

May 7, 2003

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2421

Page 1, line 9, remove "and"

Page 1, line 10, after "15.1-32-16" insert ", subsections 1 and 2 of section 57-36-25, subsections 1 and 2 of section 57-36-26, subsection 1 of section 57-36-27, and section 57-36-32"

Page 1, line 12, remove "and" and after "units" insert ", and rates of taxation on tobacco products"

Page 1, line 17, remove "an"

Page 1, line 18, replace "appropriation" with "appropriations; to provide a statement of legislative intent"

Page 29, after line 14, insert:

**"SECTION 31. AMENDMENT.** Subsections 1 and 2 of section 57-36-25 of the North Dakota Century Code are amended and reenacted as follows:

1. There is hereby levied and assessed upon all cigars and pipe tobacco sold in this state an excise tax at the rate of ~~twenty-eight~~ twenty-eight fifty percent of the wholesale purchase price at which such cigars and pipe tobacco are purchased by distributors. For the purposes of this section, the term "wholesale purchase price" shall mean the established price for which a manufacturer sells cigars or pipe tobacco to a distributor exclusive of any discount or other reduction.
2. There is levied and assessed upon all other tobacco products sold in this state an excise tax at the following rates:
  - a. Upon each can or package of snuff, ~~sixty one~~ sixty one dollar and ~~eight~~ eight cents per ounce and a proportionate tax at the like rate on all fractional parts of an ounce.
  - b. On chewing tobacco, ~~sixteen~~ sixteen ~~twenty-nine~~ twenty-nine cents per ounce and a proportionate tax at the like rate on all fractional parts of an ounce.

For purposes of this subsection, the tax on other tobacco products is computed based on the net weight as listed by the manufacturer.

**SECTION 32. AMENDMENT.** Subsections 1 and 2 of section 57-36-26 of the North Dakota Century Code are amended and reenacted as follows:

1. There is levied and assessed upon all cigars and pipe tobacco purchased in another state and brought into this state by a dealer for the purpose of sale at retail, an excise tax at the rate of ~~twenty-eight~~ twenty-eight fifty percent of the wholesale purchase price, and upon all other tobacco products purchased in another state and brought into this state by a dealer for the purpose of sale at retail, an excise tax at the rates indicated in section 57-36-25, at the

time the products were brought into this state. For the purposes of this section, the term "wholesale purchase price" means the established price for which a manufacturer sells cigars or pipe tobacco to a distributor exclusive of any discount or other reduction. However, the dealer may elect to report and remit the tax on the cost price of the products to the dealer rather than on the wholesale purchase price. The proceeds of the tax, together with the forms of return and in accordance with any rules and regulations the tax commissioner may prescribe, must be remitted to the tax commissioner by the dealer on a monthly basis on or before the fifteenth day of the month following the monthly period for which it is paid. The tax commissioner shall have the authority to place any dealer on an annual remittance basis when in the judgment of the tax commissioner the operations of the dealer merit that remittance period. In addition, the tax commissioner shall have the authority to permit the consolidation of the filing of a dealer's return when the dealer has more than one location and thereby would be required to file more than one return.

2. If cigars, pipe tobacco, or other tobacco products have been subjected already to a tax by any other state in respect to their sale in an amount less than the tax imposed by this section, the provisions of this section apply, but at a rate measured by the difference only between the rate fixed in this section and the rate by which the previous tax upon the sale was computed. If the tax imposed in the other state is ~~twenty percent of equal to or greater than the wholesale purchase price or more~~ rates in section 57-36-25, then no tax is due on the article. The provisions of this subsection apply only if the other state allows a tax credit with respect to the excise tax on cigars, pipe tobacco, or other tobacco products imposed by this state which is substantially similar in effect to the credit allowed by this subsection.

**SECTION 33. AMENDMENT.** Subsection 1 of section 57-36-27 of the North Dakota Century Code is amended and reenacted as follows:

1. A tax is hereby imposed upon the use or storage by consumers of cigarettes in this state, and upon ~~such~~ those consumers, at the ~~following~~ rates:
  - a. ~~On cigarettes weighing not more than three pounds [1360.78 grams] per thousand, five mills on each such cigarette.~~
  - b. ~~On cigarettes weighing more than three pounds [1360.78 grams] per thousand, five and one-half mills on each such cigarette in sections 57-36-06 and 57-36-32.~~

**SECTION 34. AMENDMENT.** Section 57-36-32 of the North Dakota Century Code is amended and reenacted as follows:

**57-36-32. Separate and additional tax on the sale of cigarettes - Collection - Allocation of revenue - Tax avoidance prohibited.** There is hereby levied and assessed and there shall be collected by the state tax commissioner and paid to the state treasurer, upon all cigarettes sold in this state, an additional tax, separate and apart from all other taxes, of ~~seventeen~~ thirty-four and one-half mills on each cigarette, to be collected as existing taxes on cigarettes sold are, or hereafter may be, collected, by use of appropriate stamps and under similar accounting procedures. No person, firm, corporation, or limited liability company shall transport or bring or cause to be shipped into the state of North Dakota any cigarettes as provided herein, other than for delivery to wholesalers in this state, without first paying the tax thereon to the state tax commissioner. All of the moneys collected by the state treasurer under this section shall be credited to the state general fund."

