

17.1005.02000

FISCAL NOTE STATEMENT

Senate Bill or Resolution No. SB 2326

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, school districts, or townships. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

Sheila Sandness
Senior Fiscal Analyst

17.1005.01000

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2017 SENATE FINANCE AND TAXATION

SB 2326

2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

Senate Bill 2326
1/31/2017
Job #: 27639

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 11-09.1-05 and 40-05.1-06 of the North Dakota Century Code, relating to the authority of home rule counties and cities to levy certain taxes.

Minutes:

Attachment # 1-2

Chairman Cook: Opened the hearing on SB 2326. All Senators present.

(0:00:10-0:04:30) Senator Laffen, District 43: SB 2326 takes away the counties ability to levy a motor vehicle fuel or special fuels tax as part of a home rule. This idea came to us from the article in the Bismarck Tribune where the city of Glen Ullin was considering a gas tax. Not many of us understood that home rule would allow a gas tax to be implemented at the local level. According to law it allows local municipalities to collect property taxes, sales and use taxes, farm machinery gross receipt taxes, alcoholic beverage gross receipt taxes, motor vehicle registration fees and special assessments for benefits conferred for it's public and proprietary functions. There is a lot more in there than I understood and that's why this bill was initiated to have the debate whether or not we wanted to allow cities and counties be able to tax all of those different components.

Not a big fan of cities or counties being able to levy an additional gas tax, not sure what the unattended consequences would be, as a motorist you don't really care what the price difference is. I believe the citizens of North Dakota believe the gas tax is going to fix roads. The cities and counties could do all kinds of things with their gas tax funds. What about all the other taxes? If a city has a 5 cent gas tax is that going to incentivize a station to pack up and move out of town to where they have a 5 cent advantage

(0:04:30-0:09:00) Discussion on home rule and the ability to tax different sections.

(0:09:15-0:13:30) Matt Bjornson, North Dakota Petroleum Marketers Association: presented testimony #1 in support of SB 2326.

Chairman Cook asked of Mr. Bjornson the tax remittance issue.

(0:14:30-0:16:55) Mike Rud, President, North Dakota Petroleum Marketers Association: In support of SB 2326. Read in the paper about the belief that a city can increase a tax in a recreation area. From personal experience, having lived in a recreation area and having owned a convenience store in these areas, if you aren't very competitive with everything your price. People are going to find other ways to save money. This could have a negative effect on the state gas taxes, also effect other city and state taxes. If gas prices are lower elsewhere, they'll fill where it's lowest. If offering good services and provide what they want, they will stop and support the local community. There are a lot of misconceptions in what could be done for a rural community.

(0:16:56-0:20:10) Senator Dotzenrod inquired about whether it should be locally monitored or state. Uniform taxes when it comes to gasoline. Ground rules that allow someone other than a city commission to determine a tax should be leveled against one industry. Not sure if they fully understand the impact.

(0:20:15-0:21:20) Larry Syverson, North Dakota Township Officers: offered support of SB 2326. Fuel tax should be reserved for the state, at the burden of all the state. Would support increasing the state gas tax, and also support rolling back the local sales tax by whatever means necessary.

(0:21:30-0:23:55) Sid White, City Council Member, Glen Ullin: Opposition of SB 2326. The bill has the potential to undermine the ability for small towns in North Dakota to maintain and repair important infrastructures. The town has less than a 1000 residents, most are elderly and on a fixed income. The state has seen a major revenue decline in the last year and because of this all the cities and towns have suffered also. Currently their city is working on a multimillion dollar 3-year sewer and water project. Acquired grants, but the balance left over after the grant is applied is forcing a rise in property taxes and possibly sales tax for the next 30 years. Places a financial strain on the community, but trying to keep the impact to a minimum. The streets are in horrible shape and because of the grants available, they'll only cover the portion of the streets impacted by the project, leaving streets with new strips over the top of new water and sewer lines. Leaving the rest in dilapidated condition. If the bill passes the only way for Glen Ullin to pay for the remaining section of road would be to raise property and sales tax again. The ability to impose a fuel tax would allow Glen Ullin to defer some of the costs to the people who use their town, but don't live there, such as hunters and families traveling. The tax would lessen the burden on the small rural town if they were to vote for it. Not only taking away the ability to put a tax in place, taking away the right of the people to make a choice if they want to. It would be no different than the Federal government telling our state that they can no longer charge for a sale tax. North Dakota seems to keep government small and let people make choices for themselves. In his opinion, this bill is a step in the opposite direction.

Senator Dotzenrod: If during the deliberations in Glen Ullin, you had done something with this power that you currently have in law. Had you envisioned what might be appropriate and how much would that generate. Is it significant?

(0:24:20-0:25:15) Sid White: Significant to our town. What we had proposed and the council had chosen to do was put a 2 cent gas tax per gallon on every road fuel that's sold in Glen Ullin. Based on our estimates, there is about 750,000 gallons a year. That would give us

about 15,000 a year in income, based on the current levels. That was designated to streets and road repair and maintenance only. That was all those funds would be used for. It wasn't so that we had hundreds of thousands of dollars coming in from this tax to be able buy new stuff and even replace all the roads, it was so that we had some leverage to be able to go and get financed and make a thousand dollar a month payment towards a couple million-dollar loan towards repair our streets.

(0:25:30-0:30:25) John Mahoney, Glen Ullin, City Attorney: Addressed a few points. Other than a sales tax, still a sales tax, it's part of something that's been in place since 2011, It's been five years since introduced, hasn't been given a chance to be tested. Being a burden, this doesn't affect farmers. It only applies to retail gas purchases at the pumps, not bulk delivery to farmers. The proposed tax comes down to the local control, has to have the vote of the people before home rule charter can be amended. In place, been important to small communities looking for revenue sources. If there was a concern it could get outrageous, consider amending to add a cap of 5 cents. They're going to weigh the interests of the community and of the local businesses. A local tax of 2-5 cents isn't going to hurt businesses and a decision made on the local level.

Senator Meyer: If you did impose the tax, would you see the potential for the business owners to be competitive to drop his price, now he's taking the hit.

John Mahoney: That would be a decision for the business owner. Going to hear from the local gas station owner, he's going to tell the commission about it, and then the people would speak on the issue.

Senator Dotzenrod: The bill would implement the restriction on both the city and counties, would there be an ordinance for the city or put on the ballot for voters to vote on. Just how would the approval process work as it currently stands?

John Mahoney: Home rule charter, to be amended has to be put to a vote of the people to make any substantive changes. So it would be put to a vote of the people in the city. If they wanted to do it on a county wide basis it would have to go through the county. It would only apply to sales inside the city of Glen Ullin.

(0:33:00-0:38:55) Blake Crosby, Executive Director, North Dakota League of Cities: presented testimony #2 in opposition of SB 2326.

Senator Dotzenrod: Interested in your observation in the condition of the cities around the state. One of the things that seems to be a common factor in these smaller cities is the difficulty in maintaining their infrastructure. That seems to be something that is much more noticeable in the smaller cities than the larger ones. Is there something the League of Cities is having a discussion on the priority and the nature of the difficulties the cities are having. Is this ability to try to find money for the infrastructure a theme that is out there, complaints from the cities?

Blake Crosby: It is the inability to find funds to take care of the infrastructure. Whether you're a city of 50 or a city of 500, the city block for reconstruction for asphalt probably runs a quarter of a million dollars. That's a lot of money for the smaller cities to try and come up with. They

can use special assessments or they can increase property taxes. The options are really limited. There is an increased need for some sort of infrastructure funding. Most infrastructure funding is cities having to borrow funds. Granted, interest rates are at reasonable right now. It's time for the state to give serious thought to bonding for infrastructure projects. A 30-50 million bonding issues designated for infrastructure would go a long way to helping out the cities, townships, counties, and state. There was some money set aside in the state water commission bill for municipal water projects. There are still some cities with lead and clay pipes. They're losing more water into the ground than the citizens are using. Cities are at a tipping point, there is a life cycle span to every product. Cities did a lot of work through USA rural development. The lifecycles are coming to an end.

(0:42:50-0:47:20) Discussion was held regarding other taxes the home rule charter include that aren't being used, resulting in a request for more defined terminology. The locals can't put a sales tax on something that the state doesn't tax.

(0:47:25-0:49:45) Question was asked about the accounting of the local taxes and if that would be a problem for the tax department. Would that be a problem for a way to account for the local taxes. Myles Vosberg answered that it would be more complex. Distributors collect and remit the tax, while its final user is the one that pays the tax. Multiple local taxes would be difficult. A fiscal note would need to be added due to system changes in the current motor fuels area.

(0:49:47-0:50:35) Donnita A. Wald, General Counsel, North Dakota Tax Department: In 2005 legislative authority was given to enter into collections for sales and use taxes only. For the motor vehicle fuel tax, it is our interpretation that the tax department couldn't collect this tax. Would be up to the home rule to impose, enforce, and collect their own tax.

Closed the hearing on SB 2326.

2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

Senate Bill 2326
2/7/2017
Job #: 27974

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 11-09.1-05 and 40-05.1-06 of the North Dakota Century Code, relating to the authority of home rule counties and cities to levy certain taxes.

Minutes:

Attachment #1, #1A

Chairman Cook opened the committee work on SB 2326. All Senators present.

(0:00:15-0:06:40) Committee discussion on attachment #1, proposed amendments and the Christmas tree version, #1A.

Senator Laffen moved to adopt the amendment.

Senator Unruh seconded.

(0:07:00-0:07:40) Committee discussion on the motion.

A Roll Call Vote was taken: 5 yeas, 1 nay, 0 absent.

Amendment adoption passed.

Senator Laffen move a Do Pass, As Amended.

Senator Unruh seconded.

(0:08:20-0:09:30) Committee discussion on the motion.

A Roll Call Vote was taken: 5 yeas, 1 nay, 0 absent.

Senator Laffen will carry the bill.

2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

Senate Bill 2326
2/13/2017
Job #: 28265

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL relating to the authority of home rule counties and cities to levy certain taxes.

Minutes:

Attachment #: 1, 1A

All Senators present.

The committee worked on Engrossed SB 2326.

(0:01:05-0:02:20) Senator Laffen: There was a debate on the floor about if this affected lodging tax. Lodging tax is in a different part of the code, which was the right answer. But there is something in the home rule section that has to deal with lodging tax, so it had to come back. Handed out proposed amendments #1 and the Christmas tree version #1A.

(0:02:21-0:00:00) Donnita A. Wald, General Counsel, North Dakota Tax Department:

(0:02:21-0:03:00) There are 5 home rule cities that impose a lodging tax that don't do it under 40-57.03, which is the city lodging tax. They use the same concept but a different rate. The way the bill was drafted they would not be able to continue with their city lodging tax.

(0:03:00-0:04:05) Working of the Christmas tree, we made it a little clearer, so there aren't so many questions on the floor. Read the changes from page 1 and explained that title 57 contains all of the taxes that the tax department administers. If the state imposes them, the county can't not, except those specifically listed. The same change was made on page 4 and 5. The difference on page 5 is this is where reference was made to the city lodging tax.

Vice Chairman Bekkedahl: During the oil boom my county commission asked if they could have a county wide lodging tax. With their home rule, they were under the assumption they could, but they didn't.

Donnita Wald: As a home rule county, that's where they would have been able to do so.

Vice Chairman Bekkedahl: But this doesn't prohibit it

Donnita Wald: We don't prohibit it under here, it was the home rule cities. Read off the changes on page 4 and 5. The county and the city chapters are written very differently.

(0:06:00-0:08:55) Discussion on city lodging taxes under the city home rule charter section. Williston has a city hospitality tax, but it's another 2% tax on food and beverage and on lodging that's used for capital construction costs for bringing visitors to the community. Under the chapter says no more than 2%, but if they've been doing it under the home rule, like Fargo who charges more than 2%. Williston has 2 lodging taxes, one has been in effect for many years, the other was imposed recently. It could possibly be prohibited under the section. On page 5, after subsection put “, **city hospitality tax, and a city lodging tax**”.

(0:08:56-0:12:44) Why do we call out specific taxes, but not all taxes? We're removing income taxes, cigarette taxes, estate taxes, oil and gas tax, coal taxes. We rewrote it to include the city lodging tax. We wrote it to be easier and clearer.

(0:12:45-0:13:40) Clarification on which taxes are acceptable for the home rule city and counties to impose. Property taxes, special assessments, and other powers they had before. #3 on page 2 is where the list of approved taxes begins.

(0:13:41-0:17:20) Challenged on the floor about several areas and went over them in detail. Removal of the date is cleanup. Streamline sales tax required the removal of stuff from line 15-18, because they are variable taxes, which North Dakota does not tax. On line 30, page 40 the removal of income tax caused confusion, Income tax is encompassed under title 57 now.

(0:17:21-0:21:40) Are there cities that tax public utilities? They are considered franchise taxes, more on a tax paid to have the authority to do business in a city. Franchise tax ideas were exchanged.

(0:21:43-0:23:15) Statute number for city lodging is 40-57.3-01 and city lodging and restaurant tax (hospitality tax) is 40-57.3-01.1. If you just reference a home rule city that imposes a 3% lodging tax, they'll have to follow the 2% rate and that would be a tax reduction. We'll have to verify to see if there are cities that charge a rate different from statute.

Section 1 is counties and Section 2 is the cities. If you compare the two sets of language they are not the same as they were written at different times.

2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

Senate Bill 2326
2/15/2017
Job #: 28381

- Subcommittee
 Conference Committee

Committee Clerk Signature

Sam Bellamy

Explanation or reason for introduction of bill/resolution:

A Bill relating to the authority of home rule counties and cities to levy certain taxes.

