

JOURNAL OF THE HOUSE

Fifty-ninth Legislative Assembly

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Bismarck, February 15, 2005

The House convened at 12:30 p.m., with Speaker Klein presiding.

The prayer was offered by Pastor Janet Mathistad, Bethany Lutheran Church, Minot.

The roll was called and all members were present except Representatives Bernstein, Dietrich, and Hunskor.

A quorum was declared by the Speaker.

CORRECTION AND REVISION OF THE JOURNAL

MR. SPEAKER: Your **Committee on Correction and Revision of the Journal (Rep. Kretschmar, Chairman)** has carefully examined the Journal of the twenty eighth Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

On page 535, remove lines 16 through 19 and replace with "**REP. R. KELSCH MOVED** that the report be adopted, which motion prevailed."

REP. KRETSCHMAR MOVED that the report be adopted, which motion prevailed.

MOTION

REP. BERG MOVED that HB 1030, which is on the Sixth order, be rereferred to the **Government and Veterans Affairs Committee**, which motion prevailed. Pursuant to Rep. Berg's motion, HB 1030 was rereferred.

SIXTH ORDER OF BUSINESS

SPEAKER KLEIN DEEMED approval of HB 1220, HB 1272, HB 1312, HB 1322, HB 1343, HB 1344, HB 1377, HB 1426, HB 1439, HB 1448, HB 1464, HB 1492, HB 1517, HB 1518, HCR 3005, HCR 3019, HCR 3024 and HCR 3027.

HCR 3005, HCR 3019, HCR 3024 and HCR 3027, as amended, were placed on the Tenth order of business on the calendar.

HB 1220, HB 1272, HB 1312, HB 1322, HB 1343, HB 1344, HB 1377, HB 1426, HB 1439, HB 1448, HB 1464, HB 1492, HB 1517 and HB 1518, as amended, were placed on the Eleventh order of business on the calendar.

SIXTH ORDER OF BUSINESS

HB 1400: REP. CLARK (Natural Resources Committee) MOVED that the amendments on HJ pages 617-618 be adopted and then be placed on the Eleventh order.

REQUEST

REP. DROVDAL REQUESTED a recorded roll call vote on the motion to adopt the proposed amendments to HB 1400, which request was granted.

ROLL CALL

The question being the motion to adopt the amendments to HB 1400, the roll was called and there were 26 YEAS, 65 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Berg; Boe; Boucher; Brandenburg; Carlisle; Clark; Dosch; Galvin; Haas; Hanson; Hawken; Herbel; Johnson, D.; Kelsch, R.; Kelsh, S.; Kingsbury; Kretschmar; Kroeber; Nelson; Nottestad; Porter; Schmidt; Svedjan; Thorpe; Uglen; Williams

NAYS: Aarsvold; Amerman; Bellew; Belter; Boehning; Brusegaard; Carlson; Charging; Conrad; Damschen; DeKrey; Delmore; Delzer; Devlin; Drovdal; Ekstrom; Froelich; Froseth; Glassheim; Grande; Gulleson; Headland; Horter; Iverson; Johnson, N.; Kaldor; Kasper; Keiser; Kempenich; Kerzman; Klemin; Koppelman; Kreidt; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Nicholas; Norland; Onstad; Owens; Pietsch; Pollert; Potter; Price; Rennerfeldt; Ruby; Sandvig; Sitte; Skarphol; Solberg; Thoreson; Timm; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Wrangham; Zaiser; Speaker Klein

ABSENT AND NOT VOTING: Bernstein; Dietrich; Hunskor

The motion to adopt the amendments to HB 1400 failed to pass.

MOTION

REP. BERG MOVED that the rules be suspended and that HB 1400 be placed on the Eleventh order for which motion prevailed.

**SECOND READING OF HOUSE CONCURRENT RESOLUTIONS ON CONSENT
CALENDAR**

HCR 3001: A concurrent resolution directing the Legislative Council to study the legal and enforcement issues relating to child support collections on Indian reservations, including state and tribal court jurisdictions, recognition of income withholding orders, and logistics involved in transferring child support collected to custodial parents.

HCR 3011: A concurrent resolution urging the state's public research institutions of higher education to participate in a regional hydrogen and energy research and education consortium.

HCR 3002: A concurrent resolution urging Congress and the United States Fish and Wildlife Service to repeal the regulations restricting the hunting of migratory waterfowl on agricultural crops that have not been harvested and subsequently manipulated.

HCR 3008: A concurrent resolution directing the Legislative Council to study agricultural commodity organizations and the Legislative Assembly oversight of commodity appropriations and charges.

HCR 3009: A concurrent resolution urging the United States Department of Agriculture to maintain trade restrictions on all Canadian cattle and on all edible bovine meat products derived from cattle of Canadian origin until various health, safety, and economic concerns can be satisfactorily addressed.

HCR 3010: A concurrent resolution directing the Legislative Council to study the feasibility and desirability of establishing a state Brownfields law; superfund law; other efforts to encourage the remediation and redevelopment of sites on which there has been a release of pollution, contaminants, or petroleum; and measures to encourage property owners to invest in and redevelop these sites.

HCR 3013: A concurrent resolution directing the Legislative Council to study the causes of and factors that reduce the severity of motor vehicle crashes.

The question being on the final adoption of the resolutions, which have been read.

HCR 3001, HCR 3002, HCR 3008, HCR 3009, HCR 3010, HCR 3011, and HCR 3013 were declared adopted on a voice vote, and the titles were agreed to.

**SECOND READING OF HOUSE CONCURRENT RESOLUTIONS ON CONSENT
CALENDAR**

HCR 3014: A concurrent resolution directing the Legislative Council to study judicial elections and recent federal court decisions affecting the conduct of judicial elections.

HCR 3016: A concurrent resolution directing the Legislative Council to study the delivery of veterans' services by the state and counties.

HCR 3021: A concurrent resolution urging the North Dakota Attorney General to support legal action to prevent the importation of live cattle and edible beef products from Canada and other countries where bovine spongiform encephalopathy is present.

HCR 3022: A concurrent resolution directing the Legislative Council to study data regarding cervical cancer and human papillomavirus, evaluate current methods of public education and access to regular cervical cancer screening, and consider options for increasing screening accuracy.

HCR 3025: A concurrent resolution directing the Legislative Council to study the issues of fairness and equity as they relate to the issuance and enforcement of child visitation orders.

HCR 3026: A concurrent resolution urging the United States Army Corps of Engineers to maintain the level of Lake Sakakawea at a minimum elevation of 1,825 feet mean sea level.

HCR 3028: A concurrent resolution directing the Legislative Council to study utilization of the state's abundant energy resources to attract energy-intensive economic development projects to the state.

The question being on the final adoption of the resolutions, which have been read.

HCR 3014, HCR 3016, HCR 3021, HCR 3022, HCR 3025, HCR 3026, and HCR 3028 were declared adopted on a voice vote, and the titles were agreed to.

SECOND READING OF HOUSE CONCURRENT RESOLUTIONS ON CONSENT CALENDAR

HCR 3029: A concurrent resolution expressing the Legislative Assembly's support for continued construction of the Northwest Area Water Supply Project.

HCR 3031: A concurrent resolution directing the Legislative Council to study issues relating to tribal-state relations, including methods for encouraging greater tribal-state cooperation, the promotion of economic development on Indian reservations in the state, the identification and study of health care issues on the reservations, and the identification and proposals for the resolution of the water issues affecting the state and the tribes.

HCR 3034: A concurrent resolution urging school districts to provide a midmorning and midafternoon recess to all students in kindergarten through grade six.

HCR 3036: A concurrent resolution directing the Legislative Council to study state agency and institution continuing appropriation authority.

HCR 3038: A concurrent resolution directing the Legislative Council to study organ and tissue donation and actions that may be taken at the regional, state, local, and private levels to increase organ and tissue donations.

HCR 3023: A concurrent resolution urging the Base Realignment and Closure Commission, the Secretary of Defense, and the President of the United States to support the continued maintenance of the military bases in North Dakota.

HCR 3033: A concurrent resolution urging Congress to remove wetland mitigation requirements from highway construction projects.

The question being on the final adoption of the resolutions, which have been read.

HCR 3023, HCR 3029, HCR 3031, HCR 3033, HCR 3034, HCR 3036, and HCR 3038 were declared adopted on a voice vote, and the titles were agreed to.

SECOND READING OF HOUSE CONCURRENT RESOLUTIONS ON CONSENT CALENDAR

HCR 3039: A concurrent resolution directing the Legislative Council to study the appropriate level of state-sponsored tourism marketing.

HCR 3040: A concurrent resolution directing the Legislative Council to study the unemployment insurance tax rate structure; the structure's impact on the unemployment insurance trust fund, with special focus on the impact of the current unemployment insurance tax structure on new businesses; the historical cyclical risks faced by the industries in which new businesses are beginning to operate; and whether the unemployment insurance tax impact is reasonably favorable to the desired economic development of the state.

The question being on the final adoption of the resolutions, which have been read.

HCR 3039 and HCR 3040 were declared adopted on a voice vote, and the titles were agreed to.

SECOND READING OF HOUSE BILL

HB 1148: A BILL for an Act to amend and reenact section 50-24.1-18.1 of the North Dakota Century Code, relating to personal care services for eligible medical assistance recipients who are residing in their own homes; to provide an effective date; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 90 YEAS, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Amerman; Bellew; Belter; Berg; Boe; Boehning; Boucher; Brandenburg; Brusegaard; Carlisle; Carlson; Charging; Clark; Conrad; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Drovdal; Ekstrom; Froelich; Froseth; Galvin; Glassheim; Grande; Gulleston; Haas; Hanson; Hawken; Headland; Herbel; Horter; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kempenich; Kerzman; Kingsbury; Klemm; Koppelman; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Nelson; Nicholas; Norland; Nottestad; Onstad; Owens; Pietsch; Pollert; Porter; Potter; Price; Ruby; Sandvig; Schmidt; Sitte; Skarphol; Solberg; Svedjan; Thoreson; Thorpe; Timm; Uglem; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Wrangham; Zaiser; Speaker Klein

ABSENT AND NOT VOTING: Bernstein; Dietrich; Hunskor; Rennerfeldt

Engrossed HB 1148 passed, the title was agreed to, and the emergency clause was declared carried.

