduction in income tax rates for corporations, individuals, estates, and trusts, transition of financial institutions to corporate income tax treatment, income tax credits and exclusions, and allocation to political subdivisions from the state aid distribution fund; to repeal chapter 57-35.3 of the North Dakota Century Code, relating to elimination of the financial institutions tax; to provide for a report; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Subsection 5 of section 11-37-08 of the North Dakota Century Code is amended and reenacted as follows:

5. Bonds issued by a commerce authority under this section are declared to be issued for an essential public government purpose, and together with interest and income on the bonds, are exempt from all individual and corporate taxes imposed under sections ~~57-35.3-03~~, 57-38-30; and 57-38-30.3.

**SECTION 2. AMENDMENT.** Subsection 8 of section 40-63-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Taxpayer" means an individual, corporation, ~~financial institution~~, or trust subject to the taxes imposed by chapter ~~57-35.3 or~~ 57-38 and includes a partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity.

**SECTION 3. AMENDMENT.** Subsection 5 of section 40-63-04 of the North Dakota Century Code is amended and reenacted as follows:

5. The exemptions provided by this section do not eliminate any duty to file a return or to report income as required under chapter ~~57-35.3 or~~ 57-38.

**SECTION 4. AMENDMENT.** Section 40-63-06 of the North Dakota Century Code is amended and reenacted as follows:

**40-63-06. Historic preservation and renovation tax credit.**

A credit against state tax liability as determined under sections ~~57-35.3-03~~, 57-38-30; and 57-38-30.3 is allowed for investments in the historic preservation or renovation of property within the renaissance zone. The amount of the credit is twenty-five percent of the amount invested, up to a maximum of two hundred fifty thousand dollars. The credit may be claimed in the year in which the preservation or renovation is completed. Any excess credit may be carried forward for a period of up to five taxable years.

**SECTION 5. AMENDMENT.** Subsection 3 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

3. A renaissance fund organization is exempt from any tax imposed by chapter ~~57-35.3 or~~ 57-38. An exemption under this section may be passed through to any shareholder, partner, and owner if the renaissance fund organization is a passthrough entity for tax purposes. A corporation ~~or financial institution~~ entitled to the exemption provided by this subsection shall file required returns and report income to the tax commissioner as required by the provisions of ~~those chapters~~ chapter 57-38 as if the exemption did not exist. If an employer, this subsection does not exempt a renaissance fund organization from complying with the income tax withholding laws.

**SECTION 6. AMENDMENT.** Subsection 4 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

4. A credit against state tax liability as determined under section ~~57-35.3-03~~, ~~57-38-30~~, or ~~57-38-30.3~~ is allowed for investments in a renaissance fund organization. The amount of the credit is fifty percent of the amount invested in the renaissance fund organization during the taxable year. Any amount of credit which exceeds a taxpayer's tax liability for the taxable year may be carried forward for up to five taxable years after the taxable year in which the investment was made.

**SECTION 7. AMENDMENT.** Subsection 3 of section 57-38-01.3 of the North Dakota Century Code is amended and reenacted as follows:

3. The sum calculated pursuant to subsection 1 must be reduced by the amount of any net operating loss that is attributable to North Dakota sources, including a net operating loss calculated under chapter 57-35.3 for tax years beginning before January 1, 2013. If the net operating loss that is attributable to North Dakota sources exceeds the sum calculated pursuant to subsection 1, the excess may be carried forward for the same time period that an identical federal net operating loss may be carried forward. If a corporation uses an apportionment formula to determine the amount of income that is attributable to North Dakota, the corporation must use the same formula to determine the amount of net operating loss that is attributable to North Dakota. In addition, no deduction may be taken for a carryforward when determining the amount of net operating loss that is attributable to North Dakota sources.

**SECTION 8. AMENDMENT.** Subsection 3 of section 57-38-01.26 of the North Dakota Century Code is amended and reenacted as follows:

3. An angel fund must:
  - a. Be a partnership, limited partnership, corporation, limited liability company, limited liability partnership, trust, or estate organized on a for-profit basis which is headquartered in this state.
  - b. Be organized for the purpose of investing in a portfolio of at least three primary sector companies that are early-stage and mid-stage private, nonpublicly traded enterprises with strong growth potential. For purposes of this section, an early-stage entity means an entity with annual revenues of up to two million dollars and a mid-stage entity means an entity with annual revenues over two million dollars not to exceed ten million dollars. Early stage and mid stage entities do not include those that have more than twenty-five percent of their revenue from income-producing real estate. Investments in real estate or real estate holding companies are not eligible investments by certified angel funds. Any angel fund certificate before January 1, 2013, which has invested in real estate or a real estate holding company is not eligible for recertification.
  - c. Consist of at least six accredited investors as defined by securities and exchange commission regulation D, rule 501.
  - d. Not have more than twenty-five percent of its capitalized investment assets owned by an individual investor.
  - e. Have at least five hundred thousand dollars in commitments from accredited investors and that capital must be subject to call to be invested over an unspecified number of years to build a portfolio of investments in enterprises.
  - f. Be member-managed or a manager-managed limited liability company and the investor members or a designated board that includes investor members must make decisions as a group on which enterprises are worthy of investments.

- g. Be certified as an angel fund that meets the requirements of this section by the department of commerce.
- h. Be in compliance with the securities laws of this state.
- i. Within thirty days after the date on which an investment in an angel fund is made, the angel fund shall file with the tax commissioner and provide to the investor completed forms prescribed by the tax commissioner which show as to each investment in the angel fund the following:
  - (1) The name, address, and social security number or federal employer identification number of the taxpayer or passthrough entity that made the investment;
  - (2) The dollar amount remitted by the taxpayer or passthrough entity; and
  - (3) The date the payment was received by the angel fund for the investment.
- j. Within thirty days after the end of a calendar year, the angel fund shall file with the tax commissioner a report showing the name and principal place of business of each enterprise in which the angel fund has an investment.

**SECTION 9. AMENDMENT.** Subsections 5 and 7 of section 57-38-01.32 of the North Dakota Century Code are amended and reenacted as follows:

- 5. The aggregate amount of tax credits allowed to all eligible contributors is limited to fifteen million dollars per biennium. ~~This limitation applies to all contributions for which tax credits are claimed under section 57-35.3-05 and this section.~~
- 7. To receive the tax credit provided under this section, a taxpayer shall claim the credit on the taxpayer's state income ~~or financial institutions~~ tax return in the manner prescribed by the tax commissioner and file with the return a copy of the form issued by the housing finance agency under subsection 6.

**SECTION 10.** A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

**Employer-provided child care credit.**

- 1. An employer is allowed a credit against the tax imposed under section 57-38-30 or 57-38-30.3 for providing a qualified child care facility. The amount of the credit under this section is fifty percent of the qualified child care expenditures incurred by the employer. Qualified child care expenditures under this section may not be used in the calculation of any other income tax deduction or credit allowed under state law.
- 2. For purposes of this section:
  - a. "Employer" means a taxpayer who employs one or more full-time equivalent employees and whose primary source of income is from a business other than the business of providing child care services.
  - b. "Qualified child care expenditure" means any amount paid or incurred:
    - (1) To acquire, construct, rehabilitate, or expand property:
      - (a) That is to be used as part of a qualified child care facility:

- (b) For which a deduction under federal law for depreciation, or amortization in lieu of depreciation, is allowable; and
  - (c) That does not constitute part of the principal residence of the taxpayer or any employee of the taxpayer;
- (2) For the direct costs necessary for the operation of the child care facility;
  - (3) For the indirect or overhead costs properly attributable to the child care facility, including insurance, utilities, front office salaries, property taxes, legal fees, and advertising; or
  - (4) Under a contract with a qualified child care facility to provide child care services to employees of the taxpayer, including any amount paid to the child care facility for additional direct or indirect costs of the facility.

The term "qualified child care expenditure" does not include expenses in excess of the fair market value of such care.

- c. "Qualified child care facility" means a facility the principal use of which is to provide child care assistance to the taxpayer's employees and that meets the requirements of all applicable laws and regulations of the state and local government in which it is located.
  - (1) The term "qualified child care facility" does not apply to a facility which is the principal residence of the operator of the facility.
  - (2) A facility may not be treated as a qualified child care facility with respect to a taxpayer unless:
    - (a) Enrollment in the facility is open to employees of the taxpayer during the taxable year; and
    - (b) Eligibility for enrollment must be offered to all employees on an equal opportunity basis.
- 3. The taxpayer shall claim the total credit amount for the taxable year in which the qualified child care expenditures are made, except depreciated property expenditures shall be claimed in the taxable year in which the property is placed in service. The credit under this section may not exceed the taxpayer's liability as determined under this chapter for any taxable year.
- 4. If two or more taxpayers share in the qualified child care expenditures, each taxpayer must be allowed the credit in relation to the respective share paid or incurred by each taxpayer of the total expenditures for the facility in each taxable year.
- 5. If the amount of the credit determined under this section exceeds the liability for tax under this chapter, the excess may be carried forward to each of the next five succeeding taxable years.
- 6. A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of calculating the credit. The amount of the allowable credit must be determined at the passthrough entity level. The total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity. An individual taxpayer may take the credit passed through under this subsection against the individual's state income tax liability under section 57-38-30.3.