Minutes:

Attachment: /

All Senators present.

(0:00:30-0:06:00) Committee exchange on SB 2209 and SB 2166 in correlating minute sets.

(0:06:05) Senator Dotzenrod handed out attachment #1, data about local gas taxes in all states relating to SB 2326

No action was taken on any bills.

Adjourned.

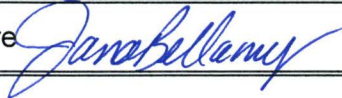
2017 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Lewis and Clark Room, State Capitol

Senate Bill 2326
2/20/2017
Job #: 28519

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 11-09.1-05 and 40-05.1-06 of the North Dakota Century Code, relating to the authority of home rule counties and cities to levy certain taxes.

Minutes:

Attachments #: 1, 1A, 2

Chairman Cook: All Senators present. Committee work on SB 2326.

(0:00:22-0:01:14) Senator Laffen handed out attachment #1, proposed amendments and #1A, the Christmas tree version. Explained why the bill was brought from the Senate floor to the committee.

(0:01:15-0:06:20) Emily Thompson, Legislative Council: read through each line and change in the proposed amendments from attachment #1A.

(0:06:22-0:08:29) Senator Laffen inquired about the mention of streamline sales tax code. Ms. Thompson listed the specific sections, pages and lines where it is mentioned.

(0:08:30-0:10:55) Senator Dotzenrod asked about home rule charter inceptions. She provided the information. (Attachment #2).

(0:10:56-0:12:30) Senator Dotzenrod questioned the placement of page 5 line 15 in the city section, but not in the county section. While the bill was being reworked it was discovered that there wasn't a similar section for counties. Since it did exist for cities they didn't want to eliminate it in existing home rule ordinances. It was relocated to the section with the other tax types. It only applies to the cities and wasn't in existing law for the counties.

(0:13:30-0:15:30) Tax department questioned a section of the bill that seemed to have been removed, but discovered it had moved locations. That's just the city section. The county would remain on page 2.

Senator Laffen moved to adopt amendment 17.1005.02001

Vice Chairman Bekkedahl seconded.

(0:16:00-0:17:10) Amendment discussion

A voice vote was taken. Motion passed.

Senator Laffen moved a do pass, as amended, on Engrossed Senate Bill 2326.

Senator Unruh seconded.

(0:17:37-0:18:25) Debate about the local subdivisions ability to tax being taken away.

A Roll Call Vote was taken. 5 ayes, 1 nay, 0 absent.

Motion passes.

Senator Laffen will carry the bill.

February 7, 2017

CR
2/7/17
1 of 2

PROPOSED AMENDMENTS TO SENATE BILL NO. 2326

- Page 1, line 16, overstrike "motor vehicle registration fees,"
- Page 1, line 21, remove "under this subsection does not include authority to impose"
- Page 1, line 22, replace "motor vehicle fuels or special fuels taxes" with "does not include the authority to impose any other tax except as specifically authorized under this section"
- Page 2, line 7, overstrike "After December 31, 2005," and insert immediately thereafter:
 - "3. Impose"
- Page 2, line 8, after the second "taxes" insert ". Sales and use taxes and gross receipts taxes"
- Page 2, line 13, overstrike "electricity, piped natural or artificial gas"
- Page 2, line 14, overstrike "or the retail sale or transfer of motor"
- Page 2, line 15, overstrike "vehicles, aircraft, watercraft, modular homes,"
- Page 2, line 15, overstrike the fifth comma
- Page 3, line 10, overstrike "3." and insert immediately thereafter "4."
- Page 3, line 21, overstrike "4." and insert immediately thereafter "5."
- Page 3, line 23, overstrike "5." and insert immediately thereafter "6."
- Page 3, line 29, overstrike "6." and insert immediately thereafter "7."
- Page 4, line 1, overstrike "7." and insert immediately thereafter "8."
- Page 4, line 3, overstrike "8." and insert immediately thereafter "9."
- Page 4, line 4, overstrike "9." and insert immediately thereafter "10."
- Page 4, line 30, overstrike "income taxes"
- Page 4, line 30, remove "or motor vehicle"
- Page 4, line 31, replace "fuels or special fuels taxes" with "any other tax except as specifically authorized under this section"
- Page 6, line 3, overstrike "registration fees on motor vehicles,"
- Page 6, line 4, overstrike "in addition to any"
- Page 6, line 5, overstrike "other taxes imposed by law. After December 31, 2005, sales" and insert immediately thereafter ". Sales"
- Page 6, line 10, overstrike "electricity, piped natural or artificial gas"
- Page 6, line 11, overstrike "or the retail sale or transfer of motor"
- Page 6, line 12, overstrike "vehicles, aircraft, watercraft, modular homes,"
- Page 6, line 12, overstrike the fifth comma

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Renumber accordingly



February 20, 2017

CM
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PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2326

Page 1, line 13, overstrike "subject to the limitations of this section levy and"

Page 1, overstrike line 14

Page 1, line 15, overstrike "alcoholic beverage gross receipts taxes,"

Page 1, line 16, overstrike "and special assessments for benefits conferred, for its"

Page 1, overstrike line 17

Page 1, line 18, overstrike "improvements;"

Page 1, line 20, overstrike "and mill levy"

Page 1, line 20, remove "The"

Page 1, remove line 21

Page 1, line 22, replace "specifically authorized under this section." with:

"3. To levy and collect property taxes and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements, and establish mill levy limitations."

Page 2, line 8, replace "3. Impose" with "4. To levy and collect"

Page 2, line 8, overstrike the second "and"

Page 2, line 9, after "taxes" insert ", a county lodging tax, and a county restaurant tax"

Page 2, line 27, after "57-01-02.1" insert ", with the exception of a county lodging or county restaurant tax."

Page 3, line 11, after the period insert "Ordinances enacted after August 1, 2017, may not allow for the collection and levy of any tax not otherwise specified under this section."

Page 3, line 12, replace "4." with "5."

Page 3, line 23, replace "5." with "6."

Page 3, line 25, replace "6." with "7."

Page 4, line 1, replace "7." with "8."

Page 4, line 3, replace "8." with "9."

Page 4, line 5, replace "9." with "10."

Page 4, line 6, replace "10." with "11."

Page 4, line 23, overstrike "to levy and collect taxes, excises, fees,"

Page 4, overstrike line 24

Page 4, line 25, overstrike "functions, activities, operations, undertakings, and improvements;"

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Page 4, line 27, overstrike "and mill levy"

Page 4, line 28, after the period insert:

"3. To levy and collect property taxes and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements, and establish mill levy limitations."

Page 4, line 31, overstrike "The authority to levy taxes under"

Page 5, line 1, overstrike "this subsection does not include authority to impose"

Page 5, line 1, remove "any other tax"

Page 5, line 2, remove "except as specifically authorized under this section"

Page 5, line 2, overstrike the period

Page 5, line 3, overstrike "3." and insert immediately thereafter "4. To levy and collect excises, fees, charges, franchise and license taxes, sales and use taxes, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, a city lodging tax, and a city restaurant tax. For purposes of this section, any taxes imposed under this section on farm machinery, farm irrigation equipment, and farm machinery repair parts used exclusively for agricultural purposes, or on alcoholic beverages, which were in effect on December 31, 2005, become gross receipts taxes after December 31, 2005. After December 31, 2005, any portion of a charter or any portion of an ordinance passed pursuant to a charter which does not conform to the requirements of this section is invalid to the extent it does not conform. The invalidity of a portion of a charter or ordinance because it does not conform with this subsection does not affect the validity of any other portion of the charter or ordinance of the eligibility for a refund under section 57-01-02.1. Ordinances enacted after August 1, 2017, may not allow for the collection and levy of any tax not otherwise specified under this section. Sales and use taxes and gross receipts taxes levied under this section:

- a. Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of manufactured homes or mobile homes.
- b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days' notice to the tax commissioner or, for purchases from printed catalogs, on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the seller.
- c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax purposes, except for farm machinery gross receipts tax.
- d. Must be subject to collection by the tax commissioner under an agreement under section 57-01-02.1, with the exception of a city lodging or city restaurant tax, and must be administered by the tax commissioner in accordance with the relevant provisions of chapter 57-39.2, including reporting and paying requirements, correction of errors, payment of refunds, and application of penalty and interest.

5."

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3 of 3

Page 5, line 5, overstrike "4." and insert immediately thereafter "6."

Page 5, line 9, overstrike "5." and insert immediately thereafter "7."

Page 5, line 13, overstrike "6." and insert immediately thereafter "8."

Page 5, line 15, overstrike "7." and insert immediately thereafter "9."

Page 5, line 18, overstrike "8." and insert immediately thereafter "10."

Page 5, line 20, overstrike "9." and insert immediately thereafter "11."

Page 5, line 22, overstrike "10." and insert immediately thereafter "12."

Page 5, line 25, overstrike "11." and insert immediately thereafter "13."

Page 5, overstrike line 28

Page 5, line 29, overstrike "13." and insert immediately thereafter "14."

Page 6, line 1, overstrike "14." and insert immediately thereafter "15."

Page 6, line 4, overstrike "15." and insert immediately thereafter "16."

Page 6, line 6, overstrike "16. To impose"

Page 6, line 6, overstrike "farm machinery gross receipts taxes,"

Page 6, line 7, overstrike "alcoholic beverage gross receipts taxes, or sales and use taxes"

Page 6, line 8, remove ". Sales"

Page 6, line 8, overstrike "and use taxes and"

Page 6, overstrike lines 9 through 11

Page 6, line 12, overstrike "at multiple rates with the exception of sales of"

Page 6, line 15, overstrike "manufactured homes"

Page 6, line 15, overstrike "or mobile"

Page 6, overstrike lines 16 through 29

Page 7, overstrike lines 4 through 11

Renumber accordingly

Date: 2-7-17
Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2326

Senate _____ Finance and Taxation _____ Committee

Subcommittee

Amendment LC# or Description: 17.1005, 01001

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Laffen Seconded By Unruh

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	✓		Senator Jim Dotzenrod		✓
Vice Chair Brad Bekkedahl	✓				
Senator Lonnie J. Laffen	✓				
Senator Jessica Unruh	✓				
Senator Scott Meyer	✓				

Total (Yes) 5 No 1

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2-7-17
 Roll Call Vote #: 2

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES 2326
BILL/RESOLUTION NO. _____

Senate _____ Finance and Taxation _____ Committee
 Subcommittee

Amendment LC# or Description: 17.1005.01001 Title.02000

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Laffen Seconded By Unruh

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	X		Senator Jim Dotzenrod		X
Vice Chair Brad Bekkedahl	X				
Senator Lonnie J. Laffen	X				
Senator Jessica Unruh	X				
Senator Scott Meyer	X				

Total (Yes) 5 No 1
 Absent 0
 Floor Assignment Laffen

If the vote is on an amendment, briefly indicate intent:

Date: 2-20-17
Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2326

Senate _____ Finance and Taxation _____ Committee

Subcommittee

Amendment LC# or Description: 17.1005.02001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Laffen Seconded By Bekkedahl

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook			Senator Jim Dotzenrod		
Vice Chair Brad Bekkedahl					
Senator Lonnie J. Laffen					
Senator Jessica Unruh					
Senator Scott Meyer					

Total (Yes) _____ No _____
Absent _____
Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2-20-17
 Roll Call Vote #: 2

2017 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2326

Senate Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: 17.1005.02001 Title. 03000

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider

Motion Made By Laffen Seconded By Unruh

Senators	Yes	No	Senators	Yes	No
Chairman Dwight Cook	X		Senator Jim Dotzenrod		X
Vice Chair Brad Bekkedahl	X				
Senator Lonnie J. Laffen	X				
Senator Jessica Unruh	X				
Senator Scott Meyer	X				

Total (Yes) 5 No 1

Absent 0

Floor Assignment Laffen

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2326: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2326 was placed on the Sixth order on the calendar.

Page 1, line 16, overstrike "motor vehicle registration fees,"

Page 1, line 21, remove "under this subsection does not include authority to impose"

Page 1, line 22, replace "motor vehicle fuels or special fuels taxes" with "does not include the authority to impose any other tax except as specifically authorized under this section"

Page 2, line 7, overstrike "After December 31, 2005," and insert immediately thereafter:

"3. Impose"

Page 2, line 8, after the second "taxes" insert ". Sales and use taxes and gross receipts taxes"

Page 2, line 13, overstrike "electricity, piped natural or artificial gas"

Page 2, line 14, overstrike "or the retail sale or transfer of motor"

Page 2, line 15, overstrike "vehicles, aircraft, watercraft, modular homes,"

Page 2, line 15, overstrike the fifth comma

Page 3, line 10, overstrike "3." and insert immediately thereafter "4."

Page 3, line 21, overstrike "4." and insert immediately thereafter "5."

Page 3, line 23, overstrike "5." and insert immediately thereafter "6."

Page 3, line 29, overstrike "6." and insert immediately thereafter "7."

Page 4, line 1, overstrike "7." and insert immediately thereafter "8."

Page 4, line 3, overstrike "8." and insert immediately thereafter "9."

Page 4, line 4, overstrike "9." and insert immediately thereafter "10."