SECOND READING OF HOUSE BILL

HB 1172: A BILL for an Act to create and enact a new section to chapter 13-05, two new subsections to section 14-09-25, a new subsection to section 15-39.1-30, a new subsection to section 39-03.1-28, and a new subsection to section 54-52-26 of the North Dakota Century Code, relating to judgment interest and the collection and disbursement of child support; to amend and reenact subsection 3 of section 14-09-08.1, section 14-09-08.15, subsection 5 of section 14-09-09.3, subsection 5 of section 14-09-25, subsection 1 of section 28-22-19, and sections 34-15-06, 50-09-08.5, and 50-09-33 of the North Dakota Century Code, relating to reporting of new hires, enforcement of medical support, and the collection and disbursement of child support; to provide a continuing appropriation; to provide an effective date; and to provide an expiration date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 88 YEAS, 2 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Amerman; Belter; Berg; Boe; Boehning; Boucher; Brandenburg; Brusegaard; Carlisle; Carlson; Charging; Clark; Conrad; Damschen; DeKrey; Delmore; Devlin; Dosch; Drovdal; Ekstrom; Froelich; Froseth; Galvin; Glassheim; Grande; Gulleston; Haas; Hanson; Hawken; Headland; Herbel; Horter; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kempenich; Kerzman; Kingsbury; Klemm; Koppelman; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Nelson; Nicholas; Norland; Nottestad; Onstad; Owens; Pietsch; Pollert; Porter; Potter; Price; Ruby; Sandvig; Schmidt; Sitte; Skarphol; Solberg; Svedjan; Thoreson; Thorpe; Timm; Uglem; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Wrangham; Zaiser; Speaker Klein

NAYS: Bellew; Delzer

ABSENT AND NOT VOTING: Bernstein; Dietrich; Hunskor; Rennerfeldt

Engrossed HB 1172 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1181: A BILL for an Act to amend and reenact section 50-24.1-02.3 of the North Dakota Century Code, relating to funds designated for funeral expenses and eligibility for medical assistance; and to direct the department of human services to seek a waiver.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 89 YEAS, 0 NAYS, 0 EXCUSED, 5 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Amerman; Bellew; Belter; Boe; Boehning; Boucher; Brandenburg; Brusegaard; Carlisle; Carlson; Charging; Clark; Conrad; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Drovdal; Ekstrom; Froelich; Froseth; Galvin; Glassheim; Grande; Gulleston; Haas; Hanson; Hawken; Headland; Herbel; Horter; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kempenich; Kerzman; Kingsbury; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Nelson; Nicholas; Norland; Nottestad; Onstad; Owens; Pietsch; Pollert; Porter; Potter; Price; Ruby; Sandvig; Schmidt; Sitte; Skarphol; Solberg; Svedjan; Thoreson; Thorpe; Timm; Uglem; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Wrangham; Zaiser; Speaker Klein

ABSENT AND NOT VOTING: Berg; Bernstein; Dietrich; Hunskor; Rennerfeldt

Engrossed HB 1181 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1239: A BILL for an Act to amend and reenact section 20.1-01-07 of the North Dakota Century Code, relating to offroad hunting.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 68 YEAS, 22 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

YEAS: Belter; Berg; Boe; Boehning; Brandenburg; Brusegaard; Carlisle; Carlson; Clark; DeKrey; Delzer; Devlin; Dosch; Drovdal; Froelich; Froseth; Galvin; Grande; Hawken; Headland; Herbel; Horter; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kasper; Kelsch, R.; Kempenich; Kerzman; Kingsbury; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Meier, L.; Meyer, S.; Monson; Nelson; Nicholas; Onstad; Pietsch; Pollert; Porter; Potter; Ruby; Sandvig; Schmidt; Sitte; Skarphol; Svedjan; Thoreson; Thorpe; Timm; Uglem; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Wrangham; Zaiser; Speaker Klein

NAYS: Aarsvold; Amerman; Bellew; Boucher; Charging; Conrad; Damschen; Delmore; Ekstrom; Glassheim; Gulleston; Haas; Hanson; Keiser; Kelsh, S.; Metcalf; Mueller; Norland; Nottestad; Owens; Price; Solberg

ABSENT AND NOT VOTING: Bernstein; Dietrich; Hunskor; Rennerfeldt

Engrossed HB 1239 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1476: A BILL for an Act to amend and reenact section 63-05-01 of the North Dakota Century Code, relating to the cutting of weeds and grasses adjacent to highways.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 4 YEAS, 87 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Brandenburg; Kelsch, R.; Kretschmar

NAYS: Amerman; Bellew; Belter; Berg; Boe; Boehning; Boucher; Brusegaard; Carlisle; Carlson; Charging; Clark; Conrad; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Drovdal; Ekstrom; Froelich; Froseth; Galvin; Glassheim; Grande; Gulleston; Haas; Hanson; Hawken; Headland; Herbel; Horter; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kasper; Keiser; Kelsh, S.; Kempenich; Kerzman; Kingsbury; Klemin; Koppelman; Kreidt; Kroeber; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Nelson; Nicholas; Norland; Nottestad; Onstad; Owens; Pietsch; Pollert; Porter; Potter; Price; Rennerfeldt; Ruby; Sandvig; Schmidt; Sitte; Skarphol; Solberg; Svedjan; Thoreson;

Thorpe; Timm; Uglem; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Wrangham; Zaiser; Speaker Klein

ABSENT AND NOT VOTING: Bernstein; Dietrich; Hunskor

Engrossed HB 1476 lost.

SECOND READING OF HOUSE BILL

HB 1488: A BILL for an Act to create an education congress and to provide for a legislative council study of the state's elementary and secondary education system.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 68 YEAS, 23 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Berg; Boe; Boehning; Boucher; Brusegaard; Carlisle; Charging; Clark; Conrad; Damschen; DeKrey; Delmore; Devlin; Dosch; Drovdal; Ekstrom; Froelich; Galvin; Glassheim; Haas; Hanson; Hawken; Headland; Herbel; Horter; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Nelson; Nicholas; Norland; Nottestad; Owens; Porter; Potter; Rennerfeldt; Sandvig; Schmidt; Sitte; Solberg; Svedjan; Thoreson; Thorpe; Uglem; Vigesaa; Wall; Weisz; Wieland; Williams; Zaiser; Speaker Klein

NAYS: Aarsvold; Amerman; Bellew; Belter; Brandenburg; Carlson; Delzer; Froseth; Grande; Gulleston; Kempenich; Kerzman; Kingsbury; Onstad; Pietsch; Pollert; Price; Ruby; Skarphol; Timm; Wald; Weiler; Wrangham

ABSENT AND NOT VOTING: Bernstein; Dietrich; Hunskor

Engrossed HB 1488 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1479: A BILL for an Act to amend and reenact subsection 1 of section 40-47-01.1 of the North Dakota Century Code, relating to extraterritorial zoning authority of cities; and to provide for application.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 12 YEAS, 78 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

YEAS: Boe; Brandenburg; Carlisle; Damschen; DeKrey; Delzer; Froelich; Kerzman; Metcalf; Ruby; Thorpe; Wrangham

NAYS: Aarsvold; Amerman; Bellew; Belter; Berg; Boehning; Boucher; Brusegaard; Carlson; Charging; Clark; Conrad; Delmore; Devlin; Dosch; Drovdal; Ekstrom; Froseth; Galvin; Glassheim; Grande; Gulleston; Haas; Hanson; Hawken; Headland; Herbel; Horter; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kempenich; Kingsbury; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Meier, L.; Meyer, S.; Monson; Mueller; Nelson; Nicholas; Nottestad; Onstad; Owens; Pietsch; Pollert; Porter; Potter; Price; Rennerfeldt; Sandvig; Schmidt; Sitte; Skarphol; Solberg; Svedjan; Thoreson; Timm; Uglem; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Zaiser; Speaker Klein

ABSENT AND NOT VOTING: Bernstein; Dietrich; Hunskor; Norland

Engrossed HB 1479 lost.

SECOND READING OF HOUSE BILL

HB 1493: A BILL for an Act to provide for a limitation on the awarding of attorney's fees in civil actions against the state.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 26 YEAS, 64 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

YEAS: Bellew; Belter; Boehning; Carlisle; Carlson; Damschen; Devlin; Dosch; Galvin; Haas; Herbel; Johnson, N.; Kingsbury; Koppelman; Meier, L.; Monson; Norland; Pollert; Rennerfeldt; Skarphol; Timm; Uglem; Vigesaa; Wald; Weiler; Wieland

NAYS: Aarsvold; Amerman; Berg; Boe; Boucher; Brandenburg; Charging; Clark; Conrad; DeKrey; Delmore; Delzer; Drovdal; Ekstrom; Froelich; Froseth; Glassheim; Grande; Gulleson; Hanson; Hawken; Headland; Horter; Iverson; Johnson, D.; Kaldor; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kempenich; Kerzman; Klemin; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Metcalf; Meyer, S.; Mueller; Nelson; Nicholas; Nottestad; Onstad; Owens; Pietsch; Porter; Potter; Price; Ruby; Sandvig; Schmidt; Sitte; Solberg; Svedjan; Thoreson; Thorpe; Wall; Weisz; Williams; Wrangham; Zaiser; Speaker Klein

ABSENT AND NOT VOTING: Bernstein; Brusegaard; Dietrich; Hunskor

Engrossed HB 1493 lost.