**"SECTION 45. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$5,000,000, or so much of the sum as may be necessary, and from federal funds, the sum of \$10,625,000 to the department of human services for the purpose of supplementing other appropriations provided for the medical assistance program, the developmental center, the state hospital, and home and community-based services programs for the biennium beginning July 1, 2003, and ending June 30, 2005.

**SECTION 46. APPROPRIATION - STATE EMPLOYEE COMPENSATION - JANUARY 1, 2004.** The sums hereinafter listed, or so much thereof as may be necessary, are appropriated from the general fund and from special funds or moneys derived from federal funds or other income in the state treasury, not otherwise appropriated, as indicated to the agencies and institutions of state government for the purpose of providing compensation adjustments to employees of the various agencies and institutions in accordance with section 48 of this Act for the period beginning January 1, 2004, and ending June 30, 2005.

AGENCY OR INSTITUTION	GENERAL FUND	SPECIAL FUNDS	TOTAL
Governor	\$13,572		\$13,572
Secretary of state	13,224		13,224
Office of management and budget	70,834	\$16,253	87,087
Information technology department	11,280	181,549	192,829
State auditor	25,958	11,890	37,848
State treasurer	3,899		3,899
Attorney general	103,892	12,083	115,975
Tax commissioner	81,319		81,319
Administrative hearings office		6,313	6,313
Legislative council	27,319		27,319
Judicial branch	185,145	1,492	186,637
Retirement and investment office		11,578	11,578
Public employees retirement system		16,439	16,439
Department of public instruction	21,665	39,170	60,835
University system office	21,712		21,712
Board of university and school lands		12,119	12,119
Forest service	10,904		10,904
State library	12,073	470	12,543
School for the deaf	29,682		29,682
Vision services - school for the blind	14,245	1,763	16,008
Board for career and technical education	18,854	424	19,278
State department of health	66,663	129,890	196,553
Veterans' home	30,591	13,013	43,604
Indian affairs commission	2,098		2,098
Department of veterans' affairs	2,507	204	2,711
Children's services coordinating committee		357	357
Department of human services	778,884	347,569	1,126,453
Protection and advocacy project	6,600	8,499	15,099
Job service North Dakota	571	213,139	213,710
Insurance commissioner		31,107	31,107
Industrial commission	37,476	3,811	41,287
Labor commissioner	4,700	1,511	6,211
Public service commission	20,627	11,169	31,796
Aeronautics commission		4,256	4,256
Department of financial institutions		18,789	18,789
Securities commissioner	6,252		6,252
Bank of North Dakota		106,049	106,049

Housing finance agency		25,294	25,294
Workers compensation bureau		151,377	151,377
Highway patrol	86,856	37,777	124,633
Division of emergency management	4,702	7,206	11,908
Department of corrections and rehabilitation	345,529	30,933	376,462
Adjutant general	25,680	57,382	83,062
Department of commerce	34,170	11,300	45,470
Agriculture commissioner	19,545	16,281	35,826
Seed department		16,145	16,145
Upper great plains transportation institute	2,523	29,432	31,955
Branch research centers	44,713	9,356	54,069
NDSU extension service	112,216	70,775	182,991
Northern crops institute	3,830	3,051	6,881
Main research station	203,651	91,849	295,500
Agronomy seed farm		2,088	2,088
Historical society	31,843		31,843
Council on the arts	2,753		2,753
Game and fish department		99,070	99,070
Parks and recreation department	24,542	1,054	25,596
Water commission	58,829	1,107	59,936
Department of transportation		<u>617,865</u>	<u>617,865</u>
Total	\$2,623,928	\$2,480,248	\$5,104,176

**SECTION 47. APPROPRIATION - STATE EMPLOYEE COMPENSATION - JANUARY 1, 2005.** The sums hereinafter listed, or so much thereof as may be necessary, are appropriated from the general fund and from special funds or moneys derived from federal funds or other income in the state treasury, not otherwise appropriated, as indicated to the agencies and institutions of state government for the purpose of providing compensation adjustments to employees of the various agencies and institutions in accordance with section 48 of this Act for the period beginning January 1, 2005, and ending June 30, 2005.