Page 4, line 30, overstrike "income taxes"

Page 4, line 30, remove "or motor vehicle"

Page 4, line 31, replace "fuels or special fuels taxes" with "any other tax except as specifically authorized under this section"

Page 6, line 3, overstrike "registration fees on motor vehicles,"

Page 6, line 4, overstrike "in addition to any"

Page 6, line 5, overstrike "other taxes imposed by law. After December 31, 2005, sales" and insert immediately thereafter ". Sales"

Page 6, line 10, overstrike "electricity, piped natural or artificial gas"

Page 6, line 11, overstrike "or the retail sale or transfer of motor"

Page 6, line 12, overstrike "vehicles, aircraft, watercraft, modular homes,"

Page 6, line 12, overstrike the fifth comma

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2326, as engrossed: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2326 was placed on the Sixth order on the calendar.

Page 1, line 13, overstrike "subject to the limitations of this section levy and"

Page 1, overstrike line 14

Page 1, line 15, overstrike "alcoholic beverage gross receipts taxes,"

Page 1, line 16, overstrike "and special assessments for benefits conferred, for its"

Page 1, overstrike line 17

Page 1, line 18, overstrike "improvements;"

Page 1, line 20, overstrike "and mill levy"

Page 1, line 20, remove "The"

Page 1, remove line 21

Page 1, line 22, replace "specifically authorized under this section." with:

"3. To levy and collect property taxes and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements, and establish mill levy limitations."

Page 2, line 8, replace "3. Impose" with "4. To levy and collect"

Page 2, line 8, overstrike the second "and"

Page 2, line 9, after "taxes" insert ", a county lodging tax, and a county restaurant tax"

Page 2, line 27, after "57-01-02.1" insert ", with the exception of a county lodging or county restaurant tax."

Page 3, line 11, after the period insert "Ordinances enacted after August 1, 2017, may not allow for the collection and levy of any tax not otherwise specified under this section."

Page 3, line 12, replace "4." with "5."

Page 3, line 23, replace "5." with "6."

Page 3, line 25, replace "6." with "7."

Page 4, line 1, replace "7." with "8."

Page 4, line 3, replace "8." with "9."

Page 4, line 5, replace "9." with "10."

Page 4, line 6, replace "10." with "11."

Page 4, line 23, overstrike "to levy and collect taxes, excises, fees,"

Page 4, overstrike line 24

Page 4, line 25, overstrike "functions, activities, operations, undertakings, and improvements;"

Page 4, line 27, overstrike "and mill levy"

Page 4, line 28, after the period insert:

"3. To levy and collect property taxes and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements, and establish mill levy limitations."

Page 4, line 31, overstrike "The authority to levy taxes under"

Page 5, line 1, overstrike "this subsection does not include authority to impose"

Page 5, line 1, remove "any other tax"

Page 5, line 2, remove "except as specifically authorized under this section"

Page 5, line 2, overstrike the period

Page 5, line 3, overstrike "3." and insert immediately thereafter "4. To levy and collect excises, fees, charges, franchise and license taxes, sales and use taxes, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, a city lodging tax, and a city restaurant tax. For purposes of this section, any taxes imposed under this section on farm machinery, farm irrigation equipment, and farm machinery repair parts used exclusively for agricultural purposes, or on alcoholic beverages, which were in effect on December 31, 2005, become gross receipts taxes after December 31, 2005. After December 31, 2005, any portion of a charter or any portion of an ordinance passed pursuant to a charter which does not conform to the requirements of this section is invalid to the extent it does not conform. The invalidity of a portion of a charter or ordinance because it does not conform with this subsection does not affect the validity of any other portion of the charter or ordinance of the eligibility for a refund under section 57-01-02.1. Ordinances enacted after August 1, 2017, may not allow for the collection and levy of any tax not otherwise specified under this section. Sales and use taxes and gross receipts taxes levied under this section:

- a. Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of manufactured homes or mobile homes.
- b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days' notice to the tax commissioner or, for purchases from printed catalogs, on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the seller.
- c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax purposes, except for farm machinery gross receipts tax.
- d. Must be subject to collection by the tax commissioner under an agreement under section 57-01-02.1, with the exception of a city lodging or city restaurant tax, and must be administered by the tax commissioner in accordance with the relevant provisions of chapter 57-39.2, including reporting and paying requirements, correction of errors, payment of refunds, and application of penalty and interest.

5."

Page 5, line 5, overstrike "4." and insert immediately thereafter "6."

Page 5, line 9, overstrike "5." and insert immediately thereafter "7."

Page 5, line 13, overstrike "6." and insert immediately thereafter "8."

Page 5, line 15, overstrike "7." and insert immediately thereafter "9."

Page 5, line 18, overstrike "8." and insert immediately thereafter "10."

Page 5, line 20, overstrike "9." and insert immediately thereafter "11."

Page 5, line 22, overstrike "10." and insert immediately thereafter "12."

Page 5, line 25, overstrike "11." and insert immediately thereafter "13."

Page 5, overstrike line 28

Page 5, line 29, overstrike "13." and insert immediately thereafter "14."

Page 6, line 1, overstrike "14." and insert immediately thereafter "15."

Page 6, line 4, overstrike "15." and insert immediately thereafter "16."

Page 6, line 6, overstrike "16. To impose"

Page 6, line 6, overstrike "farm machinery gross receipts taxes,"

Page 6, line 7, overstrike "alcoholic beverage gross receipts taxes, or sales and use taxes"

Page 6, line 8, remove ". Sales"

Page 6, line 8, overstrike "and use taxes and"

Page 6, overstrike lines 9 through 11

Page 6, line 12, overstrike "at multiple rates with the exception of sales of"

Page 6, line 15, overstrike "manufactured homes"

Page 6, line 15, overstrike "or mobile"

Page 6, overstrike lines 16 through 29

Page 7, overstrike lines 4 through 11

Renumber accordingly

2017 HOUSE FINANCE AND TAXATION

SB 2326

2017 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

SB 2326
3/14/2017
29145

- Subcommittee
 Conference Committee

Committee Clerk Signature

Mary Bruckner

Explanation or reason for introduction of bill/resolution:

A bill relating to the authority of home rule counties and cities to levy certain taxes.

Minutes:

Attachment #1-3

Chairman Headland: Opened hearing on SB 2326.

Senator Laffen: Introduced bill. This bill deals with local home rule for counties and cities and their ability to levy a local option gas tax and local option motor vehicle registration fee. See written testimony, attachment #1. Ended testimony at 6:55. Senator Laffen then walked the committee through the bill.

Chairman Headland: You don't have to relist the taxes that are afforded under the counties?

Senator Laffen: That section applies to both but Emily can clarify that. The question here is if we want to allow these home rule counties and cities to have their own gas tax and motor vehicle registration tax.

Chairman Headland: In most cases are home rule cities and counties collecting the taxes that are still afforded in this language?

Senator Laffen: Emily could clarify that but I believe the state collects all the taxes and redistributes them back to the cities and counties. There was discussion on the Senate side of how they would implement this because we wouldn't be able to do that. I don't think it would be a problem to do that though.

Chairman Headland: I was trying to get at if there were any on this list that they're not using and that we should maybe consider.

Senator Laffen: We didn't look at that at all.

Chairman Headland: We'll find out. Is there further testimony in support?

Matt Bjornson, Cavalier, ND: Distributed written testimony in support. See attachment #2. Ended testimony at 20:21.

Chairman Headland: Is there further testimony in support?

Arik Spencer, North Dakota Motor Carriers Association: Distributed written testimony in support. See attachment #3. Ended testimony at 24:59.

Chairman Headland: Is there further testimony in support?

Mike Rud, president of the North Dakota Petroleum Marketers Association: We are in support. This is a pretty complicated issue. I've competed in communities where that \$.01 or \$.02 made a big difference. This is a huge issue. I really don't think the city of Glen Ullin or any other city understands any unintended consequences by this kind of action moving forward at the city or county level. This is picking winners or losers in the retail sector and I don't think the state should be about that. I urge a do pass on SB 2326.

Chairman Headland: Is there further testimony in support? Is there opposition?

Mark Johnson, North Dakota Association of Counties: I'm on the opposition side by principle. In 1982 you adopted home rule for counties. Home rule is basically a local option to supersede certain state laws. Home rule cannot be adopted by a city council or county commission without approval of the voters. We spend a lot of time putting fences around property tax and you've capped property tax in a number of areas. It's a voter determined option for home rule and that's what I want you to keep in mind when you think about approving this bill out of committee or voting against it. It puts the voters in control of establishing what will be in the home rule charter. In most cities, no counties, have a sales tax and the voters approve that levy of that sales tax. You will spend a lot of time this session looking at options and you're more comfortable when the voters have the final decision on whether those options are put in place. To my knowledge, there are no county gas taxes that are being levied. It's been tried in counties but it hasn't been successful. Home rule centers around the ability to levy sales tax. I think cities would be in dire straits if that were to go away. I would urge you to think about the principle here; if you were to pass this, you are basically eroding home rule as a principle and as a form of local control. This is why I oppose this bill.

Chairman Headland: I don't recall but we consolidated a bunch of levies last session. When we did that we put requirements for voter re-approval every 10 years. Did we do that with home rule? Does home rule have to be reauthorized by the voters more than once?

Mark Johnson: No, once its authorized it's in place. Don't go there either.

Representative Olson: Do you know of any other cities other than Glen Ullin who are doing this presently?

Mark Johnson: There are no other cities that are utilizing another form of taxation besides sales tax. There are no other political subdivisions that I'm aware of that are using the agricultural tax on implementing or anything like that.

Representative Olson: You said it had been attempted once before in a county. Do you know if any county or city has ever successfully passed under home rule a gas tax of any kind?

Mark Johnson: No, but I don't know of others who have even tried it. Sales tax is functional at the local level because the Tax Department administers it. The Tax Department also administers gas tax and collects that. I don't think this would be difficult to administer since the Tax Department is collecting it anyway.

Chairman Headland: There was a time in the county I reside in when county road dollars were short and the state subsidized the county roads. There was discussion at that time to implement a county gas tax.

Mark Johnson: There was but it didn't get done.

Representative Grueneich: Did you say it has to be specifically pointed towards something?

Mark Johnson: I did not say that. I would have no problem if they would continue to retain the ability to levy a gas tax that would be used for streets, roads, and county roads but not used to build water, sewer, and/or fill a budget hole that the city or county would have.

Representative Grueneich: We all know of certain counties that have problems with their shops. Could a city like Courtney impose a gas tax to fund their own county shop?

Mark Johnson: I don't think they would get it done because they wouldn't get enough tax. They could do that though. It probably wouldn't be a revenue source that would sustain a county shop.

Representative Mitskog: Was there any discussion of shortfalls in your recent county's meeting and how they're going to fund infrastructure? Was the gas tax talked about at all?

Mark Johnson: We've had discussions with legislators who have come to us and suggested revisiting where we're at in terms of gas taxes and motor vehicle registration fees. As part of the road industry, we've had preliminary discussions with the AGC, truckers, and townships that are interested. We are going to get together this interim and see how we sit with other states. We didn't think this session was the right session to come in and propose a tax to this committee or any committee. We would invite legislative input in this examination. In 2005 we passed a gas tax. In 1989 we tried to pass a gas tax and the voters rejected it.

Chairman Headland: Is there further opposition? Are there any questions for Emily? Seeing none we will close the hearing on SB 2326.

2017 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Fort Totten Room, State Capitol

SB 2326
3/20/2017
29461

- Subcommittee
 Conference Committee

Committee Clerk Signature

Mary Brucker

Explanation or reason for introduction of bill/resolution:

A bill relating to the authority of home rule counties and cities to levy certain taxes.

Minutes:

No attachments

Chairman Headland: We're open for discussion. I think this is a good bill and we should pass it.

Vice Chairman Dockter: MADE A MOTION FOR A DO PASS

Representative B. Koppelman: SECONDED

Chairman Headland: This is taking away the ability for a local gas tax provision.

ROLL CALL VOTE: 12 YES 2 NO 0 ABSENT

MOTION CARRIED

Representative B. Koppelman will carry this bill.

Date: 3-20-17
 Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2326**

House Finance and Taxation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Dockter Seconded By Rep. Koppelman

Representatives	Yes	No	Representatives	Yes	No
Chairman Headland	✓		Representative Hogan		✓
Vice Chairman Dockter	✓		Representative Mitskog		✓
Representative Ertelt	✓				
Representative Grueneich	✓				
Representative Hatlestad	✓				
Representative Howe	✓				
Representative Koppelman	✓				
Representative Olson	✓				
Representative Schobinger	✓				
Representative Steiner	✓				
Representative Toman	✓				
Representative Trottier	✓				

Total (Yes) 12 No 2

Absent 0

Floor Assignment Rep. Koppelman

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2326, as reengrossed: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **DO PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed SB 2326 was placed on the Fourteenth order on the calendar.

2017 TESTIMONY

SB 2326

4/31/2017

SB 2326

Testimony #1

pg 1

Testimony SB 2326

January 31, 2017 – Senate Finance & Tax Committee

Good morning Chairman Cook and members of the Committee:

I appreciate the opportunity to speak with you today. For the record, my name is Matt Bjornson. I live in Cavalier, ND. My family has been in the petroleum business since 1931. We run retail stores as well as sell to other distributors. I also am a board member of the North Dakota Petroleum Marketers Association. NDPMA represents nearly 500 gas retail outlets from across the state. I am here urging you to recommend a **“DO PASS” on SB 2326.**

I stand in support of SB 2326.

I along with NDPMA believe any increases in gas and diesel taxes should be set by state government, not cities and counties.