SECOND READING OF HOUSE BILL

HB 1398: A BILL for an Act to amend and reenact section 57-15-06.6 and subsection 19.1 of section 57-15-06.7 of the North Dakota Century Code, relating to the county levy limitation for regional or county corrections centers.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 82 YEAS, 8 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Amerman; Berg; Boe; Boehning; Brandenburg; Brusegaard; Carlisle; Charging; Clark; Conrad; Damschen; DeKrey; Delmore; Devlin; Dosch; Drovdal; Ekstrom; Froelich; Froseth; Galvin; Glassheim; Grande; Gulleson; Haas; Hanson; Hawken; Headland; Herbel; Horter; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kempenich; Kerzman; Kingsbury; Koppelman; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Nelson; Nicholas; Norland; Nottestad; Onstad; Owens; Pietsch; Pollert; Porter; Potter; Price; Rennerfeldt; Ruby; Sandvig; Schmidt; Sitte; Solberg; Svedjan; Thoreson; Thorpe; Timm; Uglem; Vigesaa; Wald; Wall; Weisz; Wieland; Williams; Zaiser; Speaker Klein

NAYS: Bellew; Belter; Boucher; Carlson; Delzer; Skarphol; Weiler; Wrangham

ABSENT AND NOT VOTING: Bernstein; Dietrich; Hunskor; Klemin

Engrossed HB 1398 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1399: A BILL for an Act to amend and reenact section 61-16.1-09.1 of the North Dakota Century Code, relating to special assessments for snagging, clearing, and maintaining watercourses; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 90 YEAS, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Amerman; Bellew; Belter; Berg; Boe; Boehning; Boucher; Brandenburg; Brusegaard; Carlisle; Carlson; Charging; Clark; Conrad; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Drovdal; Ekstrom; Froelich; Froseth; Galvin; Glassheim; Grande; Gulleson; Haas; Hanson; Hawken; Headland; Herbel; Horter; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kempenich; Kerzman; Kingsbury; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Nelson; Nicholas; Norland; Nottestad; Onstad; Owens; Pietsch; Pollert; Porter; Potter; Price; Rennerfeldt; Ruby; Sandvig;

Schmidt; Sitte; Skarphol; Solberg; Svedjan; Thoreson; Thorpe; Timm; Uglem; Vigesaa; Wald; Wall; Weiler; Weisz; Williams; Wrangham; Zaiser; Speaker Klein

ABSENT AND NOT VOTING: Bernstein; Dietrich; Hunskor; Wieland

Engrossed HB 1399 passed, the title was agreed to, and the emergency clause was declared carried.

SECOND READING OF HOUSE BILL

HB 1254: A BILL for an Act to amend and reenact section 16.1-05-07 of the North Dakota Century Code, relating to approved forms of identification for voting purposes.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 89 YEAS, 1 NAY, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Amerman; Bellew; Belter; Berg; Boe; Boehning; Boucher; Brusegaard; Carlisle; Carlson; Charging; Clark; Conrad; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Drovdal; Ekstrom; Froelich; Froseth; Galvin; Glassheim; Grande; Gulleston; Haas; Hanson; Hawken; Headland; Herbel; Horter; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kempenich; Kerzman; Kingsbury; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Nelson; Nicholas; Norland; Nottestad; Onstad; Owens; Pietsch; Pollert; Porter; Potter; Price; Rennerfeldt; Ruby; Sandvig; Schmidt; Sitte; Skarphol; Solberg; Svedjan; Thoreson; Thorpe; Timm; Uglem; Vigesaa; Wall; Weiler; Weisz; Wieland; Williams; Wrangham; Zaiser; Speaker Klein

NAYS: Brandenburg

ABSENT AND NOT VOTING: Bernstein; Dietrich; Hunskor; Wald

Engrossed HB 1254 passed and the title was agreed to.

SECOND READING OF HOUSE BILL

HB 1405: A BILL for an Act to amend and reenact subsection 1 of section 16.1-05-07 of the North Dakota Century Code, relating to identification of individuals seeking to vote.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 33 YEAS, 58 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Amerman; Boe; Boucher; Conrad; DeKrey; Delmore; Dosch; Ekstrom; Froelich; Glassheim; Gulleston; Hanson; Johnson, D.; Kaldor; Kelsh, S.; Kempenich; Kerzman; Kretschmar; Kroeber; Metcalf; Meyer, S.; Mueller; Nelson; Nicholas; Onstad; Sandvig; Schmidt; Solberg; Thorpe; Weisz; Williams; Zaiser

NAYS: Bellew; Belter; Berg; Boehning; Brandenburg; Brusegaard; Carlisle; Carlson; Charging; Clark; Damschen; Delzer; Devlin; Drovdal; Froseth; Galvin; Grande; Haas; Hawken; Headland; Herbel; Horter; Iverson; Johnson, N.; Kasper; Keiser; Kelsch, R.; Kingsbury; Klemin; Koppelman; Kreidt; Maragos; Martinson; Meier, L.; Monson; Norland; Nottestad; Owens; Pietsch; Pollert; Porter; Potter; Price; Rennerfeldt; Ruby; Sitte; Skarphol; Svedjan; Thoreson; Timm; Uglem; Vigesaa; Wald; Wall; Weiler; Wieland; Wrangham; Speaker Klein

ABSENT AND NOT VOTING: Bernstein; Dietrich; Hunskor

HB 1405 lost.

MOTION

REP. BERG MOVED that HB 1069, which is on the Eleventh order, be rereferred to the **Appropriations Committee**, which motion prevailed. Pursuant to Rep. Berg's motion, HB 1069 was rereferred.

MOTION

REP. BERG MOVED that HB 1271, which is on the Eleventh order, be rereferred to the **Appropriations Committee**, which motion prevailed. Pursuant to Rep. Berg's motion, HB 1271 was rereferred.

MOTION

REP. BERG MOVED that HB 1370 be moved to the top of the calendar, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1370: A BILL for an Act to create and enact a new subsection to section 49-10.1-03 of the North Dakota Century Code, relating to regulation of railroad fuel surcharges by the public service commission; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 91 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Amerman; Bellew; Belter; Berg; Boe; Boehning; Boucher; Brandenburg; Brusegaard; Carlisle; Carlson; Charging; Clark; Conrad; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Drovdal; Ekstrom; Froelich; Froseth; Galvin; Glassheim; Grande; Gulleson; Haas; Hanson; Hawken; Headland; Herbel; Horter; Iverson; Johnson, D.; Johnson, N.; Kaldor; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kempenich; Kerzman; Kingsbury; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Nelson; Nicholas; Norland; Nottestad; Onstad; Owens; Pietsch; Pollert; Porter; Potter; Price; Rennerfeldt; Ruby; Sandvig; Schmidt; Sitte; Skarphol; Solberg; Svedjan; Thoreson; Thorpe; Timm; Uglem; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Wrangham; Zaiser; Speaker Klein

ABSENT AND NOT VOTING: Bernstein; Dietrich; Hunskor

Engrossed HB 1370 passed, the title was agreed to, and the emergency clause was declared carried.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The House has passed, the emergency clause carried, and your favorable consideration is requested on: HB 1032, HB 1110.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The House has passed and your favorable consideration is requested on: HB 1061, HB 1235, HB 1273, HB 1304, HB 1314, HB 1360, HB 1386, HB 1391, HB 1397, HB 1409, HB 1454, HB 1519, HCR 3007.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The House has passed, the emergency clause carried, and your favorable consideration is requested on: HB 1383.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The House has passed and your favorable consideration is requested on: HB 1070, HB 1121, HB 1173, HB 1189, HB 1311, HB 1315, HB 1374, HB 1389, HB 1404, HB 1421, HB 1445, HB 1468, HB 1475, HB 1484, HB 1496, HB 1505, HB 1506, HB 1511, HB 1520.

MESSAGE TO THE SENATE FROM THE HOUSE (BRADLEY C. FAY, CHIEF CLERK)

MR. PRESIDENT: The Speaker has signed: SCR 4020.

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

MR. SPEAKER: The Senate has passed and your favorable consideration is requested on: SB 2177, SB 2240, SB 2256, SB 2259, SB 2267, SB 2321, SB 2324, SB 2339, SB 2346, SB 2378, SB 2382, SCR 4016, SCR 4021, SCR 4023, SCR 4026.

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

MR. SPEAKER: The President has signed and your signature is respectfully requested on: SCR 4020.

MOTION

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

MOTION

REP. MONSON MOVED that the House be on the Fifth, Ninth, and Thirteenth orders of business and at the conclusion of those orders, the House stand adjourned until 8:00 a.m., Wednesday, February 16, 2005, which motion prevailed.

FIRST READING OF HOUSE CONCURRENT RESOLUTIONS

Reps. Grande, Kerzman and Sens. J. Lee, O'Connell introduced:

HCR 3050: A concurrent resolution directing the Legislative Council to study data regarding colorectal cancer screening, current methods of public education, access to regular cancer screening, and to consider options for increasing screening accuracy.

Was read the first time and referred to the **Human Services Committee**.

Reps. Mueller, Herbel, Wall and Sens. Brown, Flakoll introduced:

HCR 3051: A concurrent resolution directing the Legislative Council to study ways in which state agencies can join with health care professionals, school districts, schools, and parents to promote understanding regarding the interplay of health and educational success and to improve the health and well-being of elementary and high school students in this state.

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

FIRST READING OF SENATE BILLS

SB 2177: A BILL for an Act to create and enact section 57-39.2-04.5 and a new section to chapter 57-39.5 of the North Dakota Century Code, relating to a sales and use tax exemption for dairy farm machinery, equipment, and structural materials; and to provide an effective date.

Was read the first time and referred to the **Finance and Taxation Committee**.

SB 2240: A BILL for an Act to amend and reenact subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to verification of claims for farm residence property tax exemptions; and to provide an effective date.

Was read the first time and referred to the **Finance and Taxation Committee**.

SB 2256: A BILL for an Act to create and enact a new subsection to section 20.1-03-12 of the North Dakota Century Code, relating to nonresident waterfowl hunting license fees; and to amend and reenact section 20.1-03-07.1 of the North Dakota Century Code, relating to nonresident waterfowl hunting licenses.