7. To receive the tax credit provided under this section, a taxpayer shall claim the credit in the form and manner as may be prescribed by the tax commissioner.
8. It is the intent of the legislative assembly that the credit provided in this section must be liberally construed and interpreted to effectuate the expansion of child care availability in the state.

**SECTION 11.** A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

Employer-provided child care credit under section 10 of this Act.

**SECTION 12.** A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

**Financial institutions - Net operating losses - Credit carryovers.**

1. A subchapter S corporation that was a financial institution under chapter 57-35.3 may elect to be treated as a taxable corporation under chapter 57-38. If an election is made under this section, the election:
  - a. Must be made in the form and manner prescribed by the tax commissioner on the return filed for the tax year beginning on January 1, 2013, or the return filed for the short period required under subsection 8 of section 57-38-34; and
  - b. Is binding until the earlier of:
    - (1) The end of the tax year for which the taxpayer reports a tax liability after tax credits; or
    - (2) The beginning of the tax year for which the taxpayer elects to be recognized as a subchapter S corporation under section 57-38-01.4.
2. If an election is made under this section, the following apply:
  - a. A subchapter S corporation may not file a consolidated return.
  - b. Any unused credit carryovers earned by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward in the same number of years the financial institution would have been entitled under chapter 57-35.3.
  - c. Any unused net operating losses incurred by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward for the same number of years the financial institution would have been entitled under chapter 57-35.3.

**SECTION 13.** A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

**Corporate credit for contributions to rural leadership North Dakota.**

There is allowed a credit against the tax imposed by section 57-38-30 in an amount equal to fifty percent of the aggregate amount of contributions made by the taxpayer during the taxable year for tuition scholarships for participation in rural leadership North Dakota conducted through the North Dakota state university extension service. Contributions by a taxpayer may be earmarked for use by a designated recipient.

**SECTION 14. AMENDMENT.** Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-30. Imposition and rate of tax on corporations.**

A tax is hereby imposed upon the taxable income of every domestic and foreign corporation which must be levied, collected, and paid annually as in this chapter provided:

1. For the first twenty-five thousand dollars of taxable income, at the rate of one and ~~sixty-eight~~fifty-two hundredths percent.
2. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of ~~four~~three and ~~twenty-three~~eighty-three hundredths percent.
3. On all taxable income exceeding fifty thousand dollars, at the rate of ~~five~~four and ~~fifteen~~sixty-five hundredths percent.

**SECTION 15. AMENDMENT.** Subsection 1 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

1. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust. A taxpayer computing the tax under this section is only eligible for those adjustments or credits that are specifically provided for in this section. Provided, that for purposes of this section, any person required to file a state income tax return under this chapter, but who has not computed a federal taxable income figure, shall compute a federal taxable income figure using a pro forma return in order to determine a federal taxable income figure to be used as a starting point in computing state income tax under this section. The tax for individuals is equal to North Dakota taxable income multiplied by the rates in the applicable rate schedule in subdivisions a through d corresponding to an individual's filing status used for federal income tax purposes. For an estate or trust, the schedule in subdivision e must be used for purposes of this subsection.

- a. Single, other than head of household or surviving spouse.

If North Dakota taxable income is:      The tax is equal to:

Not over ~~\$34,500~~\$36,250      ~~1.51%~~1.29%

Over ~~\$34,500~~\$36,250    ~~\$520.95~~\$467.74 plus ~~2.82%~~2.41%

but not over ~~\$83,600~~\$87,850      of amount over ~~\$34,500~~\$36,250

Over ~~\$83,600~~\$87,850    ~~\$1,905.57~~\$1,711.15 plus ~~3.13%~~2.67%

but not over ~~\$174,400~~\$183,250      of amount over ~~\$83,600~~\$87,850

Over ~~\$174,400~~\$183,250      ~~\$4,747.61~~\$4,262.73 plus ~~3.63%~~3.10%

but not over ~~\$379,150~~\$398,350      of amount over ~~\$174,400~~\$183,250

Over ~~\$379,150~~\$398,350      ~~\$12,180.04~~\$10,934.86 plus ~~3.99%~~3.41%

of amount over ~~\$379,150~~\$398,350

- b. Married filing jointly and surviving spouse.