Allowing cities and counties to charge gas and diesel taxes in addition to the state and federal taxes already being levied will create a book keeping nightmare for the collectors of the fuel tax- small business such as ours. Our accounting software is not set up to handle the potentially large number of taxes if cities and counties start piling on. Currently our state tax department does a good job of making sure taxes are collected and remitted. They serve a vital function for the state as well as for business. I would say that different tax rates all over the state could be an auditing nightmare for them. How could it not be? Few products are taxed as heavily as gasoline and diesel. 41 cents on gasoline and 47 cents on diesel. Roughly 20 percent.

The retail petroleum business is extremely competitive. The price for the main product sold at these stores is posted on a big sign for all to see. Gas and Diesel are unique in that the posted price includes the tax. Some would say it is a hidden tax. Nonetheless, we all like good highways, and uniform fuel taxes have been an equitable way to fund those highways.

4/31/2017

SB 2326

Testimony #1

pg 2

Scattered across the state there are retail locations located in different government subdivisions. Yet they are in the same retail market. In Cavalier, for example two of our competitors are out of the city limits. If our city had a fuel tax, we as a business would have to absorb the tax to maintain a competitive price. People are funny; they will drive out of their way for a few pennies. Another concern is say If Cavalier had a tax and Pembina did not, we would lose many of our customers who commute to the bus plant each day. Whatever the case, tax policies and rates should be uniform and fair. They should not create an unfair playing field for private business.

Cities and counties already have multiple revenue sources. Most of those are fairly transparent. Trying to slip a tax on fuel in, for whatever purposes they deem, is not good government. As a business, we should not have to potentially absorb what is supposed to be a use tax. In addition, our customers, whether they are farmers or working families, are not exactly flush with excess cash. They cannot afford more taxes right now, and even if they could, I do not think you will find many that want a new, hidden tax, to fund more government.

As a small business owner, on behalf of our customers, and on behalf of NDPMA, I urge a DO PASS recommendation on SB 2326.

1/31/2017

SB 2326

Testimony # 2 pg 1

January 31, 2017

Senate Finance and Taxation

SB 2326

Sen. Cook, Chair

For the record, I am Blake Crosby, Executive Director of the North Dakota League of Cities, representing the 357 incorporated cities across the state. Approximately 77% of the population of North Dakota lives in those cities.

I am here to offer testimony in opposition to SB 2326. Home Rule Charters have been to the vote of the citizens of that city and those voters decided to give their city and elected officials those additional powers. Disenfranchisement of voters is not a route to go down. If the voters disagree on this issue, they have the ballot box to make their concerns known.

The question before us should be "What brought this city to the point of looking to a local gas tax?" The answer is the same downturn in the economy that the State is looking to address. Glen Ullin has seen a 37% decrease in State Aid Distribution Funds, a 17% decrease in Highway Tax distribution funds and the forward trending picture does not provide any indication of relief.

A second obvious question will be: "If we allow this city, why won't everyone do it"? Maybe and maybe not, but the point here is what are they to do as they watch their infrastructure fall apart? They don't dare increase property taxes as that brings residents taking their concerns to legislators on what is a local issue. They could increase city sales tax but that effects local businesses and drives more shopping to the larger cities or to the internet. So in reality they have few, if any, options. They should be allowed this option.

I respectfully request a DO NOT PASS on SB 2326.

THANK YOU FOR YOUR TIME AND CONSIDERATION. I will try to answer any questions.

2/7/17

SB 2326

Attachment #1 pg 1

Prepared by the Office
of State Tax Commissioner
February 1, 2017

PROPOSED AMENDMENTS TO SENATE BILL NO. 2326

Page 1, line 16, overstrike "motor vehicle registrations fees,"

Page 1, line 20, after "The" insert "authority to levy taxes does not include the authority to impose any other tax except as specifically authorized under this section."

Page 1, remove line 21

Page 1, line 22, remove "motor vehicle fuels or special fuels taxes."

Page 2, line 7, overstrike "After December 31, 2005," and insert immediately thereafter
"3. May impose"

Page 2, line 13, overstrike "electricity, piped natural or artificial gas"

Page 2, line 14, overstrike "or the retail sale or transfer of motor"

Page 2, line 15, overstrike "vehicles, aircraft, watercraft, modular homes,"

Page 2, line 15, overstrike the fifth comma

Page 3, line 10, overstrike "3." and insert immediately thereafter "4."

Page 3, line 21, overstrike "4." and insert immediately thereafter "5."

Page 3, line 23, overstrike "5." and insert immediately thereafter "6."

Page 3, line 29, overstrike "6." and insert immediately thereafter "7."

Page 4, line 1, overstrike "7." and insert immediately thereafter "8."

Page 4, line 3, overstrike "8." and insert immediately thereafter "9."

Page 4, line 4, overstrike "9." and insert immediately thereafter "10."

Page 4, line 30, overstrike "income taxes"

Page 4, line 30 replace "or motor vehicle" with "any other tax except as specifically authorized under this section"

Page 4, line 31, remove "fuels or special fuels taxes"

2/7/17

SB 2326

Attachment #1 pg 2

Page 6, line 3, overstrike "registration fees on motor vehicles,"

Page 6, line 4, overstrike "in addition to any"

Page 6, line 5, overstrike "other taxes imposed by law. After December 31, 2005, sales" and insert immediately thereafter ". Sales"

Page 6, line 10, overstrike "electricity, piped natural or artificial gas"

Page 6, line 11, overstrike "or the retail sale or transfer of motor"

Page 6, line 12, overstrike "vehicles, aircraft, watercraft, modular homes,"

Page 6, line 12, overstrike the fifth comma

Renumber accordingly

2/7/17

SB 2326

Attachment # 1A pg 1

Sixty-fifth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2326

Prepared by the Office
of State Tax Commissioner
February 1, 2017

Introduced By

Senator Laffen

1 A BILL for an Act to amend and reenact sections 11-09.1-05 and 40-05.1-06 of the North Dakota Century
2 Code, relating to the authority of home rule counties and cities to levy certain taxes.

3

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

5

6 **SECTION 1. AMENDMENT.** Section 11-09.1-05 of the North Dakota Century Code is
7 amended and reenacted as follows:

8

9 **11-09.1-05. Powers.**

10 After the filing with the secretary of state of a charter approved in reasonable conformity
11 with this chapter, the county and its citizens may, if included in the charter and implemented
12 through ordinances:

13 1. Acquire, hold, operate, and dispose of property within or without the county limits, and,
14 subject to chapter 32-15, exercise the right of eminent domain for those purposes.

15 2. Control its finances and fiscal affairs; appropriate money for its purposes, and make
16 payments of its debts and expenses; subject to the limitations of this section levy and
17 collect property taxes, sales and use taxes, farm machinery gross receipts taxes,
18 alcoholic beverage gross receipts taxes, ~~motor vehicle fuels and special fuels taxes,~~

19 ~~motor vehicle registration fees,~~ and special assessments for benefits conferred, for its
20 public and proprietary functions, activities, operations, undertakings, and

21 improvements; contract debts, borrow money, issue bonds, warrants, and other
22 evidences of indebtedness; establish charges for any county or other services to the

23 extent authorized by state law; and establish debt and mill levy limitations. The

24 authority to levy taxes does not include the authority to impose any other tax except as
specifically authorized under this section. ~~authority to levy taxes under this subsection~~

2/7/17

SB 2326

1A

Sixty-fifth
Legislative Assembly

~~does not include authority to impose motor vehicle fuels or special fuels taxes.~~

Notwithstanding any authority granted under this chapter, all property must be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments and all taxable property must be taxed by the county at the same rate unless otherwise provided by law. A charter or ordinance or act of a governing body of a home rule county may not supersede any state law that determines what property or acts are subject to, or exempt from, ad valorem taxes. A charter or ordinance or act of the governing body of a home rule county may not supersede section 11-11-55.1 relating to the sixty percent petition requirement for improvements and of section 40-22-18 relating to the barring proceeding for improvement projects.

~~After December 31, 2005,~~

3. May impose sales and use taxes, farm machinery gross receipts taxes, and alcoholic beverage gross receipts taxes levied under this chapter:

- a. Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of fuel used to power motor vehicles, aircraft, locomotives, or watercraft, or to ~~electricity, piped natural or artificial gas, or other fuels delivered by the seller or the retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes,~~ manufactured homes, or mobile homes.
- b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days' notice to the tax commissioner or, for purchases from printed catalogs, on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the seller.
- c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax, except for farm machinery gross receipts tax purposes.
- d. Must be subject to collection by the tax commissioner under an agreement under section 57-01-02.1 and must be administered by the tax commissioner in accordance with the relevant provisions of chapter 57-39.2, including reporting and paying requirements, correction of errors, payment of refunds, and

2/7/17

SB 2326

#1A

Sixty-fifth
Legislative Assembly

1 application of penalty and interest.

2 After December 31, 2005, any portion of a charter or any portion of an ordinance or
3 act of a governing body of a home rule county passed pursuant to a charter which
4 does not conform to the requirements of this subsection is invalid to the extent that it
5 does not conform. The invalidity of a portion of a charter or ordinance or act of a
6 governing body of a home rule county because it does not conform to this subsection
7 does not affect the validity of any other portion of the charter or ordinance or act of a
8 governing body of a home rule county or the eligibility for a refund under section
9 57-01-02.1. Any taxes imposed under this chapter on farm machinery, farm irrigation
10 equipment, and farm machinery repair parts used exclusively for agricultural purposes,
11 or on alcoholic beverages, which were in effect on December 31, 2005, become gross
12 receipts taxes after December 31, 2005.

13 ~~3.~~ 4. Provide for county elected and appointed officers and employees, their selection,
14 powers, duties, qualifications, and compensation, and the terms of county appointed
15 officers and employees. However, after adoption of a home rule charter, a county
16 elected office may not be eliminated or combined with another office except upon
17 approval of a majority of the electors of the county voting upon the question at a
18 primary or general election or pursuant to the county officer combination, separation,
19 or redesignation procedures of chapter 11-10.2. A home rule charter may not diminish
20 the term of office for which a current county officer was elected, redesignate that
21 elected office during that term as appointed, or reduce the salary of the office for that
22 term. This subsection does not authorize a county to redesignate the elected offices of
23 sheriff and state's attorney as appointed, except as provided in section 11-10-02.3.

24 ~~4.~~ 5. Provide for all matters pertaining to county elections, except as to qualifications of
25 electors.

26 ~~5.~~ 6. Provide for the adoption, amendment, repeal, initiative, referral, enforcement, and civil
27 and criminal penalties for violation of ordinances, resolutions, and regulations to carry
28 out its governmental and proprietary powers and to provide for public health, safety,
29 morals, and welfare. However, this subsection does not confer any authority to
30 regulate any industry or activity which is regulated by state law or by rules adopted by
a state agency.

~~6.~~ 7. Lay out or vacate public grounds, and provide through its governing body for the

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- 1 construction, use, operation, designation, and regulation of a county road system.
- 2 ~~7. 8.~~ Provide for zoning, planning, and subdivision of public or private property within the
- 3 county limits but outside the zoning authority of any city or organized township.
- 4 ~~8. 9.~~ Exercise in the conduct of its affairs all powers usually exercised by a corporation.
- 5 ~~9. 10.~~ Contract with and receive grants from any other governmental entity or agency, with
- 6 respect to any local, state, or federal program, project, or works.

7 The people of all counties coming within this chapter have the full right of self-government in all
8 matters within the powers enumerated in this chapter. The statutes of this state, so far as
9 applicable, continue to apply to counties, except as superseded by the charters of the counties
10 or by ordinances passed pursuant to the charters.

11 **SECTION 2. AMENDMENT.** Section 40-05.1-06 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **40-05.1-06. Powers.**

14 From and after the filing with the secretary of state of a charter framed and approved in
15 reasonable conformity with the provisions of this chapter, such city, and the citizens thereof,
16 shall, if included in the charter and implemented through ordinances, have the following powers
17 set out in this chapter:

- 18 1. To acquire, hold, operate, and dispose of property within or without the corporate
19 limits, and, subject to chapter 32-15, exercise the right of eminent domain for such
20 purposes.
- 21 2. To control its finances and fiscal affairs; to appropriate money for its purposes, and
22 make payment of its debts and expenses; to levy and collect taxes, excises, fees,
23 charges, and special assessments for benefits conferred, for its public and proprietary
24 functions, activities, operations, undertakings, and improvements; to contract debts,
25 borrow money, issue bonds, warrants, and other evidences of indebtedness; to
26 establish charges for any city or other services; and to establish debt and mill levy
27 limitations. Notwithstanding any authority granted under this chapter, all property must
28 be assessed in a uniform manner as prescribed by the state board of equalization and
29 the state supervisor of assessments and all taxable property must be taxed by the city
30 at the same rate unless otherwise provided by law. The authority to levy taxes under
31 this subsection does not include authority to impose ~~income taxes or motor vehicle~~

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~~fuels or special fuels taxes~~ any other tax except as specifically authorized under this section.

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3. To fix the fees, number, terms, conditions, duration, and manner of issuing and revoking licenses in the exercise of its governmental police powers.
 4. To provide for city officers, agencies, and employees, their selection, terms, powers, duties, qualifications, and compensation. To provide for change, selection, or creation of its form and structure of government, including its governing body, executive officer, and city officers.
 5. To provide for city courts, their jurisdiction and powers over ordinance violations, duties, administration, and the selection, qualifications, and compensation of their officers; however, the right of appeal from judgment of such courts shall not be in any way affected.
 6. To provide for all matters pertaining to city elections, except as to qualifications of electors.
 7. To provide for the adoption, amendment, and repeal of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare, and penalties for a violation thereof.
 8. To lay out or vacate streets, alleys, and public grounds, and to provide for the use, operation, and regulation thereof.
 9. To define offenses against private persons and property and the public health, safety, morals, and welfare, and provide penalties for violations thereof.
 10. To engage in any utility, business, or enterprise permitted by the constitution or not prohibited by statute or to grant and regulate franchises therefor to a private person, firm, corporation, or limited liability company.
 11. To provide for zoning, planning, and subdivision of public or private property within the city limits. To provide for such zoning, planning, and subdivision of public or private property outside the city limits as may be permitted by state law.
 12. To levy and collect franchise and license taxes for revenue purposes.
 13. To exercise in the conduct of its affairs all powers usually exercised by a corporation.
 14. To fix the boundary limits of said city and the annexation and deannexation of territory adjacent to said city except that such power shall be subject to, and shall conform with the state law made and provided.