Was read the first time and referred to the **Natural Resources Committee**.

SB 2259: A BILL for an Act to amend and reenact sections 23-07.5-01 and 23-07.5-02 of the North Dakota Century Code, relating to informed consent for HIV testing.

Was read the first time and referred to the **Human Services Committee**.

SB 2267: A BILL for an Act to provide an appropriation for services and programs for senior citizens; and to provide a statement of legislative intent.

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

SB 2321: A BILL for an Act to amend and reenact section 23-01-02 of the North Dakota Century Code, relating to health council membership inclusion of an enrolled member of a federally recognized tribe and a representative of the food service industry.

Was read the first time and referred to the **Human Services Committee**.

SB 2324: A BILL for an Act to amend and reenact subsection 3 of section 40-49.1-03 of the North Dakota Century Code, relating to combination of boards of park commissioners; and to provide an effective date.

Was read the first time and referred to the **Political Subdivisions Committee**.

SB 2339: A BILL for an Act to amend and reenact section 39-28-01 of the North Dakota Century Code, relating to motorcycle safety education fees.

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

SB 2346: A BILL for an Act to create and enact a new section to chapter 19-10 of the North Dakota Century Code, relating to the sale of gasoline containing methyl tertiary butyl ether.

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

SB 2378: A BILL for an Act to amend and reenact section 32-09.1-09 of the North Dakota Century Code, relating to the garnishment disclosure form.

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

SB 2382: A BILL for an Act to amend and reenact section 43-11-23 of the North Dakota Century Code, relating to examinations for cosmetology licensure.

Was read the first time and referred to the **Government and Veterans Affairs Committee**.

FIRST READING OF SENATE CONCURRENT RESOLUTIONS

SCR 4016: A concurrent resolution directing the Legislative Council to study the feasibility and desirability of adopting a statewide procedure for conducting missing persons investigations.

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

SCR 4021: A concurrent resolution urging Congress to allow for the travel of United States citizens to and from Cuba and to allow direct banking transfers between the United States and Cuba for the purchase of American-made products by Cuba.

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

SCR 4023: A concurrent resolution expressing the Legislative Assembly's commendation and support for the efforts of the Lake Agassiz Water Authority to deliver water to eastern North Dakota.

Was read the first time and referred to the **Natural Resources Committee**.

SCR 4026: A concurrent resolution urging Congress to enact legislation to address the adverse economic impact on businesses and the economic health of North Dakota caused by the low water levels of the federally managed reservoirs on the Missouri River in North Dakota.

Was read the first time and referred to the **Natural Resources Committee**.

REPORT OF STANDING COMMITTEE

HB 1050: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 8 NAYS, 0 ABSENT AND NOT VOTING). HB 1050 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "an appropriation for" with "a statement of legislative intent regarding"

Page 1, replace lines 3 through 24 with:

"SECTION 1. LEGISLATIVE INTENT - STATE EMPLOYEE COMPENSATION ADJUSTMENTS - GUIDELINES. It is the intent of the fifty-ninth legislative assembly that 2005-07 biennium compensation adjustments for permanent state employees are to be increases of three percent beginning with the month of July 2005, to be paid in August 2005, and of four percent beginning with the month of July 2006, to be paid in August 2006. Of the four percent increase beginning with the month of July 2006, two percent is to be distributed for the following adjustments:

1. Equity increases to address a documented and serious internal agency inequity affecting the agency's ability to retain an employee.
2. Market adjustments to address a documented external salary disparity identified by comparison with generally recognized market data. Appropriate documentation supporting all market adjustments must be maintained. Market adjustments may not be provided in situations where serious internal inequities will result.
3. Merit and performance increases in recognition of documented performance which is consistently superior or which consistently exceeds performance and accountability standards.
4. Discretionary salary adjustments at the discretion of the appointing authority based on changes in workload, promotion, reclassification, or other permanent job reassignment. Appropriate documentation and justification must be maintained by the appointing authority.

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 three percent in July 2005 and the four percent in July 2006 may be given to an employee whose salary exceeds or would exceed the salary range maximum.

Each agency appropriation for salaries and wages is increased by three percent the first year and four percent the second year of the 2005-07 biennium for these compensation adjustments.

SECTION 2. AGENCY SALARY INCREASE INFORMATION. State agencies shall report to the human resources management services division of the office of management and budget in the format developed by the division, information regarding the state employee salary increases provided pursuant to section 1 of this Act. The human resources management services division shall analyze the impact of the increases on the classified employee system and include this analysis in the division's presentation to the appropriations committees of the sixtieth legislative assembly."

Page 2, remove lines 1 through 31

Page 3, remove lines 1 through 31

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1227: Human Services Committee (Rep. Price, Chairman) recommends **DO NOT PASS** (9 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1227 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1231: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1231 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "to create and enact three new sections to chapter 25-07 of the North Dakota"

Page 1, remove line 2

Page 1, line 3, remove "impaired;"

Page 1, line 4, replace "; and to" with a period

Page 1, remove lines 5 and 6

Page 3, remove lines 25 through 31

Page 4, remove lines 1 through 21

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1260: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1260 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative council study of public improvement contracts and issues relating to use of multiple bids versus single prime bids, construction management, professional liability and indemnification, and design-build delivery systems."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE COUNCIL STUDY. The legislative council shall study public improvement contracts and issues relating to use of multiple bids versus single prime bids, construction management, professional liability and indemnification, and design-build delivery systems. The legislative council shall report its findings and

recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1291: Agriculture Committee (Rep. Nicholas, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1291 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 23-25-11 of the North Dakota Century Code, relating to animal feeding operations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-25-11 of the North Dakota Century Code is amended and reenacted as follows:

23-25-11. Regulation of odors - Rules.

1. In areas located within a city or the area over which a city has exercised extraterritorial zoning as defined in section 40-47-01.1, a person may not discharge into the ambient air any objectionable odorous air contaminant that measures seven odor concentration units or higher outside the property boundary where the discharge is occurring. If an agricultural operation as defined by section 42-04-01 has been in operation for more than one year, as provided by section 42-04-02, and the business or residence making the odor complaint was built or established after the agricultural operation was established, the measurement for compliance with the seven odor concentration units standard must be taken within one hundred feet [30.48 meters] of the subsequently established residence, church, school, business, or public building making the complaint rather than at the property boundary of the agricultural operation.
2. In areas located outside a city or outside the area over which a city has exercised extraterritorial zoning as defined in section 40-47-01.1, a person may not discharge into the ambient air any objectionable odorous air contaminant that causes odors that measure seven odor concentration units or higher as measured at any of the following locations:
 - a. Within one hundred feet [30.48 meters] of any residence, church, school, business, or public building, or within a campground or public park. An odor measurement may not be taken at the residence of the owner or operator of the source of the odor, or at any residence, church, school, business, or public building, or within a campground or public park, that is built or established within one-half mile [.80 kilometer] of the source of the odor after the source of the odor has been built or established; or
 - b. At any point located beyond one-half mile [.80 kilometer] from the source of the odor, except for property owned by the owner or operator of the source of the odor, or over which the owner or operator of the source of the odor has purchased an odor easement.
 - c. If a county or township has zoned or established a setback distance for a concentrated feeding operation which is greater than one-half mile [.80 kilometer] under either section 11-33-02 or section 58-03-11, measurements for compliance with the seven odor concentration units standard must be taken at the setback distance rather than one-half mile [.80 kilometer] from the facility under subdivision b, except for any residence, church, school, business, public building, park, or campground within the setback distance which was built or established before the concentrated feeding operation was established, unless the concentrated feeding operation has obtained an odor easement from the preexisting facility.

3. An odor measurement may be taken only with a properly maintained scentometer, by an odor panel, or by another instrument or method approved by the state department of health, and only by inspectors certified by the department who have successfully completed a department-sponsored odor certification course and demonstrated the ability to distinguish various odor samples and concentrations. If a certified inspector measures a violation of this section, the department may send a certified letter of apparent noncompliance to the person causing the apparent violation and may negotiate with the owner or operator for the establishment of an odor management plan and best management practices to address the apparent violation. The department shall give the owner or operator at least fifteen days to implement the odor management plan. If the odor problem persists, the department may proceed with an enforcement action provided at least two certified inspectors at the same time each measure a violation and then confirm the violation by a second odor measurement taken by each certified inspector, at least fifteen minutes, but no more than two hours, after the first measurement.
4. A person is exempt from this section while spreading or applying animal manure or other recycled agricultural material to land in accordance with a nutrient management plan approved by the state department of health. A person is exempt from this section while spreading or applying animal manure or other recycled agricultural material to land owned or leased by that person in accordance with rules adopted by the department. An owner or operator of a lagoon or waste storage pond permitted by the department is exempt from this section in the spring from the time when the cover of the permitted lagoon or pond begins to melt until fourteen days after all the ice cover on the lagoon or pond has completely melted. Notwithstanding these exemptions, all persons shall manage their property and systems to minimize the impact of odors on their neighbors.
5. This section does not apply to chemical compounds that can be individually measured by instruments, other than a scentometer, that have been designed and proven to measure the individual chemical or chemical compound, such as hydrogen sulfide, to a reasonable degree of scientific certainty, and for which the state department of health has established a specific limitation by rule.
6. For purposes of this section, a public park is a park established by the federal government, the state, or a political subdivision of the state in the manner prescribed by law. For purposes of this section, a campground is a public or private area of land used exclusively for camping and open to the public for a fee on a regular or seasonal basis.
7.
 - a. In a county that does not regulate the nature, scope, and location of an animal feeding operation under section 11-33-02, the department shall require that any new animal feeding operation permitted under chapter 61-28 be set back from any existing residence, church, school, business, public building, park, or campground.
 - (1) If there are fewer than three hundred animals, there is no minimum setback requirement.
 - (2) If there are at least three hundred animals but no more than one thousand animals, the setback for any animal operation is one-half mile [.80 kilometer].
 - (3) If there are at least one thousand one animals but no more than two thousand animals, the setback for a hog operation is three-fourths mile [1.20 kilometers] and the setback for any other animal operation is one-half mile [.80 kilometer].
 - (4) If there are at least two thousand one animals but no more than five thousand animals, the setback for a hog operation is one mile [1.60 kilometers] and the setback for any other animal operation is three-fourths mile [1.20 kilometers].
 - (5) If there are five thousand one or more animals, the setback for a hog operation is one and one-half miles [2.40 kilometers] and

the setback for any other animal operation is one mile [1.60 kilometers].