If North Dakota taxable income is:      The tax is equal to:

Not over ~~\$57,700~~\$60,650      ~~1.51%~~1.29%

Over ~~\$57,700~~\$60,650    ~~\$871.27~~\$782.57 plus ~~2.82%~~2.41%

but not over ~~\$139,350~~\$146,400 of amount over ~~\$57,700~~\$60,650

Over ~~\$139,350~~\$146,400 ~~\$3,173.80~~\$2,848.90 plus 3.13%2.67%

but not over ~~\$212,300~~\$223,050 of amount over ~~\$139,350~~\$146,400

Over ~~\$212,300~~\$223,050 ~~\$5,457.14~~\$4,898.99 plus 3.63%3.10%

but not over ~~\$379,150~~\$398,350 of amount over ~~\$212,300~~\$223,050

Over ~~\$379,150~~\$398,350 ~~\$11,513.79~~\$10,336.57 plus 3.99%3.41%

of amount over ~~\$379,150~~\$398,350

c. Married filing separately.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$28,850~~\$30,325 1.51%1.29%

Over ~~\$28,850~~\$30,325 ~~\$435.64~~\$391.29 plus 2.82%2.41%

but not over ~~\$69,675~~\$73,200 of amount over ~~\$28,850~~\$30,325

Over ~~\$69,675~~\$73,200 ~~\$1,586.90~~\$1,424.46 plus 3.13%2.67%

but not over ~~\$106,150~~\$111,525 of amount over ~~\$69,675~~\$73,200

Over ~~\$106,150~~\$111,525 ~~\$2,728.57~~\$2,449.51 plus 3.63%3.10%

but not over ~~\$189,575~~\$199,175 of amount over ~~\$106,150~~\$111,525

Over ~~\$189,575~~\$199,175 ~~\$5,756.90~~\$5,168.30 plus 3.99%3.41%

of amount over ~~\$189,575~~\$199,175

d. Head of household.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$46,250~~\$48,600 1.51%1.29%

Over ~~\$46,250~~\$48,600 ~~\$698.38~~\$627.09 plus 2.82%2.41%

but not over ~~\$119,400~~\$125,450 of amount over ~~\$46,250~~\$48,600

Over ~~\$119,400~~\$125,450 ~~\$2,761.21~~\$2,478.96 plus 3.13%2.67%

but not over ~~\$193,350~~\$203,150 of amount over ~~\$119,400~~\$125,450

Over ~~\$193,350~~\$203,150 ~~\$5,075.84~~\$4,557.14 plus 3.63%3.10%

but not over ~~\$379,150~~\$398,350 of amount over ~~\$193,350~~\$203,150

Over ~~\$379,150~~\$398,350 ~~\$11,820.38~~\$10,611.99 plus 3.99%3.41%

of amount over ~~\$379,150~~\$398,350

e. Estates and trusts.

If North Dakota taxable income is: The tax is equal to:

Not over ~~\$2,300~~\$2,450 1.51%1.22%

Over ~~\$2,300~~\$2,450 ~~\$34.73~~\$29.82 plus 2.82%2.27%

but not over ~~\$5,450~~\$5,700

of amount over ~~\$2,300~~\$2,450

Over ~~\$5,450~~\$5,700    ~~\$123.56~~\$103.69 plus ~~3.13%~~2.52%

but not over ~~\$8,300~~\$8,750

of amount over ~~\$5,450~~\$5,700

Over ~~\$8,300~~\$8,750    ~~\$212.77~~\$180.64 plus ~~3.63%~~2.93%

but not over ~~\$11,350~~\$11,950

of amount over ~~\$8,300~~\$8,750

Over ~~\$11,350~~\$11,950    ~~\$323.48~~\$274.27 plus ~~3.99%~~3.22%

of amount over ~~\$11,350~~\$11,950

- f. For an individual who is not a resident of this state for the entire year, or for a nonresident estate or trust, the tax is equal to the tax otherwise computed under this subsection multiplied by a fraction in which:

- (1) The numerator is the federal adjusted gross income allocable and apportionable to this state; and
- (2) The denominator is the federal adjusted gross income from all sources reduced by the net income from the amounts specified in subdivisions a and b of subsection 2.