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- 1 15. To contract with and receive grants from any other governmental entity or agency, with
2 respect to any local, state, or federal program, project, or works.
- 3 16. To impose ~~registration fees on motor vehicles~~, farm machinery gross receipts taxes,
4 alcoholic beverage gross receipts taxes, or sales and use taxes ~~in addition to any~~
5 ~~other taxes imposed by law. After December 31, 2005, sales~~ . Sales and use taxes and
6 gross receipts taxes levied under this chapter:
- 7 a. Must conform in all respects with regard to the taxable or exempt status of
8 items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be
9 imposed at multiple rates with the exception of sales of ~~fuel used to power~~
10 ~~motor vehicles, aircraft, locomotives, or watercraft, or to electricity, piped~~
11 ~~natural or artificial gas, or other fuels delivered by the seller or the retail sale or~~
12 ~~transfer of motor vehicles, aircraft, watercraft, modular homes~~, manufactured
13 homes, or mobile homes.
- 14 b. May not be newly imposed or changed except to be effective on the first day of
15 a calendar quarterly period after a minimum of ninety days' notice to the tax
16 commissioner or, for purchases from printed catalogs, on the first day of a
17 calendar quarter after a minimum of one hundred twenty days' notice to the
18 seller.
- 19 c. May not be limited to apply to less than the full value of the transaction or item
20 as determined for state sales and use tax purposes, except for farm machinery
21 gross receipts tax.
- 22 d. Must be subject to collection by the tax commissioner under an agreement
23 under section 57-01-02.1 and must be administered by the tax commissioner in
24 accordance with the relevant provisions of chapter 57-39.2, including reporting
25 and paying requirements, correction of errors, payment of refunds, and
26 application of penalty and interest.

27 It is the intention of this chapter to grant and confirm to the people of all cities coming within
28 its provisions the full right of self-government in both local and city matters within the powers
29 enumerated herein. The statutes of the state of North Dakota, so far as applicable, shall
30 continue to apply to home rule cities, except insofar as superseded by the charters of such
31 cities or by ordinance passed pursuant to such charters.

32 After December 31, 2005, any portion of a charter or any portion of an ordinance passed

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1 pursuant to a charter which does not conform to the requirements of subsection 16 is invalid to
2 the extent that it does not conform. The invalidity of a portion of a charter or ordinance because
3 it does not conform to subsection 16 does not affect the validity of any other portion of the
4 charter or ordinance or the eligibility for a refund under section 57-01-02.1. Any taxes imposed
5 under this chapter on farm machinery, farm irrigation equipment, and farm machinery repair
6 parts used exclusively for agricultural purposes, or on alcoholic beverages, which were in effect
7 on December 31, 2005, become gross receipts taxes after December 31, 2005.

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SB 2326

Attachment #1 Pg.1

Prepared by the
Office of State Tax Commissioner
February 13, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2326

Page 1, line 20, replace "The" with "A county may levy sales and use taxes, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, and the taxes specifically authorized under this section, but may not levy any other tax imposed under title 57."

Page 1, remove line 21

Page 1, line 22, remove "specifically authorized under this section."

Page 5, line 1, remove "other"

Page 5, line 1, after "tax" insert "imposed under title 57, except sales and use taxes, farm machinery gross receipts taxes, and alcoholic beverage gross receipts taxes."

Page 5, line 2, replace "except as specifically authorized under this section" with "A city may levy the taxes authorized under this subsection and a city lodging tax"

Renumber accordingly

2/13/2017

SB 2326

Attachment #1A pg1

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of North Dakota

FIRST ENGROSSMENT

ENGROSSED SENATE BILL NO. 2326

Introduced by

Senator Laffen

1 A BILL for an Act to amend and reenact sections 11-09.1-05 and 40-05.1-06 of the North Dakota
2 Century Code, relating to the authority of home rule counties and cities to levy certain taxes.

3

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

5

6 **SECTION 1. AMENDMENT.** Section 11-09.1-05 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **11-09.1-05. Powers.**

9 After the filing with the secretary of state of a charter approved in reasonable conformity
10 with this chapter, the county and its citizens may, if included in the charter and implemented
11 through ordinances:

- 12 1. Acquire, hold, operate, and dispose of property within or without the county limits, and,
13 subject to chapter 32-15, exercise the right of eminent domain for those purposes.
- 14 2. Control its finances and fiscal affairs; appropriate money for its purposes, and make
15 payments of its debts and expenses; subject to the limitations of this section levy and
16 collect property taxes, sales and use taxes, farm machinery gross receipts taxes,
17 alcoholic beverage gross receipts taxes, ~~motor vehicle fuels and special fuels taxes,~~
18 ~~motor vehicle registration fees,~~ and special assessments for benefits conferred, for its
19 public and proprietary functions, activities, operations, undertakings, and
20 improvements; contract debts, borrow money, issue bonds, warrants, and other
21 evidences of indebtedness; establish charges for any county or other services to the
22 extent authorized by state law; and establish debt and mill levy limitations. The
23 authority to levy taxes does not include the authority to impose any other tax except as
24 specifically authorized under this section. A county may levy sales and use taxes, farm
25 machinery gross receipts taxes, alcoholic beverage gross receipts taxes, and the taxes
26 specifically authorized under this section, but may not levy any other tax imposed under title 57.

1 Notwithstanding any authority granted under this chapter, all property must be assessed in a
2 uniform manner as prescribed by the state board of equalization and the state supervisor of
3 assessments and all taxable property must be taxed by the county at the same rate unless
4 otherwise provided by law. A charter or ordinance or act of a governing body of a home rule
5 county may not supersede any state law that determines what property or acts are subject to,
6 or exempt from, ad valorem taxes. A charter or ordinance or act of the governing body of
7 a home rule county may not supersede section 11-11-55.1 relating to the sixty percent
8 petition requirement for improvements and of section 40-22-18 relating to the barring
9 proceeding for improvement projects. ~~After December 31, 2005,~~

10 3. Impose sales and use taxes, farm machinery gross receipts taxes, and alcoholic
11 beverage gross receipts taxes. Sales and use taxes and gross receipts taxes levied
12 under this chapter:

- 13 a. Must conform in all respects with regard to the taxable or exempt status of items
14 under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed
15 at multiple rates with the exception of sales of ~~fuel used to power motor vehicles,~~
16 ~~aircraft, locomotives, or watercraft, or to electricity, piped natural or artificial gas,~~
17 ~~or other fuels delivered by the seller or the retail sale or transfer of motor~~
18 ~~vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile~~
19 homes.
- 20 b. May not be newly imposed or changed except to be effective on the first day of a
21 calendar quarterly period after a minimum of ninety days' notice to the tax
22 commissioner or, for purchases from printed catalogs, on the first day of a
23 calendar quarter after a minimum of one hundred twenty days' notice to the
24 seller.
- 25 c. May not be limited to apply to less than the full value of the transaction or item as
26 determined for state sales and use tax, except for farm machinery gross receipts
27 tax purposes.
- 28 d. Must be subject to collection by the tax commissioner under an agreement under
29 section 57-01-02.1 and must be administered by the tax commissioner in
30 accordance with the relevant provisions of chapter 57-39.2, including reporting
31 and paying requirements, correction of errors, payment of refunds, and
32 application of penalty and interest.

1 After December 31, 2005, any portion of a charter or any portion of an ordinance or
2 act of a governing body of a home rule county passed pursuant to a charter which
3 does not conform to the requirements of this subsection is invalid to the extent that it
4 does not conform. The invalidity of a portion of a charter or ordinance or act of a
5 governing body of a home rule county because it does not conform to this subsection
6 does not affect the validity of any other portion of the charter or ordinance or act of a
7 governing body of a home rule county or the eligibility for a refund under section
8 57-01-02.1. Any taxes imposed under this chapter on farm machinery, farm irrigation
9 equipment, and farm machinery repair parts used exclusively for agricultural purposes,
10 or on alcoholic beverages, which were in effect on December 31, 2005, become gross
11 receipts taxes after December 31, 2005.

12 ~~3-4.~~ Provide for county elected and appointed officers and employees, their selection,
13 powers, duties, qualifications, and compensation, and the terms of county appointed
14 officers and employees. However, after adoption of a home rule charter, a county
15 elected office may not be eliminated or combined with another office except upon
16 approval of a majority of the electors of the county voting upon the question at a
17 primary or general election or pursuant to the county officer combination, separation,
18 or redesignation procedures of chapter 11-10.2. A home rule charter may not diminish
19 the term of office for which a current county officer was elected, redesignate that
20 elected office during that term as appointed, or reduce the salary of the office for that
21 term. This subsection does not authorize a county to redesignate the elected offices of
22 sheriff and state's attorney as appointed, except as provided in section 11-10-02.3.

23 ~~4-5.~~ Provide for all matters pertaining to county elections, except as to qualifications of
24 electors.

25 ~~5-6.~~ Provide for the adoption, amendment, repeal, initiative, referral, enforcement, and civil
26 and criminal penalties for violation of ordinances, resolutions, and regulations to carry
27 out its governmental and proprietary powers and to provide for public health, safety,
28 morals, and welfare. However, this subsection does not confer any authority to
29 regulate any industry or activity which is regulated by state law or by rules adopted by
30 a state agency.

31 ~~6-7.~~ Lay out or vacate public grounds, and provide through its governing body for the
32 construction, use, operation, designation, and regulation of a county road system.

1 ~~7-8.~~ Provide for zoning, planning, and subdivision of public or private property within the
2 county limits but outside the zoning authority of any city or organized township.

3 ~~8-9.~~ Exercise in the conduct of its affairs all powers usually exercised by a corporation.

4 ~~9-10.~~ Contract with and receive grants from any other governmental entity or agency, with
5 respect to any local, state, or federal program, project, or works.

6 The people of all counties coming within this chapter have the full right of self-government in all
7 matters within the powers enumerated in this chapter. The statutes of this state, so far as
8 applicable, continue to apply to counties, except as superseded by the charters of the counties
9 or by ordinances passed pursuant to the charters.

10 **SECTION 2. AMENDMENT.** Section 40-05.1-06 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **40-05.1-06. Powers.**

13 From and after the filing with the secretary of state of a charter framed and approved in
14 reasonable conformity with the provisions of this chapter, such city, and the citizens thereof,
15 shall, if included in the charter and implemented through ordinances, have the following powers
16 set out in this chapter:

17 1. To acquire, hold, operate, and dispose of property within or without the corporate
18 limits, and, subject to chapter 32-15, exercise the right of eminent domain for such
19 purposes.

20 2. To control its finances and fiscal affairs; to appropriate money for its purposes, and
21 make payment of its debts and expenses; to levy and collect taxes, excises, fees,
22 charges, and special assessments for benefits conferred, for its public and proprietary
23 functions, activities, operations, undertakings, and improvements; to contract debts,
24 borrow money, issue bonds, warrants, and other evidences of indebtedness; to
25 establish charges for any city or other services; and to establish debt and mill levy
26 limitations. Notwithstanding any authority granted under this chapter, all property must
27 be assessed in a uniform manner as prescribed by the state board of equalization and
28 the state supervisor of assessments and all taxable property must be taxed by the city
29 at the same rate unless otherwise provided by law. The authority to levy taxes under
30 this subsection does not include authority to impose ~~income taxes~~ any other tax
31 except as specifically authorized under this section; imposed under title 57, except sales and use
32 taxes, farm machinery gross receipts taxes, and alcoholic beverage gross receipts taxes. A cit

- 1 may levy the taxes authorized under this subsection and a city lodging tax.
- 2 3. To fix the fees, number, terms, conditions, duration, and manner of issuing and
- 3 revoking licenses in the exercise of its governmental police powers.
- 4 4. To provide for city officers, agencies, and employees, their selection, terms, powers,
- 5 duties, qualifications, and compensation. To provide for change, selection, or creation
- 6 of its form and structure of government, including its governing body, executive officer,
- 7 and city officers.
- 8 5. To provide for city courts, their jurisdiction and powers over ordinance violations,
- 9 duties, administration, and the selection, qualifications, and compensation of their
- 10 officers; however, the right of appeal from judgment of such courts shall not be in any
- 11 way affected.
- 12 6. To provide for all matters pertaining to city elections, except as to qualifications of
- 13 electors.
- 14 7. To provide for the adoption, amendment, and repeal of ordinances, resolutions, and
- 15 regulations to carry out its governmental and proprietary powers and to provide for
- 16 public health, safety, morals, and welfare, and penalties for a violation thereof.
- 17 8. To lay out or vacate streets, alleys, and public grounds, and to provide for the use,
- 18 operation, and regulation thereof.
- 19 9. To define offenses against private persons and property and the public health, safety,
- 20 morals, and welfare, and provide penalties for violations thereof.
- 21 10. To engage in any utility, business, or enterprise permitted by the constitution or not
- 22 prohibited by statute or to grant and regulate franchises therefor to a private person,
- 23 firm, corporation, or limited liability company.
- 24 11. To provide for zoning, planning, and subdivision of public or private property within the
- 25 city limits. To provide for such zoning, planning, and subdivision of public or private
- 26 property outside the city limits as may be permitted by state law.
- 27 12. To levy and collect franchise and license taxes for revenue purposes.
- 28 13. To exercise in the conduct of its affairs all powers usually exercised by a corporation.
- 29 14. To fix the boundary limits of said city and the annexation and deannexation of territory
- 30 adjacent to said city except that such power shall be subject to, and shall conform with
- 31 the state law made and provided.
- 32 15. To contract with and receive grants from any other governmental entity or agency, with

1 respect to any local, state, or federal program, project, or works.