- b. The setbacks set forth in subdivision a do not apply if the owner or operator applying for the permit obtains an odor easement from the preexisting use that is closer.
 - c. The department shall define by rule the number of animals that constitute an animal unit.
8. A permitted animal feeding operation may expand its permitted capacity by twenty-five percent on one occasion without triggering a higher setback distance."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1410: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1410 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 23-07.5-01, 23-07.5-02, 23-07.5-04, 23-07.5-06, and 23-07.5-07 of the North Dakota Century Code, relating to testing for exposure to bloodborne pathogens; and to repeal chapter 23-07.3 of the North Dakota Century Code, relating to notification of exposure to infectious diseases.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-07.5-01 of the North Dakota Century Code is amended and reenacted as follows:

23-07.5-01. Definitions. In this chapter, unless the context otherwise requires:

1. "Bloodborne pathogen" means a microorganism that is present in human blood or in other bodily fluid or tissue which can cause a disease in humans, including the hepatitis B virus, the hepatitis C virus, and the human immunodeficiency virus, and for which testing is recommended by the United States public health service.
2. "Exposed individual" means a human being who had a significant exposure with another individual who is subject to testing and who is a an individual, including a patient, health care provider, firefighter, peace officer, correctional officer, court officer, law enforcement officer, emergency medical technician, or an individual trained and authorized by law or rule to render emergency medical assistance or treatment, including a person an individual rendering aid under chapter 32-03.1, who is exposed to a bloodborne pathogen.
3. "Exposure" means a percutaneous injury, including a needle stick or cut with a sharp object; contact with blood, body fluid, or tissue of a mucous membrane or nonintact skin, including exposed skin that is chapped, abraded, or afflicted with dermatitis; or contact with other body fluids that are potentially infectious as determined under guidelines of the United States public health service.
2. ~~"Health care provider" means any person licensed, certified, or otherwise authorized by the law of this state to provide health care services.~~
3. 4. "Health care services" means any services included in the furnishing to any an individual of hospitalization, or medical or dental care, or any services incident to the furnishing of that care or hospitalization, as well as the furnishing to any person an individual of any other services for the purpose of preventing, alleviating, curing, or healing human illness or injury.
4. ~~"Human immunodeficiency virus" means any identified causative agent of acquired immune deficiency syndrome.~~

5. ~~"Human immunodeficiency virus infection" means the pathological state produced by a human body in response to the presence of the human immunodeficiency virus. "Health care provider" means an individual licensed, certified, or otherwise authorized by the law of this state to provide health care and includes personnel at the state crime laboratory or any commercial or research laboratory that handles blood, body fluid, or tissues.~~
6. ~~"Informed consent for testing" means the written permission of an individual to be tested for the presence of the human immunodeficiency virus that the individual to be tested for bloodborne pathogens has been informed of the nature of the testing; the reason for the testing; the relevant risks, benefits, and potential alternatives for testing; and the individual has granted permission to be tested.~~
7. ~~"Informed consent form" means a printed document on which an individual may signify that individual's permission to be tested for the presence of the human immunodeficiency virus. "Personal representative" means any person who has authority under law to act on behalf of an individual or deceased individual in making decisions related to health care or health information.~~
8. ~~"Personal physician" means the physician designated by a patient or individual who has had a significant exposure as the patient's or individual's primary physician or if no physician has been designated or the designated physician is unable to make a determination as to whether a significant exposure has occurred, the patient's primary attending physician. The term means the local health officer having jurisdiction in the area the significant exposure has allegedly occurred if the patient has no attending physician or designated primary physician. "Test subject" means the individual who is the source of the blood, other bodily fluids, or tissue that caused the exposure.~~
9. ~~"Significant exposure" means:

 - a. ~~Contact of broken skin or mucous membrane with a patient's blood or bodily fluids other than tears or perspiration;~~
 - b. ~~The occurrence of a needle stick or scalpel or instrument wound in the process of caring for a patient; or~~
 - e. ~~Exposure that occurs by any other method of transmission defined by the state department of health as a significant exposure.~~~~
10. ~~"Universal precautions" means measures that a health care provider, emergency medical technician, exposed individual, or an individual rendering aid under chapter 32-03.1 takes in accordance with recommendations of the United States public health service to prevent transmission of disease.~~

SECTION 2. AMENDMENT. Section 23-07.5-02 of the North Dakota Century Code is amended and reenacted as follows:

23-07.5-02. Informed consent for testing - Exception.

1. ~~Except when testing is otherwise provided for permitted by law, a health care provider, blood bank, blood center, or plasma center may not subject a person an individual who is the source of an exposure to a test for the presence of the human immunodeficiency virus bloodborne pathogens unless the subject of the test, the parent or legal guardian or custodian of the subject's personal representative if the subject is a minor who is the subject of the test, or the legal guardian of an is incapacitated person who is the subject of the test, first provides informed consent for testing as provided under subsection 2.~~
2. ~~A health care provider, blood bank, blood center, or plasma center that subjects an individual to a test for the presence of the human immunodeficiency virus under subsection 1 shall provide the potential test subject, the parent or legal guardian or custodian of a potential test subject~~

~~that is a minor, or the legal guardian of a potential test subject who is incapacitated, with an informed consent form and shall obtain the appropriate individual's signature on the form. The form must contain:~~

- ~~a. The name of the potential test subject who is giving consent for testing and whose test results may be disclosed and, when appropriate, the name of the individual providing consent on behalf of the potential test subject.~~
 - ~~b. A statement of explanation that the test results may be disclosed as authorized by law.~~
 - ~~e. Space specifically designated for the signature of the person providing informed consent for the testing and the date on which the consent is signed.~~
3. ~~A health care provider or an exposed individual who had a significant exposure with another individual may subject~~ If an individual who is the source of an exposure has had blood drawn that is available for testing and the individual has refused to grant consent to have that individual's blood tested for bloodborne pathogens, that individual's blood may be subjected to a test for the presence of the human immunodeficiency virus/bloodborne pathogens, without that individual's consent, if all of the following apply:
- ~~a. A blood sample of the individual who is the test subject has been drawn for other purposes and is available to be used to test for the presence of the human immunodeficiency virus.~~
 - ~~b. The personal physician of the individual exposed, a physician or other qualified health care provider based on available information provided to the physician, determines and certifies in writing that the individual had a significant an exposure. The certification must accompany the request for testing and disclosure.~~
 - ~~e. The test subject is capable of consenting when the test is requested, has been given an opportunity to be tested with consent, and has not consented.~~
 - ~~d. Before and before testing, the test subject is informed, while competent and conscious, that the test subject's blood may be tested for the presence of human immunodeficiency virus bloodborne pathogens; that the test results may not be disclosed ~~to no one~~ without the test subject's consent authorization, except to the exposed individual, the individual's health care provider, the department, and any other person as authorized by law; that if the exposed individual knows the identity of the test subject, the exposed individual may not disclose the identity ~~to any other person of the test subject~~ except for the purpose of having the test performed; and that a record of the test results may be ~~placed~~ kept in the ~~test subject's exposed individual's~~ medical record, ~~and if not in the medical record, may be kept only if the record does not reveal the test subject's identity. Each exposed individual who had a significant an exposure and to whom test results are disclosed must first sign be given a document indicating the exposed individual's understanding that the exposed individual may not disclose the patient's test subject's identity and that disclosing this information constitutes a class C felony.~~~~
4. ~~A patient who has received care from a health care provider, emergency medical services provider, or a person rendering aid under chapter 32-03.1 and who has had a significant exposure with the provider may subject the provider's blood to a test for the presence of the human immunodeficiency virus, without the provider's consent, if all of the following apply:~~
- ~~a. A sample of the provider's blood has been drawn for other purposes and is available to be used to test for the presence of the human immunodeficiency virus.~~
 - ~~b. A physician, based on information provided to the physician, determines and certifies in writing that the patient has had a significant~~

~~exposure. The certification must accompany the request for testing and disclosure.~~