In the case of married individuals filing a joint return, if one spouse is a resident of this state for the entire year and the other spouse is a nonresident for part or all of the tax year, the tax on the joint return must be computed under this subdivision.

- g. The tax commissioner shall prescribe new rate schedules that apply in lieu of the schedules set forth in subdivisions a through e. The new schedules must be determined by increasing the minimum and maximum dollar amounts for each income bracket for which a tax is imposed by the cost-of-living adjustment for the taxable year as determined by the secretary of the United States treasury for purposes of section 1(f) of the United States Internal Revenue Code of 1954, as amended. For this purpose, the rate applicable to each income bracket may not be changed, and the manner of applying the cost-of-living adjustment must be the same as that used for adjusting the income brackets for federal income tax purposes.
- h. The tax commissioner shall prescribe an optional simplified method of computing tax under this section that may be used by an individual taxpayer who is not entitled to claim an adjustment under subsection 2 or credit against income tax liability under subsection 7.

**SECTION 16. AMENDMENT.** Subdivisions c, d, and f of subsection 2 of section 57-38-30.3 of the North Dakota Century Code are amended and reenacted as follows:

- c. Reduced by the amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~section 12 of this Act.
- d. Reduced by ~~thirty~~forty percent of:
  - (1) The excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for that year, as computed for purposes of the Internal Revenue Code of 1986, as amended. The adjustment provided by this subdivision is allowed only to the extent the net long-term capital gain is allocated to this state.



- (2) ~~The qualified dividend income that is taxed at the same rate as long-term capital gain for federal income tax purposes under Internal Revenue Code provisions in effect on December 31, 2008. Qualified dividends as defined under Internal Revenue Code section 1(h)(11), added by section 302(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 [Pub. L. 108-27; 117 Stat. 752; 2 U.S.C. 963 et seq.], but only if taxed at a federal income tax rate that is lower than the regular federal income tax rates applicable to ordinary income. If, for any taxable year, qualified dividends are taxed at the regular federal income tax rates applicable to ordinary income, the reduction allowed under this subdivision is equal to twenty percent of all dividends included in federal taxable income. The adjustment provided by this subdivision is allowed only to the extent the qualified dividend income is allocated to this state.~~

- f. Increased by an amount equal to the losses that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~ section 12 of this Act.

**SECTION 17.** Subsections 7 and 8 to section 57-38-34 of the North Dakota Century Code are created and enacted as follows:

7. For a person that was subject to the tax under chapter 57-35.3 for the calendar year ending December 31, 2012, payment of the tax under this chapter is due six months after the due date of the return as required under this section. The provisions of subdivision a of subsection 1 of section 57-38-45 do not apply to the tax due under this subsection. This subsection applies to the first tax year beginning after December 31, 2012.
8. A person that previously reported under chapter 57-35.3 on a calendar year basis and files its federal income tax return on a fiscal year basis must file a short period return for the period beginning January 1, 2013, and ending on the last day of the tax year in calendar year 2013.

**SECTION 18.** Subsection 11 to section 57-38-38 of the North Dakota Century Code is created and enacted as follows:

11. This section applies if additional tax would be due under the provisions of chapter 57-35.3 in effect for taxable years beginning before January 1, 2013.

**SECTION 19.** Subsection 16 to section 57-38-40 of the North Dakota Century Code is created and enacted as follows:

16. A person that would have been entitled to a credit or refund under chapter 57-35.3 for a taxable year beginning before January 1, 2013, may file a claim for refund or credit of an overpayment of tax.

**SECTION 20. AMENDMENT.** Section 57-39.2-26.1 of the North Dakota Century Code is amended and reenacted as follows:

**57-39.2-26.1. Allocation of revenues among political subdivisions.**

Notwithstanding any other provision of law, a portion of sales, gross receipts, use, and motor vehicle excise tax collections, equal to ~~forty~~ forty-three and one-half percent of an amount determined by multiplying the quotient of one percent divided by the general sales tax rate, that was in effect when the taxes were collected, times the net sales, gross receipts, use, and motor vehicle excise tax collections under chapters 57-39.2, 57-39.5, 57-39.6, 57-40.2, and 57-40.3 must be deposited by the state treasurer in the state aid distribution fund. The state tax commissioner shall certify to the state treasurer the portion of sales, gross receipts, use, and motor vehicle excise tax net revenues that must be deposited in the state aid distribution fund as determined under this section. Revenues deposited in the state aid

distribution fund are provided as a standing and continuing appropriation and must be allocated as follows:

1. Fifty-three and seven-tenths percent of the revenues must be allocated to counties in the first month after each quarterly period as provided in this subsection.
  - a. Sixty-four percent of the amount must be allocated among the seventeen counties with the greatest population, in the following manner:
    - (1) Thirty-two percent of the amount must be allocated equally among the counties; and
    - (2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.
  - b. Thirty-six percent of the amount must be allocated among all counties, excluding the seventeen counties with the greatest population, in the following manner:
    - (1) Forty percent of the amount must be allocated equally among the counties; and
    - (2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

A county shall deposit all revenues received under this subsection in the county general fund. Each county shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, townships, rural fire protection districts, rural ambulance districts, soil conservation districts, county recreation service districts, county hospital districts, the Garrison Diversion Conservancy District, the southwest water authority, and other taxing districts within the county, excluding school districts, cities, and taxing districts within cities. The share of the county allocation under this subsection to be distributed to a township must be equal to the percentage of the county share of state aid distribution fund allocations that township received during calendar year 1996. The governing boards of the county and township may agree to a different distribution.

2. Forty-six and three-tenths percent of the revenues must be allocated to cities in the first month after each quarterly period based upon the proportion each city's population bears to the total population of all cities.

A city shall deposit all revenues received under this subsection in the city general fund. Each city shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, park districts and other taxing districts within the city, excluding school districts. The share of the city allocation under this subsection to be distributed to a park district must be equal to the percentage of the city share of state aid distribution fund allocations that park district received during calendar year 1996, up to a maximum of thirty percent. The governing boards of the city and park district may agree to a different distribution.

**SECTION 21. REPEAL.** Chapter 57-35.3 of the North Dakota Century Code is repealed.

**SECTION 22. LEGISLATIVE MANAGEMENT REPORT.** By December 31, 2014, the department of human services, with the assistance of the tax commissioner, shall prepare and file a report with the legislative council on the impact of the employer-provided child care credit on the availability of child care and on existing child care providers' ability to continue to provide affordable quality child

care and the effects on the ability of the state's workforce to find affordable quality child care.

**SECTION 23. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2012."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1263, as reengrossed: Transportation Committee (Sen. Oehlke, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1263 was placed on the Sixth order on the calendar.

Page 1, line 3, replace "section" with "sections"

Page 1, line 3, after "39-06.1-05" insert "and 39-06.1-09"

Page 2, after line 3, insert:

**"SECTION 2. AMENDMENT.** Section 39-06.1-09 of the North Dakota Century Code is amended and reenacted as follows:

**39-06.1-09. Moving violation defined.**

For the purposes of sections 39-06.1-06 and 39-06.1-13, a "moving violation" means a violation of section 39-04-22, subsection 1 of section 39-04-37, section 39-04-55, 39-06-01, 39-06-14, 39-06-16, 39-08-20, 39-08-23, 39-08-24, 39-09-04.1, or 39-09-09, subsection 1 of section 39-12-02, section 39-12-04, 39-12-05, 39-12-06, 39-12-09, 39-24-02, or 39-24-09, except subdivisions b and c of subsection 5, or equivalent ordinances; or a violation of the provisions of chapter 39-10, 39-10.2, or 39-21, or equivalent ordinances, except subsection 5 of section 39-10-26, sections 39-21-44 and 39-21-45.1, subsections 2 and 3 of section 39-21-46, and those sections within those chapters which are specifically listed in subsection 1 of section 39-06.1-08."

Page 4, line 17, after "evidence" insert ", including written or electronic proof of insurance."

Page 4, line 24, after "evidence" insert ", including written or electronic proof of insurance."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1267, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **DO PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1267 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1304, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1304 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1342: Transportation Committee (Sen. Oehlke, Chairman)** recommends **DO NOT PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1342 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1362, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (7 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1362 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1388, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).

VOTING). Engrossed HB 1388 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1402: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **DO PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1402 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1446, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **DO PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1446 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3027: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **DO NOT PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HCR 3027 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3038: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **DO PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HCR 3038 was placed on the Fourteenth order on the calendar.

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

**William R. Horton, Secretary**