2 16. To impose ~~registration fees on motor vehicles,~~ farm machinery gross receipts taxes,
3 alcoholic beverage gross receipts taxes, or sales and use taxes ~~in addition to any~~
4 ~~other taxes imposed by law. After December 31, 2005, sales, Sales and use taxes and~~
5 gross receipts taxes levied under this chapter:

- 6 a. Must conform in all respects with regard to the taxable or exempt status of items
7 under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed
8 at multiple rates with the exception of sales of ~~fuel used to power motor vehicles,~~
9 ~~aircraft, locomotives, or watercraft, or to electricity, piped natural or artificial gas,~~
10 ~~or other fuels delivered by the seller or the retail sale or transfer of motor~~
11 ~~vehicles, aircraft, watercraft, modular homes,~~ manufactured homes, or mobile
12 homes.
- 13 b. May not be newly imposed or changed except to be effective on the first day of a
14 calendar quarterly period after a minimum of ninety days' notice to the tax
15 commissioner or, for purchases from printed catalogs, on the first day of a
16 calendar quarter after a minimum of one hundred twenty days' notice to the
17 seller.
- 18 c. May not be limited to apply to less than the full value of the transaction or item as
19 determined for state sales and use tax purposes, except for farm machinery
20 gross receipts tax.
- 21 d. Must be subject to collection by the tax commissioner under an agreement under
22 section 57-01-02.1 and must be administered by the tax commissioner in
23 accordance with the relevant provisions of chapter 57-39.2, including reporting
24 and paying requirements, correction of errors, payment of refunds, and
25 application of penalty and interest.

26 It is the intention of this chapter to grant and confirm to the people of all cities coming within
27 its provisions the full right of self-government in both local and city matters within the powers
28 enumerated herein. The statutes of the state of North Dakota, so far as applicable, shall
29 continue to apply to home rule cities, except insofar as superseded by the charters of such
30 cities or by ordinance passed pursuant to such charters.

31 After December 31, 2005, any portion of a charter or any portion of an ordinance passed
32 pursuant to a charter which does not conform to the requirements of subsection 16 is invalid to

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1 the extent that it does not conform. The invalidity of a portion of a charter or ordinance because
2 it does not conform to subsection 16 does not affect the validity of any other portion of the
3 charter or ordinance or the eligibility for a refund under section 57-01-02.1. Any taxes imposed
4 under this chapter on farm machinery, farm irrigation equipment, and farm machinery repair
5 parts used exclusively for agricultural purposes, or on alcoholic beverages, which were in effect
6 on December 31, 2005, become gross receipts taxes after December 31, 2005.

HOUSE RESEARCH

Short Subjects

Michael

Updated: August 2016

Survey of State and Local Gasoline Taxes

This short subject shows state and local gasoline taxes in each state as of July 1, 2016. Because of the interrelationship in some states between per-gallon gasoline taxes and gasoline sales taxes, and between state and local gasoline taxes, a compilation of all such taxes is necessary to reflect each state's total tax burden. While all states impose per-gallon taxes, seven states also impose sales taxes (which fluctuate based on price), and 13 states allow local gas or sales taxes to be imposed. Minnesota's total tax burden on gasoline, which includes the 28.5-cent per-gallon excise tax and 0.1-cent inspection fee, places it 22nd highest based on state taxes and 25th highest based on total state and local taxes. (The 2-cent per-gallon Petrofund cleanup fee did not apply on July 1, 2016; this fee is imposed periodically based on the balance in the fund.)

Gasoline taxes include state and local taxes

The columns in the table below represent the following:

- State excise tax: Per-gallon tax on gasoline imposed at the state level
- State sales tax: State retail sales tax applied to gasoline; in some states, the sales tax rate is prefigured and prepaid at the wholesale level rather than being calculated and paid at the pump
- Other state tax/fee: Leaking underground storage fees, inspection fees, various environmental fees; in some states, including Minnesota, these are "blink-on" taxes that are imposed whenever a specified fund reaches a certain level; the table applies these fees, if they applied on July 1, 2016
- Total state taxes: Combined per-gallon tax, sales tax, other state taxes and fees
- Local excise tax: Locally imposed per-gallon taxes in the largest city in the state
- Local sales tax: Local retail sales taxes that apply to gasoline in the largest city in the state
- Total local tax: Combined local gas taxes and sales taxes
- Total tax: Combined state and local taxes

For price-based taxes, U.S. Energy Information Administration price data for the week of July 4, 2016, was used for the applicable region, state, or city. This price was adjusted in those states that impose a sales tax on gasoline, but excludes state or federal per-gallon taxes from the taxable price.

Total State and Local Taxes on Gasoline as of July 1, 2016

	State Excise Tax	State Sales Tax	Other State Tax/Fee	Total State Tax	State Rank	Local Excise Tax	Local Sales Tax	Total Local Tax	Total State and Local Tax	Total Taxes Rank
Alabama	\$0.160		\$0.030	\$0.190	40	\$0.010		\$0.010	\$0.200	41
Alaska	0.080		0.010	0.090	50				0.090	50
Arizona	0.180		0.010	0.190	40				0.190	43
Arkansas	0.215		0.003	0.218	36				0.218	37
California	0.278	0.068	0.072	0.418	3		0.046	0.046	0.464	6

	State Excise Tax	State Sales Tax	Other State Tax/Fee	Total State Tax	State Rank	Local Excise Tax	Local Sales Tax	Total Local Tax	Total State and Local Tax	Total Taxes Rank
Colorado	0.220			0.220	35				0.220	36
Connecticut	0.250		0.133	0.383	4				0.383	8
Delaware	0.230		0.019	0.249	30				0.249	32
Florida	0.040	0.133	0.001	0.174	44	0.134		0.134	0.308	20
Georgia	0.260			0.260	27		0.073	0.073	0.333	12
Hawaii	0.160	0.103	0.054	0.317	16	0.165	0.013	0.178	0.494	3
Idaho	0.320		0.010	0.330	12				0.330	15
Illinois	0.190	0.130	0.011	0.331	10	0.110	0.070	0.180	0.511	2
Indiana	0.180	0.141	0.010	0.331	11				0.331	14
Iowa	0.307		0.010	0.317	15				0.317	19
Kansas	0.240		0.010	0.250	29				0.250	31
Kentucky	0.246		0.014	0.260	27				0.260	30
Louisiana	0.200		0.001	0.201	38				0.201	40
Maine	0.300			0.300	20				0.300	24
Maryland	0.335			0.335	8				0.335	11
Massachusetts	0.240		0.026	0.266	26				0.266	29
Michigan	0.190	0.122	0.009	0.321	14				0.321	18
Minnesota	0.285		0.001	0.286	22				0.286	25
Mississippi	0.180		0.004	0.184	43				0.184	45
Missouri	0.170		0.003	0.173	45				0.173	46
Montana	0.270		0.008	0.278	24				0.278	27
Nebraska	0.258		0.009	0.267	25				0.267	28
Nevada	0.230		0.008	0.238	33	0.200		0.200	0.438	7
New Hampshire	0.222		0.016	0.238	32				0.238	34
New Jersey	0.105		0.040	0.145	49				0.145	49
New Mexico	0.170		0.019	0.189	42				0.189	44
New York	0.088	0.096	0.178	0.362	5		0.108	0.108	0.470	5
North Carolina	0.340		0.003	0.343	6				0.343	9
North Dakota	0.230			0.230	34				0.230	35
Ohio	0.280			0.280	23				0.280	26
Oklahoma	0.160		0.010	0.170	46				0.170	47
Oregon	0.300			0.300	20	0.030		0.030	0.330	16
Pennsylvania	0.503		0.011	0.514	1				0.514	1
Rhode Island	0.330		0.010	0.340	7				0.340	10
South Carolina	0.160		0.008	0.168	48				0.168	48
South Dakota	0.280		0.020	0.300	19				0.300	23
Tennessee	0.200		0.014	0.214	37				0.214	38
Texas	0.200			0.200	39				0.200	41
Utah	0.294		0.007	0.301	18				0.301	22
Vermont	0.121		0.184	0.305	17				0.305	21
Virginia	0.162		0.006	0.168	47	0.034		0.034	0.202	39
Washington	0.494			0.494	2				0.494	4
West Virginia	0.205		0.127	0.332	9				0.332	13
Wisconsin	0.309		0.020	0.329	13				0.329	17
Wyoming	0.230		0.010	0.240	31				0.240	33

Note: The table does not include special tax rates for alcohol-gasoline blends or for gasoline used in commercial vehicles.
Sources: Federation of Tax Administrators; American Petroleum Institute; U.S. Energy Information Administration; and state revenue agency websites.

For more information: Contact legislative analyst Joel Michael at joel.michael@house.mn.

The Research Department of the Minnesota House of Representatives is a nonpartisan office providing legislative, legal, and information services to the entire House.

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pg 1

17.1005.02001
Title.

Prepared by the Legislative Council staff for
Senator Cook

February 15, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2326

Page 1, line 13, overstrike "subject to the limitations of this section levy and"

Page 1, overstrike line 14

Page 1, line 15, overstrike "alcoholic beverage gross receipts taxes,"

Page 1, line 16, overstrike "and special assessments for benefits conferred, for its"

Page 1, overstrike line 17

Page 1, line 18, overstrike "improvements;"

Page 1, line 20, overstrike "and mill levy"

Page 1, line 20, remove "The"

Page 1, remove line 21

Page 1, line 22, replace "specifically authorized under this section." with:

"3. To levy and collect property taxes and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements, and establish mill levy limitations."

Page 2, line 8, replace "3. Impose" with "4. To levy and collect"

Page 2, line 8, overstrike the second "and"

Page 2, line 9, after "taxes" insert ", a county lodging tax, and a county restaurant tax"

Page 2, line 27, after "57-01-02.1" insert ", with the exception of a county lodging or county restaurant tax."

Page 3, line 11, after the period insert "Ordinances enacted after August 1, 2017, may not allow for the collection and levy of any tax not otherwise specified under this section."

Page 3, line 12, replace "4." with "5."

Page 3, line 23, replace "5." with "6."

Page 3, line 25, replace "6." with "7."

Page 4, line 1, replace "7." with "8."

Page 4, line 3, replace "8." with "9."

Page 4, line 5, replace "9." with "10."

Page 4, line 6, replace "10." with "11."

Page 4, line 23, overstrike "to levy and collect taxes, excises, fees,"

Page 4, overstrike line 24

Page 4, line 25, overstrike "functions, activities, operations, undertakings, and improvements;"

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Page 4, line 27, overstrike "and mill levy"

Page 4, line 28, after the period insert:

"3. To levy and collect property taxes and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements, and establish mill levy limitations."

Page 4, line 31, overstrike "The authority to levy taxes under"

Page 5, line 1, overstrike "this subsection does not include authority to impose income taxes"

Page 5, line 1, remove "any other tax"

Page 5, line 2, remove "except as specifically authorized under this section"

Page 5, line 2, overstrike the period

Page 5, line 3, overstrike "3." and insert immediately thereafter "4. To levy and collect excises, fees, charges, franchise and license taxes, sales and use taxes, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, a city lodging tax, and a city restaurant tax. For purposes of this section, any taxes imposed under this section on farm machinery, farm irrigation equipment, and farm machinery repair parts used exclusively for agricultural purposes, or on alcoholic beverages, which were in effect on December 31, 2005, become gross receipts taxes after December 31, 2005. After December 31, 2005, any portion of a charter or any portion of an ordinance passed pursuant to a charter which does not conform to the requirements of this section is invalid to the extent it does not conform. The invalidity of a portion of a charter or ordinance because it does not conform with this subsection does not affect the validity of any other portion of the charter or ordinance of the eligibility for a refund under section 57-01-02.1. Ordinances enacted after August 1, 2017, may not allow for the collection and levy of any tax not otherwise specified under this section. Sales and use taxes and gross receipts taxes levied under this section:

- a. Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of manufactured homes or mobile homes.
- b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days' notice to the tax commissioner or, for purchases from printed catalogs, on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the seller.
- c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax purposes, except for farm machinery gross receipts tax.
- d. Must be subject to collection by the tax commissioner under an agreement under section 57-01-02.1, with the exception of a city lodging or city restaurant tax, and must be administered by the tax commissioner in accordance with the relevant provisions of chapter 57-39.2, including reporting and paying requirements, correction of errors, payment of refunds, and application of penalty and interest.

5."

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Page 5, line 5, overstrike "4." and insert immediately thereafter "6."

Page 5, line 9, overstrike "5." and insert immediately thereafter "7."

Page 5, line 13, overstrike "6." and insert immediately thereafter "8."

Page 5, line 15, overstrike "7." and insert immediately thereafter "9."

Page 5, line 18, overstrike "8." and insert immediately thereafter "10."

Page 5, line 20, overstrike "9." and insert immediately thereafter "11."