- ~~e. The provider or a person rendering aid under chapter 32-03.1 is capable of consenting when the test is requested, has been given an opportunity to be tested with consent, and has not consented.~~
- ~~d. Before testing, the provider is informed, while competent and conscious, that the provider's blood may be tested for the presence of human immunodeficiency virus; that the test results may be disclosed to the provider, the individual who has had a significant exposure, and any other person as authorized by law; that if the patient who has had a significant exposure knows the identity of the provider, that patient may not disclose the identity to any other person except for the purpose of having the test performed; and that a record may be kept of the test results only if the record does not reveal the provider's identity. Each patient who has had a significant exposure and to whom test results are disclosed must first sign a document indicating the patient's understanding that the patient may not disclose the provider's identity and that disclosing the information constitutes a class C felony.~~
5. 3. If an individual who is the subject of a significant an exposure is unconscious or incapable of giving informed consent for testing under this section, that consent may be obtained in accordance with section 23-12-13 from the individual's personal representative. If an individual who is the subject of a significant an exposure dies without an opportunity to consent to testing, collection of appropriate specimens and testing for the presence of bloodborne pathogens, including human immunodeficiency virus, hepatitis B, and hepatitis C infection must be conducted within twenty four hours as soon as reasonably possible. A licensed physician with expertise in infectious diseases shall make the determination of which tests are required. Results of these tests must be provided to the physician providing care for the individual who experienced the significant exposure. If a facility that received the individual who died fails to test for the presence of bloodborne pathogens as required under this subsection because the facility was not aware of the exposure or it was not reasonably possible to conduct testing, the facility shall provide the physician providing care for the exposed individual or health care provider testing results of any bloodborne pathogen present in any medical records of the dead person deceased individual which are in the facility's control within twenty four hours as soon as reasonably possible. If there are no testing results for bloodborne pathogens within that facility and there is reason to believe that results are available from another facility, the facility that received the person who died deceased individual shall attempt to obtain testing results of bloodborne pathogens of the deceased within twenty four hours individual as soon as reasonably possible from the facility where it is believed results exist. The test results must be provided to the physician providing care for the individual who experienced the significant exposure.
6. 4. A test for bloodborne pathogens must be conducted according to recommendations of the United States public health service. Any testing done pursuant to subsection 2 or 3, 4, or 5 must be conducted in a reasonably expedient manner. An individual who has had a significant exposure, upon receiving certification of the significant exposure as required by subdivision b of subsection 3 or subdivision b of subsection 4, may petition an appropriate The district court for issuance of in the county where the alleged exposure occurred or in which the individual to be tested resides shall issue an order directing another the individual, patient, or provider with whom the individual had a significant who was the source of an exposure to have blood drawn to be tested for the presence of the human immunodeficiency virus if a previously drawn blood sample is not available for testing. Upon receiving the petition, the court may issue an order confining the test subject to be tested until the hearing or an order establishing reasonable security for that person's attendance at the hearing. This order may be modified or extended if testing is ordered. The court shall hold a hearing on the petition within three days of the date the court receives the petition bloodborne pathogens. An affidavit from a physician or other qualified health care provider showing that an exposure has occurred is prima facie evidence of those facts. The affidavit may not

be excluded as hearsay if the affidavit is based on evidence generally relied on by a health care provider, including statements from the provider's patient. The record of any court hearing conducted under this subsection is confidential. The court ~~may~~ shall issue an order requiring testing under this subsection ~~only~~ if:

- a. ~~The other individual, patient, or provider has been requested to consent to testing and has refused to be tested and a sample of the test subject's blood is not available to be used to test for the human immunodeficiency virus;~~
 - b. The court finds probable cause to believe that ~~the person~~ individual petitioning for the testing had ~~a significant~~ an exposure with the test subject;
 - e. ~~b.~~ The petition substitutes a pseudonym for the true name of the test subject;
 - d. ~~c.~~ The court provides the test subject with notice and reasonable opportunity to participate in the proceeding if the person is not already a party to the proceeding;
 - e. ~~d.~~ The proceedings are conducted in camera ~~unless the subject of the test agrees to a hearing in open court;~~ and
 - f. ~~e.~~ The court imposes appropriate safeguards against unauthorized disclosure which must specify the ~~persons~~ individuals who have access to the information, the purposes for which the information may be used, and appropriate prohibition on future disclosure.
7. ~~An exposed individual may request two tests of the test subject after a significant exposure. Each test may be requested as soon as practicable, consistent with the recommendations of the United States public health service, but in no event later than nine months after a significant exposure. The test subject must provide a blood sample within twenty four hours after the first request and within seventy two hours after the second request, subject to the provisions of this chapter.~~
5. If the court issues an order for testing, the court may order the confinement of the test subject until blood is drawn for testing or issue an order establishing reasonable security for the individual's attendance at the test site. This order may be modified or extended.
8. 6. A health care provider who subjects ~~a patient~~ an individual to ~~a significant~~ an exposure must notify the ~~patient~~ individual of the exposure. A health care provider witnessing ~~a significant~~ an exposure may report the exposure pursuant to any appropriate facility or employer guidelines to which the provider may be subject. The knowing failure to inform ~~a patient~~ an individual of ~~a significant~~ an exposure or refusal to submit to testing as required under this chapter may be considered by a health care provider's licensing board to constitute conduct that may subject the licensee to disciplinary action.
7. The exposed individual shall pay the expense of testing but if the exposure occurs at an employee's workplace, the worker's employer shall pay the expense of testing. If the individual to be tested is convicted of a crime relating to the exposure or the exposure occurred during an arrest or other contact with the exposed individual in the course of that individual's official duties, a court may order the individual to be tested to pay for the testing.

SECTION 3. AMENDMENT. Section 23-07.5-04 of the North Dakota Century Code is amended and reenacted as follows:

23-07.5-04. Record maintenance. A health care provider, ~~blood bank, blood center, or plasma center that~~ who collects a specimen of body fluids or tissues for the purpose of testing for the presence of ~~an antibody to the human immunodeficiency virus~~ bloodborne pathogens caused by an exposure shall:

4. Obtain obtain from the test subject; ~~the subject's parent, legal guardian, or~~ eustodian if the subject is a minor; or the test subject's legal guardian

personal representative if the subject is a minor or is incapacitated, informed consent for testing; unless testing is otherwise authorized by law.

- 2- ~~Maintain a record of the consent received under subsection 1-~~
- 3- ~~Maintain~~ In addition, the health care provider shall maintain a record of the test results obtained.

SECTION 4. AMENDMENT. Section 23-07.5-06 of the North Dakota Century Code is amended and reenacted as follows:

23-07.5-06. Expanded disclosure of test results prohibited. ~~A person~~

1. The results of a test for bloodborne pathogens may be disclosed only to the individual who was tested; to an exposed individual for whom a test was conducted; and to the exposed individual's health care provider as provided by this chapter, and as permitted under title 45, Code of Federal Regulations, part 164, section 512.
2. An exposed individual to whom the results of a test for ~~the human immunodeficiency virus~~ bloodborne pathogens have been disclosed under this chapter may not disclose the test results except as authorized by law.

SECTION 5. AMENDMENT. Section 23-07.5-07 of the North Dakota Century Code is amended and reenacted as follows:

23-07.5-07. Civil liability. ~~Any person~~ An individual who knowingly violates section 23-07.5-06 is liable to the subject of the test for actual damages and costs plus exemplary damages. A conviction for violation of this chapter is not a condition precedent to bringing an action under this section.

SECTION 6. REPEAL. Chapter 23-07.3 of the North Dakota Century Code is repealed."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1414: Education Committee (Rep. R. Kelsch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1414 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 15-20.4-04 of the North Dakota Century Code, relating to medical transcription schools; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-20.4-04 of the North Dakota Century Code is amended and reenacted as follows:

15-20.4-04. Minimum standards - Exceptions. All postsecondary educational institutions must be accredited by national or regional accrediting agencies recognized by the United States department of education. The board may additionally require such further evidence and make such further investigation as in its judgment may be necessary. Any postsecondary educational institution operating in this state seeking its first authorization to operate may be issued a provisional authorization to operate on an annual basis until the institution becomes eligible for accreditation by a recognized accrediting agency. Upon completion of the accreditation process, the institution shall submit evidence of accreditation, or a substantial good-faith showing of progress toward such status. Only upon accreditation shall an institution become eligible for a regular authorization to operate. This section does not apply to ~~postsecondary~~:

1. Postsecondary educational institutions operating in this state and enrolling ten or fewer students; and
2. Medical transcription schools.

SECTION 2. EXPIRATION DATE. This Act is effective through June 30, 2007, and after that date is ineffective."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1458: Transportation Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1458 was placed on the Sixth order on the calendar.

Page 1, line 2, remove the first "and" and replace "section" with "sections 39-04-19 and"

Page 1, line 3, after the first "to" insert "motor vehicle registration fees and" and replace "and" with "to repeal section 7 of chapter 12 of the 2003 Session Laws, relating to registration fee allocation;"

Page 1, line 4, after "appropriation" insert "; to provide an effective date; and to provide an expiration date"

Page 3, after line 24, insert:

"SECTION 2. AMENDMENT. Section 39-04-19 of the North Dakota Century Code is amended and reenacted as follows:

39-04-19. Motor vehicle registration fees and mile tax. Motor vehicles required to pay registration fees or a mile tax shall pay the following fees:

1. Nonresidents electing to pay mile tax in lieu of registration, when authorized to do so by the department, shall pay a fee of twenty dollars for a trip permit which is valid for a period of seventy-two hours. All fees collected under the provisions of this subsection must be credited to the highway construction fund.
2. Motor vehicles required to be registered in this state must be furnished license plates upon the payment of the following annual fees; however, if a motor vehicle, including a motorcycle or trailer, first becomes subject to registration other than at the beginning of the registration period, such fees must be prorated on a monthly basis. The minimum fee charged hereunder must be five dollars:

a. Passenger motor vehicles:

Gross Weights	YEARS REGISTERED				
	1st, 2nd, 3rd, 4th, 5th, and 6th Years	7th, 8th, and 9th Years	10th, 11th, and 12th Years	13th and Subsequent Years	
Less than 3,200	\$60 <u>\$73</u>	\$52 <u>\$65</u>	\$44 <u>\$57</u>	\$36 <u>\$49</u>	
3,200 - 4,499	80 <u>93</u>	68 <u>81</u>	56 <u>69</u>	44 <u>57</u>	
4,500 - 4,999	98 <u>111</u>	84 <u>94</u>	66 <u>79</u>	50 <u>63</u>	
5,000 - 5,999	129 <u>142</u>	107 <u>120</u>	85 <u>98</u>	63 <u>76</u>	
6,000 - 6,999	162 <u>175</u>	133 <u>146</u>	104 <u>117</u>	76 <u>89</u>	
7,000 - 7,999	195 <u>208</u>	159 <u>172</u>	124 <u>137</u>	89 <u>102</u>	
8,000 - 8,999	228 <u>241</u>	186 <u>199</u>	144 <u>157</u>	102 <u>115</u>	
9,000 and over	264 <u>274</u>	212 <u>225</u>	164 <u>177</u>	115 <u>128</u>	

A house car is subject to registration at the rates prescribed for other vehicles under this subdivision modified by using the weight applicable to a vehicle whose weight is forty percent of that of the house car, but not using a weight of less than four thousand pounds [1814.35 kilograms].