AGENCY OR INSTITUTION	GENERAL FUND	SPECIAL FUNDS	TOTAL
Governor	\$9,021		\$9,021
Secretary of state	8,757		8,757
Office of management and budget	46,955	\$10,763	57,718
Information technology department	7,471	120,273	127,744
State auditor	17,191	7,873	25,064
State treasurer	2,581		2,581
Attorney general	68,802	8,001	76,803
Tax commissioner	53,866		53,866
Administrative hearings office		4,181	4,181
Legislative council	18,199		18,199
Judicial branch	125,088	994	126,082
Retirement and investment office		7,712	7,712
Public employees retirement system		10,924	10,924
Department of public instruction	14,348	25,940	40,288
University system office	14,582		14,582
Board of university and school lands		8,025	8,025
Forest service	7,221		7,221
State library	7,996	311	8,307
School for the deaf	18,591		18,591
Vision services - school for the blind	9,434	1,168	10,602
Board for career and technical education	12,485	281	12,766
State department of health	44,223	86,044	130,267

Veterans home	20,264	8,617	28,881
Indian affairs commission	1,389		1,389
Department of veterans' affairs	1,660	135	1,795
Children's services coordinating committee		237	237
Department of human services	516,164	230,273	746,437
Protection and advocacy project	4,371	5,628	9,999
Job service North Dakota	378	141,153	141,531
Insurance commissioner		20,601	20,601
Industrial commission	24,855	2,524	27,379
Labor commissioner	3,112	1,001	4,113
Public service commission	13,660	7,396	21,056
Aeronautics commission		2,819	2,819
Department of financial institutions		12,538	12,538
Securities commissioner	4,140		4,140
Bank of North Dakota		70,314	70,314
Housing finance agency		17,231	17,231
Workers compensation bureau		100,358	100,358
Highway patrol	57,521	25,018	82,539
Division of emergency management	3,114	4,772	7,886
Department of corrections and rehabilitation	228,828	20,485	249,313
Adjutant general	17,093	38,001	55,094
Department of commerce	22,707	7,483	30,190
Agriculture commissioner	12,943	10,783	23,726
Seed department		12,023	12,023
Upper great plains transportation institute	1,718	19,554	21,272
Branch research centers	24,957	6,196	31,153
NDSU extension service	74,225	46,897	121,122
Northern crops institute	2,570	2,021	4,591
Main research station	110,489	60,566	171,055
Agronomy seed farm		1,383	1,383
Historical society	21,088		21,088
Council on the arts	1,824		1,824
Game and fish department		65,609	65,609
Parks and recreation department	16,254	699	16,953
Water commission	38,959	734	39,693
Department of transportation		<u>409,288</u>	<u>409,288</u>
Total	\$1,711,094	\$1,644,827	\$3,355,921

**SECTION 48. LEGISLATIVE INTENT - STATE EMPLOYEE COMPENSATION ADJUSTMENTS - GUIDELINES.** It is the intent of the fifty-eighth legislative assembly that 2003-05 compensation adjustments for permanent state employees are to be increases of one percent, beginning with the month of January 2004, to be paid in February 2004, and two percent, beginning with the month of January 2005, to be paid in February 2005.

Employees whose documented performance levels do not meet standards are not eligible for the general increases.

Probationary employees are not entitled to the general increases. However, probationary employees may be given all or a portion of the increases upon completion of probation, at the discretion of the appointing authority.

During the biennium, no salary increase other than the one percent in January 2004 and the two percent in January 2005 may be given to an employee whose salary exceeds or would exceed the salary range maximum.

**SECTION 49. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$2,800,000, or so much of the sum as may be necessary, to the department of corrections and rehabilitation, for the biennium beginning July 1, 2003, and ending June 30, 2005.

**SECTION 50. APPROPRIATION.** Notwithstanding any other provisions of law, there is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$15,000,000, or so much of the sum as may be necessary, to the department of public instruction for the purpose of providing additional teacher compensation payments for the biennium beginning July 1, 2003, and ending June 30, 2005.

**SECTION 51. APPROPRIATION.** There is appropriated out of any moneys in the student loan trust fund, not otherwise appropriated, the sum of \$5,200,000, or so much of the sum as may be necessary, to the North Dakota university system for a campus operations pool to be allocated by the state board of higher education to higher education institutions to reduce tuition increases, for the biennium beginning July 1, 2003, and ending June 30, 2005, upon certification by the student loan trust trustee that sufficient moneys remain available to pay all debt service on student loan trust bonds, all required rebate payments to the United States treasury, and all program operating expenses.

**SECTION 52. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,000,000, or so much of the sum as may be necessary, to the state department of health for the purpose of providing tobacco cessation and education programs, for the biennium beginning July 1, 2003, and ending June 30, 2005."

Page 33, line 26, replace "41" with "53"

Renumber accordingly