Page 5, line 22, overstrike "10." and insert immediately thereafter "12."

Page 5, line 25, overstrike "11." and insert immediately thereafter "13."

Page 5, overstrike line 28

Page 5, line 29, overstrike "13." and insert immediately thereafter "14."

Page 6, line 1, overstrike "14." and insert immediately thereafter "15."

Page 6, line 4, overstrike "15." and insert immediately thereafter "16."

Page 6, line 6, overstrike "16. To impose"

Page 6, line 6, overstrike "farm machinery gross receipts taxes,"

Page 6, line 7, overstrike "alcoholic beverage gross receipts taxes, or sales and use taxes"

Page 6, line 8, remove ". Sales"

Page 6, line 8, overstrike "and use taxes and"

Page 6, overstrike lines 9 through 11

Page 6, line 12, overstrike "at multiple rates with the exception of sales of"

Page 6, line 15, overstrike "manufactured homes"

Page 6, line 15, overstrike "or mobile"

Page 6, overstrike lines 16 through 29

Page 7, overstrike lines 4 through 11

Renumber accordingly

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17.1005.02001

FIRST ENGROSSMENT

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2326

Introduced by

Senator Laffen

1 A BILL for an Act to amend and reenact sections 11-09.1-05 and 40-05.1-06 of the North Dakota
2 Century Code, relating to the authority of home rule counties and cities to levy certain taxes.

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

4 **SECTION 1. AMENDMENT.** Section 11-09.1-05 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **11-09.1-05. Powers.**

7 After the filing with the secretary of state of a charter approved in reasonable conformity
8 with this chapter, the county and its citizens may, if included in the charter and implemented
9 through ordinances:

- 10 1. Acquire, hold, operate, and dispose of property within or without the county limits, and,
11 subject to chapter 32-15, exercise the right of eminent domain for those purposes.
- 12 2. Control its finances and fiscal affairs; appropriate money for its purposes, and make
13 payments of its debts and expenses; ~~subject to the limitations of this section levy and~~
14 ~~collect property taxes, sales and use taxes, farm machinery gross receipts taxes,~~
15 ~~alcoholic beverage gross receipts taxes, motor vehicle fuels and special fuels taxes,~~
16 ~~motor vehicle registration fees, and special assessments for benefits conferred, for its~~
17 ~~public and proprietary functions, activities, operations, undertakings, and~~
18 ~~improvements;~~ contract debts, borrow money, issue bonds, warrants, and other
19 evidences of indebtedness; establish charges for any county or other services to the
20 extent authorized by state law; and establish debt ~~and mill levy~~ limitations. The
21 authority to levy taxes does not include the authority to impose any other tax except as
22 specifically authorized under this section.

- 23 3. To levy and collect property taxes and special assessments for benefits conferred, for
24 its public and proprietary functions, activities, operations, undertakings, and

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1 improvements, and establish mill levy limitations. Notwithstanding any authority
 2 granted under this chapter, all property must be assessed in a uniform manner as
 3 prescribed by the state board of equalization and the state supervisor of assessments
 4 and all taxable property must be taxed by the county at the same rate unless
 5 otherwise provided by law. A charter or ordinance or act of a governing body of a
 6 home rule county may not supersede any state law that determines what property or
 7 acts are subject to, or exempt from, ad valorem taxes. A charter or ordinance or act of
 8 the governing body of a home rule county may not supersede section 11-11-55.1
 9 relating to the sixty percent petition requirement for improvements and of section
 10 40-22-18 relating to the barring proceeding for improvement projects. ~~After~~
 11 ~~December 31, 2005,~~

~~3. Impose~~

13 4. To levy and collect sales and use taxes, farm machinery gross receipts taxes, ~~and~~
 14 alcoholic beverage gross receipts taxes, a county lodging tax, and a county restaurant
 15 tax. Sales and use taxes and gross receipts taxes levied under this chapter:

- 16 a. Must conform in all respects with regard to the taxable or exempt status of items
 17 under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed
 18 at multiple rates with the exception of sales of ~~fuel used to power motor vehicles,~~
 19 ~~aircraft, locomotives, or watercraft, or to electricity, piped natural or artificial gas,~~
 20 ~~or other fuels delivered by the seller or the retail sale or transfer of motor~~
 21 ~~vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile~~
 22 ~~homes.~~
- 23 b. May not be newly imposed or changed except to be effective on the first day of a
 24 calendar quarterly period after a minimum of ninety days' notice to the tax
 25 commissioner or, for purchases from printed catalogs, on the first day of a
 26 calendar quarter after a minimum of one hundred twenty days' notice to the
 27 seller.
- 28 c. May not be limited to apply to less than the full value of the transaction or item as
 29 determined for state sales and use tax, except for farm machinery gross receipts
 30 tax purposes.

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1 d. Must be subject to collection by the tax commissioner under an agreement under
 2 section 57-01-02.1, with the exception of a county lodging or county restaurant
 3 tax, and must be administered by the tax commissioner in accordance with the
 4 relevant provisions of chapter 57-39.2, including reporting and paying
 5 requirements, correction of errors, payment of refunds, and application of penalty
 6 and interest.

7 After December 31, 2005, any portion of a charter or any portion of an ordinance or
 8 act of a governing body of a home rule county passed pursuant to a charter which
 9 does not conform to the requirements of this subsection is invalid to the extent that it
 10 does not conform. The invalidity of a portion of a charter or ordinance or act of a
 11 governing body of a home rule county because it does not conform to this subsection
 12 does not affect the validity of any other portion of the charter or ordinance or act of a
 13 governing body of a home rule county or the eligibility for a refund under section
 14 57-01-02.1. Any taxes imposed under this chapter on farm machinery, farm irrigation
 15 equipment, and farm machinery repair parts used exclusively for agricultural purposes,
 16 or on alcoholic beverages, which were in effect on December 31, 2005, become gross
 17 receipts taxes after December 31, 2005. Ordinances enacted after August 1, 2017,
 18 may not allow for the collection and levy of any tax not otherwise specified under this
 19 section.

20 ~~3.4.5.~~ Provide for county elected and appointed officers and employees, their selection,
 21 powers, duties, qualifications, and compensation, and the terms of county appointed
 22 officers and employees. However, after adoption of a home rule charter, a county
 23 elected office may not be eliminated or combined with another office except upon
 24 approval of a majority of the electors of the county voting upon the question at a
 25 primary or general election or pursuant to the county officer combination, separation,
 26 or redesignation procedures of chapter 11-10.2. A home rule charter may not diminish
 27 the term of office for which a current county officer was elected, redesignate that
 28 elected office during that term as appointed, or reduce the salary of the office for that
 29 term. This subsection does not authorize a county to redesignate the elected offices of
 30 sheriff and state's attorney as appointed, except as provided in section 11-10-02.3.

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- 1 | ~~4.5.6.~~ Provide for all matters pertaining to county elections, except as to qualifications of
- 2 | electors.
- 3 | ~~5.6.7.~~ Provide for the adoption, amendment, repeal, initiative, referral, enforcement, and civil
- 4 | and criminal penalties for violation of ordinances, resolutions, and regulations to carry
- 5 | out its governmental and proprietary powers and to provide for public health, safety,
- 6 | morals, and welfare. However, this subsection does not confer any authority to
- 7 | regulate any industry or activity which is regulated by state law or by rules adopted by
- 8 | a state agency.
- 9 | ~~6.7.8.~~ Lay out or vacate public grounds, and provide through its governing body for the
- 10 | construction, use, operation, designation, and regulation of a county road system.
- 11 | ~~7.8.9.~~ Provide for zoning, planning, and subdivision of public or private property within the
- 12 | county limits but outside the zoning authority of any city or organized township.
- 13 | ~~8.9.10.~~ Exercise in the conduct of its affairs all powers usually exercised by a corporation.
- 14 | ~~9.10.11.~~ Contract with and receive grants from any other governmental entity or agency, with
- 15 | respect to any local, state, or federal program, project, or works.

16 The people of all counties coming within this chapter have the full right of self-government in all
17 matters within the powers enumerated in this chapter. The statutes of this state, so far as
18 applicable, continue to apply to counties, except as superseded by the charters of the counties
19 or by ordinances passed pursuant to the charters.

20 **SECTION 2. AMENDMENT.** Section 40-05.1-06 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **40-05.1-06. Powers.**

23 From and after the filing with the secretary of state of a charter framed and approved in
24 reasonable conformity with the provisions of this chapter, such city, and the citizens thereof,
25 shall, if included in the charter and implemented through ordinances, have the following powers
26 set out in this chapter:

- 27 1. To acquire, hold, operate, and dispose of property within or without the corporate
- 28 limits, and, subject to chapter 32-15, exercise the right of eminent domain for such
- 29 purposes.
- 30 2. To control its finances and fiscal affairs; to appropriate money for its purposes, and
- 31 make payment of its debts and expenses; ~~to levy and collect taxes, excises, fees,~~

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1 ~~charges, and special assessments for benefits conferred, for its public and proprietary~~
2 ~~functions, activities, operations, undertakings, and improvements;~~ to contract debts,
3 borrow money, issue bonds, warrants, and other evidences of indebtedness; to
4 establish charges for any city or other services; and to establish debt ~~and mill levy~~
5 limitations.

6 3. To levy and collect property taxes and special assessments for benefits conferred, for
7 its public and proprietary functions, activities, operations, undertakings, and
8 improvements, and establish mill levy limitations. Notwithstanding any authority
9 granted under this chapter, all property must be assessed in a uniform manner as
10 prescribed by the state board of equalization and the state supervisor of assessments
11 and all taxable property must be taxed by the city at the same rate unless otherwise
12 provided by law. ~~The authority to levy taxes under this subsection does not include~~
13 ~~authority to impose income taxes any other tax except as specifically authorized under~~
14 ~~this section.~~

15 3.4. To levy and collect excises, fees, charges, franchise and license taxes, sales and use
16 taxes, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, a
17 city lodging tax, and a city restaurant tax. For purposes of this section, any taxes
18 imposed under this section on farm machinery, farm irrigation equipment, and farm
19 machinery repair parts used exclusively for agricultural purposes, or on alcoholic
20 beverages, which were in effect on December 31, 2005, become gross receipts taxes
21 after December 31, 2005. After December 31, 2005, any portion of a charter or any
22 portion of an ordinance passed pursuant to a charter which does not conform to the
23 requirements of this section is invalid to the extent it does not conform. The invalidity
24 of a portion of a charter or ordinance because it does not conform with this subsection
25 does not affect the validity of any other portion of the charter or ordinance of the
26 eligibility for a refund under section 57-01-02.1. Ordinances enacted after August 1,
27 2017, may not allow for the collection and levy of any tax not otherwise specified
28 under this section. Sales and use taxes and gross receipts taxes levied under this
29 section:

30 a. Must conform in all respects with regard to the taxable or exempt status of items
31 under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed

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- 1 at multiple rates with the exception of sales of manufactured homes or mobile
2 homes.
- 3 b. May not be newly imposed or changed except to be effective on the first day of a
4 calendar quarterly period after a minimum of ninety days' notice to the tax
5 commissioner or, for purchases from printed catalogs, on the first day of a
6 calendar quarter after a minimum of one hundred twenty days' notice to the
7 seller.
- 8 c. May not be limited to apply to less than the full value of the transaction or item as
9 determined for state sales and use tax purposes, except for farm machinery
10 gross receipts tax.
- 11 d. Must be subject to collection by the tax commissioner under an agreement under
12 section 57-01-02.1, with the exception of a city lodging or city restaurant tax, and
13 must be administered by the tax commissioner in accordance with the relevant
14 provisions of chapter 57-39.2, including reporting and paying requirements,
15 correction of errors, payment of refunds, and application of penalty and interest.
- 16 5. To fix the fees, number, terms, conditions, duration, and manner of issuing and
17 revoking licenses in the exercise of its governmental police powers.
- 18 ~~4-6.~~ To provide for city officers, agencies, and employees, their selection, terms, powers,
19 duties, qualifications, and compensation. To provide for change, selection, or creation
20 of its form and structure of government, including its governing body, executive officer,
21 and city officers.
- 22 ~~5-7.~~ To provide for city courts, their jurisdiction and powers over ordinance violations,
23 duties, administration, and the selection, qualifications, and compensation of their
24 officers; however, the right of appeal from judgment of such courts shall not be in any
25 way affected.
- 26 ~~6-8.~~ To provide for all matters pertaining to city elections, except as to qualifications of
27 electors.
- 28 ~~7-9.~~ To provide for the adoption, amendment, and repeal of ordinances, resolutions, and
29 regulations to carry out its governmental and proprietary powers and to provide for
30 public health, safety, morals, and welfare, and penalties for a violation thereof.