- b. Schoolbuses, buses for hire, buses owned and operated by religious, charitable, or nonprofit organizations and used exclusively for religious, charitable, or other public nonprofit purposes, and trucks or combination trucks and trailers, including commercial and noncommercial trucks, except those trucks or combinations of trucks and trailers which qualify for registration under subsection 5:

YEARS REGISTERED

Gross Weights	1st Through 6th Years	7th Through 9th Years	10th Through 12th Years	13th Through 19th Years	20th and Subsequent Years
Not over 4,000	\$58 \$71	\$45 \$58	\$40 \$53	\$37 \$50	\$36 \$49
4,001 - 6,000	63 76	50 63	44 57	38 51	37 50
6,001 - 8,000	68 81	55 68	48 61	39 52	38 51
8,001 - 10,000	73 86	60 73	52 65	44 54	40 53
10,001 - 12,000	78 91	65 78	56 69	43 56	42 55
12,001 - 14,000	83 96	70 83	60 73	46 59	45 58
14,001 - 16,000	88 101	75 88	64 77	49 62	48 61
16,001 - 18,000	93 106	80 93	68 81	54 64	50 63
18,001 - 20,000	96 109	83 96	70 83	52 65	54 64

YEARS REGISTERED

Gross Weights	1st, 2nd, 3rd, 4th, 5th, 6th, and 7th Years	8th, 9th, 10th, 11th, and 12th Years	13th and Subsequent Years
20,001 - 22,000	\$126 \$139	\$100 \$113	\$87 \$100
22,001 - 26,000	178 191	148 161	132 145
26,001 - 30,000	239 252	197 210	175 188
30,001 - 34,000	305 318	250 263	222 235
34,001 - 38,000	366 379	299 312	266 278
38,001 - 42,000	427 440	348 361	307 320
42,001 - 46,000	488 501	396 409	350 363
46,001 - 50,000	549 562	445 458	393 406
50,001 - 54,000	610 623	503 516	444 457
54,001 - 58,000	670 683	552 565	487 500
58,001 - 62,000	732 745	604 614	530 543
62,001 - 66,000	792 815	649 662	573 586
66,001 - 70,000	853 876	698 711	615 628
70,001 - 74,000	914 937	747 760	658 671
74,001 - 78,000	975 998	796 809	701 714
78,001 - 82,000	1,036 1,059	845 858	744 757
82,001 - 86,000	1,097 1,120	900 913	787 800
86,001 - 90,000	1,158 1,181	950 963	830 843
90,001 - 94,000	1,219 1,242	1,004 1,027	873 886
94,001 - 98,000	1,280 1,303	1,054 1,077	916 929
98,001 - 102,000	1,341 1,364	1,104 1,127	959 972
102,001 - 105,500	1,402 1,425	1,154 1,177	1,002 1,015

c. Motorcycles, fifteen dollars.

3. Motor vehicles acquired by disabled veterans under the provisions of Public Law 79-663 [38 U.S.C. 3901] are exempt from the payment of state sales or use tax and, if paid, such veterans are entitled to a refund. This exemption also applies to any passenger motor vehicle or pickup truck not exceeding ten thousand pounds [4535.92 kilograms] gross weight but shall apply to no more than two such motor vehicles owned by a disabled veteran at any one time.
4. Every trailer, semitrailer, and farm trailer required to be registered under this chapter must be furnished registration plates upon the payment of a twenty dollar annual fee. Every trailer, semitrailer, or farm trailer not required to be registered under this chapter must be furnished an identification plate upon the payment of a fee of five dollars. Upon the request of a person with a trailer or farm trailer to whom a registration or identification plate is provided under this subsection, the department shall provide a plate of the same size as provided for a motorcycle. The department shall provide notification of this option to the person before the replacement or issuance of the plate.
5. Trucks or combinations of trucks and trailers weighing more than twenty thousand but not more than one hundred five thousand five hundred pounds [more than 9071.84 but not more than 47854.00 kilograms] which are used as farm vehicles only, are entitled to registration under the following fee schedule and the provisions of this subsection. Farm vehicles are considered, for the purpose of this subsection, as trucks or combinations of trucks and trailers weighing more than twenty thousand but not more than one hundred five thousand five hundred pounds [more than 9071.84 but not more than 47854.00 kilograms] owned, or leased for

at least one year by a bona fide resident farmer who uses the vehicles exclusively for transporting the farmer's own property or other property on a farm work exchange basis with other farmers between farms and the usual local trading places but not in connection with any commercial retail or wholesale business being conducted from those farms, nor otherwise for hire. In addition to the penalty provided in section 39-04-41, any person violating this subsection shall license for the entire license period the farm vehicle at the higher commercial vehicle rate in accordance with the weight carried by the farm vehicle at the time of the violation.

Gross Weights	YEARS REGISTERED			
	1st, 2nd, 3rd, 4th, 5th, and 6th Years	7th and 8th Years	9th and 10th Years	11th and Subsequent Years
20,001 - 22,000	\$98 \$111	\$84 \$97	\$70 \$83	\$52 \$65
22,001 - 24,000	403 116	88 101	73 86	54 67
24,001 - 26,000	444 124	94 107	77 90	56 69
26,001 - 28,000	422 135	402 115	83 96	60 73
28,001 - 30,000	434 144	440 123	89 102	64 77
30,001 - 32,000	446 159	423 136	400 113	73 86
32,001 - 34,000	456 169	434 144	406 119	77 90
34,001 - 36,000	466 179	439 152	442 125	84 94
36,001 - 38,000	476 189	447 160	448 131	85 98
38,001 - 40,000	486 199	455 168	424 137	89 102
40,001 - 42,000	496 209	463 176	430 143	93 106
42,001 - 44,000	206 219	474 184	436 149	97 110
44,001 - 46,000	216 229	479 192	442 155	404 114
46,001 - 48,000	226 239	487 200	448 161	405 118
48,001 - 50,000	236 249	495 208	454 167	409 122
50,001 - 52,000	256 269	243 226	470 183	423 136
52,001 - 54,000	266 279	224 234	476 189	427 140
54,001 - 56,000	276 289	229 242	482 195	434 144
56,001 - 58,000	286 299	237 250	488 201	435 148
58,001 - 60,000	296 309	245 258	494 207	439 152
60,001 - 62,000	306 319	253 266	200 213	443 156
62,001 - 64,000	316 329	264 274	206 219	447 160
64,001 - 66,000	326 339	269 282	212 225	454 164
66,001 - 68,000	336 349	277 290	218 231	455 168
68,001 - 70,000	346 359	285 298	224 237	459 172
70,001 - 72,000	356 369	293 306	230 243	463 176
72,001 - 74,000	366 379	304 314	236 249	467 180
74,001 - 76,000	376 389	309 322	242 255	474 184
76,001 - 78,000	386 399	317 330	248 261	475 188
78,001 - 80,000	396 409	325 338	254 267	479 192
80,001 - 82,000	406 419	333 346	260 273	483 196
82,001 - 84,000	416 429	355 368	303 316	259 272
84,001 - 86,000	436 449	372 385	317 330	274 284
86,001 - 88,000	456 469	389 402	334 344	283 296
88,001 - 90,000	476 489	406 419	345 358	295 308
90,001 - 92,000	496 509	423 436	359 372	307 320
92,001 - 94,000	516 529	440 453	373 386	319 332
94,001 - 96,000	536 549	457 470	387 400	334 344
96,001 - 98,000	556 569	474 487	404 414	343 356
98,001 - 100,000	576 589	494 504	415 428	355 368
100,001 - 102,000	596 609	508 521	429 442	367 380
102,001 - 104,000	616 629	525 538	443 456	379 392
104,001 - 105,500	636 649	542 555	457 470	394 404

6. A motor vehicle registered in subsection 5 may be used for custom combining operations by displaying identification issued by the department and upon payment of a fee of twenty-five dollars.
7. Eight dollars of each registration fee collected under subsections 2 and 5 must be deposited in the state highway fund.

SECTION 3. AMENDMENT. Section 39-04-19 of the North Dakota Century Code is amended and reenacted as follows:

39-04-19. Motor vehicle registration fees and mile tax. Motor vehicles required to pay registration fees or a mile tax shall pay the following fees:

1. Nonresidents electing to pay mile tax in lieu of registration, when authorized to do so by the department, shall pay a fee of twenty dollars for a trip permit which is valid for a period of seventy-two hours. All fees collected under the provisions of this subsection must be credited to the highway construction fund.
2. Motor vehicles required to be registered in this state must be furnished license plates upon the payment of the following annual fees; however, if a motor vehicle, including a motorcycle or trailer, first becomes subject to registration other than at the beginning of the registration period, such fees must be prorated on a monthly basis. The minimum fee charged hereunder must be five dollars:
 - a. Passenger motor vehicles:

Gross Weights	YEARS REGISTERED			
	1st, 2nd, 3rd, 4th, 5th, and 6th Years	7th, 8th, and 9th Years	10th, 11th, and 12th Years	13th and Subsequent Years
Less than 3,200	\$60 \$85	\$52 \$77	\$44 \$69	\$36 \$61
3,200 - 4,499	80 105	68 93	56 81	44 69
4,500 - 4,999	98 123	84 106	66 91	50 75
5,000 - 5,999	129 154	107 132	85 110	63 88
6,000 - 6,999	162 187	133 158	104 129	76 101
7,000 - 7,999	195 220	159 184	124 149	89 114
8,000 - 8,999	228 253	186 211	144 169	102 127
9,000 and over	264 286	212 237	164 189	115 140

A house car is subject to registration at the rates prescribed for other vehicles under this subdivision modified by using the weight applicable to a vehicle whose weight is forty percent of that of the house car, but not using a weight of less than four thousand pounds [1814.35 kilograms].