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- 1 8.10. To lay out or vacate streets, alleys, and public grounds, and to provide for the use,
- 2 operation, and regulation thereof.
- 3 9.11. To define offenses against private persons and property and the public health, safety,
- 4 morals, and welfare, and provide penalties for violations thereof.
- 5 ~~10.12.~~ To engage in any utility, business, or enterprise permitted by the constitution or not
- 6 prohibited by statute or to grant and regulate franchises therefor to a private person,
- 7 firm, corporation, or limited liability company.
- 8 ~~11.13.~~ To provide for zoning, planning, and subdivision of public or private property within the
- 9 city limits. To provide for such zoning, planning, and subdivision of public or private
- 10 property outside the city limits as may be permitted by state law.
- 11 ~~12. To levy and collect franchise and license taxes for revenue purposes.~~
- 12 ~~13.14.~~ To exercise in the conduct of its affairs all powers usually exercised by a corporation.
- 13 ~~14.15.~~ To fix the boundary limits of said city and the annexation and deannexation of territory
- 14 adjacent to said city except that such power shall be subject to, and shall conform with
- 15 the state law made and provided.
- 16 ~~15.16.~~ To contract with and receive grants from any other governmental entity or agency, with
- 17 respect to any local, state, or federal program, project, or works.
- 18 ~~16. To impose registration fees on motor vehicles, farm machinery gross receipts taxes,~~
- 19 ~~alcoholic beverage gross receipts taxes, or sales and use taxes in addition to any~~
- 20 ~~other taxes imposed by law. After December 31, 2005, sales, Sales and use taxes and~~
- 21 ~~gross receipts taxes levied under this chapter:~~
- 22 ~~a. Must conform in all respects with regard to the taxable or exempt status of items~~
- 23 ~~under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed~~
- 24 ~~at multiple rates with the exception of sales of fuel used to power motor vehicles,~~
- 25 ~~aircraft, locomotives, or watercraft, or to electricity, piped natural or artificial gas,~~
- 26 ~~or other fuels delivered by the seller or the retail sale or transfer of motor~~
- 27 ~~vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile~~
- 28 ~~homes.~~
- 29 ~~b. May not be newly imposed or changed except to be effective on the first day of a~~
- 30 ~~calendar quarterly period after a minimum of ninety days' notice to the tax~~
- 31 ~~commissioner or, for purchases from printed catalogs, on the first day of a~~

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1 calendar quarter after a minimum of one hundred twenty days' notice to the
2 seller.

3 ~~c. May not be limited to apply to less than the full value of the transaction or item as
4 determined for state sales and use tax purposes, except for farm machinery
5 gross receipts tax.~~

6 ~~d. Must be subject to collection by the tax commissioner under an agreement under
7 section 57-01-02.1 and must be administered by the tax commissioner in
8 accordance with the relevant provisions of chapter 57-39.2, including reporting
9 and paying requirements, correction of errors, payment of refunds, and
10 application of penalty and interest.~~

11 It is the intention of this chapter to grant and confirm to the people of all cities coming within
12 its provisions the full right of self-government in both local and city matters within the powers
13 enumerated herein. The statutes of the state of North Dakota, so far as applicable, shall
14 continue to apply to home rule cities, except insofar as superseded by the charters of such
15 cities or by ordinance passed pursuant to such charters.

16 ~~After December 31, 2005, any portion of a charter or any portion of an ordinance passed
17 pursuant to a charter which does not conform to the requirements of subsection 16 is invalid to
18 the extent that it does not conform. The invalidity of a portion of a charter or ordinance because
19 it does not conform to subsection 16 does not affect the validity of any other portion of the
20 charter or ordinance or the eligibility for a refund under section 57-01-02.1. Any taxes imposed
21 under this chapter on farm machinery, farm irrigation equipment, and farm machinery repair
22 parts used exclusively for agricultural purposes, or on alcoholic beverages, which were in effect
23 on December 31, 2005, become gross receipts taxes after December 31, 2005.~~

Emily Thompson

Legal Counsel

The following provides a written description of the information I discussed this morning regarding the origins of city and county home rule authority.

In 1966, the Thirty-ninth Legislative Assembly proposed, and the voters of North Dakota subsequently adopted, a constitutional amendment authorizing legislation to provide for home rule authority for cities. Legislation exercising the authority granted to the Legislative Assembly by the constitutional amendment was enacted in 1969 and is found in North Dakota Century Code Chapter 40-05.1.

In 1982, the voters of North Dakota adopted a constitutional amendment providing home rule authority for counties. Home rule authority for counties is codified in Chapter 11-09.1. The constitutional provision relating to home rule authority for both cities and counties is found in Section 6 of Article VII of the Constitution of North Dakota which provides:

The legislative assembly shall provide by law for the establishment and exercise of home rule in counties and cities. No home rule charter shall become operative in any county or city until submitted to the electors thereof and approved by a majority of those voting thereon. In granting home rule powers to cities, the legislative assembly shall not be restricted by city debt limitations contained in this constitution.

3.14.17

RE: SB22326

#1 p.1
SB 2326
3-14-17

TO: North Dakota House Finance & Taxation Committee
Representative Craig Headland, Chairman

FROM: Senator Lonnie J. Laffen, District 43

Mr. Chairman & members of the House Finance & Tax Committee:

Home Rule for Cities was enacted in 1966. It was a Constitutional Measure put on the ballot by the Legislature and approved by the Citizens of North Dakota. The measure just enacted Home Rule and left the legislature to create the statute and make the rules. That didn't happen until 1969.

Home Rule for Counties followed in 1982.

Our Home Rule statute has been amended before - at one point "**Income Tax**" was removed as a taxing option which Cities and Counties would be allowed to impose.

Mr. Chairman: This issue this bill addresses came up on the last day that we could turn in bills in the Senate. On that day, the Bismarck Tribune ran a story about the City of Glen Ullin's consideration to possibly implement a local option gas tax, which is currently allowed under City Home Rule. Mr. Chairman - I love Glen Ullin and applaud them for looking at options available to them. This bill isn't to penalize them. But I don't think many of us knew this option existed.

Mr. Chairman - I just don't think we want to have cities begin to implement their own gas taxes and as we looked at the statute further - motor vehicle registration fees as well.

Mr. Chairman, the reasons for removing gas tax and motor vehicle registration taxes from home rule are simple: The state currently collects and uses gas taxes to maintain our states highways. We think gas taxes should continue to be dedicated to roads. And this is a declining revenue source for our state's highways. At some point the state may be forced to consider increasing these taxes. This is a national

issue right now as increased vehicle efficiency and alternative vehicles are eroding the collection and stability of gas taxes.

#1p.2

And Mr. Chairman, there would likely be unintended consequences. Imagine if the City of Fargo were to implement a gas tax. Suddenly those Fargo retailers sitting on the West Fargo line would be at a serious competitive disadvantage. I believe that gas taxes should be equitable across the entire state and not create retail location competition. A 2-cent price difference is the entire profit margin for most gasoline retailers. This would be a dramatic tax change for gasoline retailers creating some serious winners and losers. We don't think gas tax should do this and should remain equitable.

So SB 2326 does three things:

1. It removes gas tax and motor vehicle registration fees as a taxing option for cities and counties under Home Rule Charter.
2. Adds language to clarify that Home Rule Cities & Counties can only levy taxes that this statute authorizes them to use. This bill isn't trying to take anything away except gas tax and motor vehicle registration, but we think it would be better to clearly articulate what is available under home rule. The remaining taxes allowed are:
 - a. Property Tax
 - b. Sales & Use Taxes
 - c. Farm Machinery Gross Receipts Taxes
 - d. Alcoholic Beverage Gross Receipts Taxes
 - e. Lodging & Restaurant Taxes
 - f. Special Assessments.
3. The tax department made several cleanup items to the bill being while it was being heard on the Senate side.

So, Mr. Chairman, if it would be OK, I'd like to walk you through the specifics of the bill as the cleanup language can be confusing.

#2 p. 1
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3-14-17

Testimony SB 2326

March 14, 2017 – House Finance & Tax Committee

Good morning Chairman Headland and members of the Committee:

I appreciate the opportunity to speak with you today. For the record, my name is Matt Bjornson. I live in Cavalier, ND. My family has been in the petroleum business since 1931. We run retail stores as well as sell to other distributors. I also am a board member of the North Dakota Petroleum Marketers Association. NDPMA represents nearly 500 gas retail outlets from across the state. I am here urging you to recommend a **“DO PASS” on SB 2326.**

I stand in support of SB 2326.

I along with NDPMA believe any increases in gas and diesel taxes should be set by state government, not cities and counties.

Allowing cities and counties to charge gas and diesel taxes in addition to the state and federal taxes already being levied will create a book keeping nightmare for the collectors of the fuel tax-small business such as ours. Our accounting software is not set up to handle the potentially large number of taxes if cities and counties start piling on. Lobbyists for the proponents of multiple fuel taxing authorities may claim to you today that multiple taxes depending on which city, or county, or township we do business in present no problems for retailers. I'm not an expert lobbyist and I would say they don't know much about the business I'm in. Currently our state tax department does a good job of making sure state taxes are collected and remitted. They serve a vital function for the state as well as for businesses. If the state tax department was authorized to collect and audit fuel taxes they would need additional staff and resources to perform the function. The only other option is for our businesses to be subject to reporting to and auditing by multiple entities. I know in the case of the state tax

department they have specially trained staff for fuel auditing due to the complexities involved. Few products are taxed as heavily as gasoline and diesel: 41 cents on gasoline and 47 cents on diesel. Roughly 20 percent.

The retail petroleum business is extremely competitive. The price for the main product sold at these stores is posted on a big sign for all to see. Gas and Diesel are unique in that the posted price includes the tax. Some would say it is a hidden tax. Nonetheless, we all like good highways and uniform fuel taxes have been an equitable way to fund those highways.

Scattered across the state there are retail locations located in different government subdivisions. Yet they are in the same retail market. In Cavalier, for example two of our competitors are out of the city limits. If our city had a fuel tax, we as a business would have to absorb the tax to maintain a competitive price. Our country or township may choose to have different taxes and rates. People are funny; they will drive out of their way for a few pennies. Another concern is say if Cavalier had a tax and Pembina did not, we would lose many of our customers who commute to the bus plant each day. Whatever the case, tax policies and rates should be uniform and fair. They should not create an unfair playing field for private business.

Cities and counties already have multiple revenue sources. Most of those are fairly transparent. I know the proponents of local entities taxing fuel see it as an easy mark to help pay for things like sewer projects. If a local government entity hasn't properly administered use fees and needs to pay for things like sewer and water improvements, they of course can levy special assessments. As we all know those assessments levy the costs associated with a project against those that benefit. We all have had to pay those and for those that are unable, programs do exist to assist lower income people in paying the assessment. Trying to slip a tax on fuel in, for whatever purposes they deem, is not good government. As a business, we

should not have to potentially absorb what is supposed to be a use tax. In addition, our customers, whether they are farmers or working families, are not exactly flush with excess cash. They cannot afford more taxes right now, and even if they could, I do not think you will find many that want a new, hidden tax, to fund more government.

As a small business owner, on behalf of our customers, and on behalf of NDPMA, I urge a DO PASS recommendation on SB 2326.

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SB 2326
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TESTIMONY SB 2326
HOUSE FINANCE & TAX COMMITTEE
MARCH 14, 2017

Mr. Chairman and members of the House Finance and Tax Committee my name is Arik Spencer, Executive Vice President of the North Dakota Motor Carriers Association. NDMCA represents the trucking and transportation industry in North Dakota and has been in existence since 1937. I am here this morning to testify in Support of Senate Bill 2326.

North Dakota participates in the International Fuel Tax Agreement (IFTA), in accordance with NDCC 57-43.1-44, which is a compact signed by the 48 contiguous states and 10 Canadian provinces to ensure that fuel taxes are paid, not based on the point of purchase (where a truck was filled up), but the points of use. This ensures that interstate trucking companies who travel on North Dakota's roads are paying for their use of North Dakota's roads, even if they do not buy fuel in our state.

Every interstate trucking company is required to keep track of their miles traveled in every jurisdiction, and report those miles traveled to their base state, which then sends the revenue due to other states. If a carrier owes more to a particular state, they send in a tax payment. If the carrier has paid too much, they receive a refund. IFTA only deals with statewide taxes and will not collect, or credit local taxes.

Local gas taxes in other states, such as Nevada, have caused problems for interstate trucking companies. Using Nevada & California as an example: California imposes a state gas tax rate of 40.5 cents. Carriers in Washoe County, Nevada pay both a state rate of 27 cents, which is applied through IFTA and Washoe County local rate of 12.5 cents per gallon, which is not applied through IFTA for a total of 39.5 cents.

When a carrier travels from Washoe County into California, they are assessed at the California rate for the miles traveled in California. Because California's rate is higher, when IFTA settles the taxes due between the states, Washoe County trucks are assessed the difference between the state rates, without receiving credit for the 12.5 cents per gallon tax paid in Washoe County.

This means Washoe trucking companies, although they actually pay 39.5 cents per gallon, are assessed the difference between the California state rate of 40.5 and the Nevada state rate of 27 cents. This effectively is double taxation on the California miles, instead of having to only make up the penny difference to California.

If North Dakota counties or cities were to issue a local gas tax, this same scenario would play out as North Dakota's gas tax is 23 cents per gallon, while South Dakota is 7 cents higher, Minnesota is 5.5 cents higher and Montana is 4.75 cents higher. The net effect of this would be that trucking companies based in those political subdivisions would be disadvantaged and may move their terminals to other locations, effectively reducing the economic impact of their operations to that political subdivision or at the very least, make their fuel purchases outside of the higher tax jurisdiction.

Additionally, North Dakota participates in the International Registration Plan (IRP), which is similar to IFA and apportions registration revenue for commercial motor vehicles among states based on miles traveled in those states. This program too only deals with state registration fees and will not collect, or credit, local registration fees. If North Dakota counties or cities were to issue a local vehicle registration fee, it would also disadvantage trucking companies based in those political subdivisions, and they may move their operations to other locations, again reducing the economic impact of their operations to that political subdivision.

SB 2326 addresses these issues by ensuring North Dakota-based carriers will not be disadvantaged by local gas taxes or registration fees.

We ask that you give SB 2326 a do pass recommendation.

Mr. Chairman, this concludes my testimony. I would be happy to answer any questions.