- b. Schoolbuses, buses for hire, buses owned and operated by religious, charitable, or nonprofit organizations and used exclusively for religious, charitable, or other public nonprofit purposes, and trucks or combination trucks and trailers, including commercial and noncommercial trucks, except those trucks or combinations of trucks and trailers which qualify for registration under subsection 5:

Gross Weights	YEARS REGISTERED				
	1st Through 6th Years	7th Through 9th Years	10th Through 12th Years	13th Through 19th Years	20th and Subsequent Years
Not over 4,000	\$58 \$83	\$45 \$70	\$40 \$65	\$37 \$62	\$36 \$61
4,001 - 6,000	63 88	50 75	44 69	38 63	37 62
6,001 - 8,000	68 93	55 80	48 73	39 64	38 63
8,001 - 10,000	73 98	60 85	52 77	41 66	40 65
10,001 - 12,000	78 103	65 90	56 81	43 68	42 67
12,001 - 14,000	83 108	70 95	60 85	46 71	45 70
14,001 - 16,000	88 113	75 100	64 89	49 74	48 73
16,001 - 18,000	93 118	80 105	68 93	51 76	50 75
18,001 - 20,000	96 121	83 108	70 95	52 77	51 76

Gross Weights	YEARS REGISTERED		
	1st, 2nd, 3rd, 4th, 5th, 6th, and 7th Years	8th, 9th, 10th, 11th, and 12th Years	13th and Subsequent Years
20,001 - 22,000	\$126 \$151	\$100 \$125	\$87 \$112
22,001 - 26,000	178 203	148 173	132 157
26,001 - 30,000	239 264	197 222	175 200
30,001 - 34,000	305 330	250 275	222 247
34,001 - 38,000	366 391	299 324	265 290
38,001 - 42,000	427 452	348 373	307 332
42,001 - 46,000	488 513	396 421	350 375
46,001 - 50,000	549 574	445 470	393 418
50,001 - 54,000	610 635	494 519	436 461
54,001 - 58,000	671 696	543 568	479 504

58,001 - 62,000	742 <u>767</u>	604 <u>626</u>	530 <u>555</u>
62,001 - 66,000	802 <u>827</u>	649 <u>674</u>	573 <u>598</u>
66,001 - 70,000	863 <u>888</u>	698 <u>723</u>	615 <u>640</u>
70,001 - 74,000	924 <u>949</u>	747 <u>772</u>	658 <u>683</u>
74,001 - 78,000	985 <u>1,010</u>	796 <u>821</u>	704 <u>726</u>
78,001 - 82,000	1,046 <u>1,071</u>	845 <u>870</u>	744 <u>769</u>
82,001 - 86,000	1,107 <u>1,132</u>	894 <u>919</u>	784 <u>806</u>
86,001 - 90,000	1,168 <u>1,193</u>	943 <u>968</u>	824 <u>846</u>
90,001 - 94,000	1,229 <u>1,254</u>	992 <u>1,017</u>	864 <u>886</u>
94,001 - 98,000	1,290 <u>1,315</u>	1,041 <u>1,066</u>	904 <u>926</u>
98,001 - 102,000	1,351 <u>1,376</u>	1,090 <u>1,115</u>	944 <u>966</u>
102,001 - 105,500	1,412 <u>1,437</u>	1,139 <u>1,164</u>	984 <u>1,006</u>

c. Motorcycles, fifteen dollars.

3. Motor vehicles acquired by disabled veterans under the provisions of Public Law 79-663 [38 U.S.C. 3901] are exempt from the payment of state sales or use tax and, if paid, such veterans are entitled to a refund. This exemption also applies to any passenger motor vehicle or pickup truck not exceeding ten thousand pounds [4535.92 kilograms] gross weight but shall apply to no more than two such motor vehicles owned by a disabled veteran at any one time.
4. Every trailer, semitrailer, and farm trailer required to be registered under this chapter must be furnished registration plates upon the payment of a twenty dollar annual fee. Every trailer, semitrailer, or farm trailer not required to be registered under this chapter must be furnished an identification plate upon the payment of a fee of five dollars. Upon the request of a person with a trailer or farm trailer to whom a registration or identification plate is provided under this subsection, the department shall provide a plate of the same size as provided for a motorcycle. The department shall provide notification of this option to the person before the replacement or issuance of the plate.
5. Trucks or combinations of trucks and trailers weighing more than twenty thousand but not more than one hundred five thousand five hundred pounds [more than 9071.84 but not more than 47854.00 kilograms] which are used as farm vehicles only, are entitled to registration under the following fee schedule and the provisions of this subsection. Farm vehicles are considered, for the purpose of this subsection, as trucks or combinations of trucks and trailers weighing more than twenty thousand but not more than one hundred five thousand five hundred pounds [more than 9071.84 but not more than 47854.00 kilograms] owned, or leased for at least one year by a bona fide resident farmer who uses the vehicles exclusively for transporting the farmer's own property or other property on a farm work exchange basis with other farmers between farms and the usual local trading places but not in connection with any commercial retail or wholesale business being conducted from those farms, nor otherwise for hire. In addition to the penalty provided in section 39-04-41, any person violating this subsection shall license for the entire license period the farm vehicle at the higher commercial vehicle rate in accordance with the weight carried by the farm vehicle at the time of the violation.

YEARS REGISTERED

Gross Weights	1st, 2nd, 3rd, 4th, 5th, and 6th Years	7th and 8th Years	9th and 10th Years	11th and Subsequent Years
20,001 - 22,000	\$98 <u>\$123</u>	\$84 <u>\$109</u>	\$70 <u>\$95</u>	\$52 <u>\$77</u>
22,001 - 24,000	403 <u>128</u>	88 <u>113</u>	73 <u>98</u>	54 <u>79</u>
24,001 - 26,000	414 <u>136</u>	94 <u>119</u>	77 <u>102</u>	56 <u>81</u>
26,001 - 28,000	422 <u>147</u>	102 <u>127</u>	83 <u>108</u>	60 <u>85</u>
28,001 - 30,000	434 <u>156</u>	110 <u>135</u>	89 <u>114</u>	64 <u>89</u>
30,001 - 32,000	446 <u>171</u>	123 <u>148</u>	100 <u>125</u>	73 <u>98</u>
32,001 - 34,000	456 <u>181</u>	134 <u>156</u>	106 <u>131</u>	77 <u>102</u>
34,001 - 36,000	466 <u>191</u>	149 <u>164</u>	112 <u>137</u>	81 <u>106</u>
36,001 - 38,000	476 <u>201</u>	157 <u>172</u>	118 <u>143</u>	85 <u>110</u>
38,001 - 40,000	486 <u>211</u>	165 <u>180</u>	124 <u>149</u>	89 <u>114</u>
40,001 - 42,000	496 <u>221</u>	173 <u>188</u>	130 <u>155</u>	93 <u>118</u>
42,001 - 44,000	506 <u>231</u>	181 <u>196</u>	136 <u>161</u>	97 <u>122</u>
44,001 - 46,000	516 <u>241</u>	189 <u>204</u>	142 <u>167</u>	101 <u>126</u>

46,001 - 48,000	<u>226 251</u>	<u>487 212</u>	<u>448 173</u>	<u>405 130</u>
48,001 - 50,000	<u>236 261</u>	<u>495 220</u>	<u>454 179</u>	<u>409 134</u>
50,001 - 52,000	<u>256 281</u>	<u>243 238</u>	<u>470 195</u>	<u>423 148</u>
52,001 - 54,000	<u>266 291</u>	<u>224 246</u>	<u>476 201</u>	<u>427 152</u>
54,001 - 56,000	<u>276 301</u>	<u>229 254</u>	<u>482 207</u>	<u>434 156</u>
56,001 - 58,000	<u>286 311</u>	<u>237 262</u>	<u>488 213</u>	<u>435 160</u>
58,001 - 60,000	<u>296 321</u>	<u>245 270</u>	<u>494 219</u>	<u>439 164</u>
60,001 - 62,000	<u>306 331</u>	<u>253 278</u>	<u>200 225</u>	<u>443 168</u>
62,001 - 64,000	<u>316 341</u>	<u>264 286</u>	<u>206 231</u>	<u>447 172</u>
64,001 - 66,000	<u>326 351</u>	<u>269 294</u>	<u>212 237</u>	<u>451 176</u>
66,001 - 68,000	<u>336 361</u>	<u>277 302</u>	<u>218 243</u>	<u>455 180</u>
68,001 - 70,000	<u>346 371</u>	<u>285 310</u>	<u>224 249</u>	<u>459 184</u>
70,001 - 72,000	<u>356 381</u>	<u>293 318</u>	<u>230 255</u>	<u>463 188</u>
72,001 - 74,000	<u>366 391</u>	<u>304 326</u>	<u>236 261</u>	<u>467 192</u>
74,001 - 76,000	<u>376 401</u>	<u>309 334</u>	<u>242 267</u>	<u>474 196</u>
76,001 - 78,000	<u>386 411</u>	<u>317 342</u>	<u>248 273</u>	<u>475 200</u>
78,001 - 80,000	<u>396 421</u>	<u>325 350</u>	<u>254 279</u>	<u>479 204</u>
80,001 - 82,000	<u>406 431</u>	<u>333 358</u>	<u>260 285</u>	<u>483 208</u>
82,001 - 84,000	<u>416 441</u>	<u>355 380</u>	<u>303 328</u>	<u>259 284</u>
84,001 - 86,000	<u>436 461</u>	<u>372 397</u>	<u>317 342</u>	<u>274 296</u>
86,001 - 88,000	<u>456 481</u>	<u>389 414</u>	<u>334 356</u>	<u>283 308</u>
88,001 - 90,000	<u>476 501</u>	<u>406 431</u>	<u>345 370</u>	<u>295 320</u>
90,001 - 92,000	<u>496 521</u>	<u>423 448</u>	<u>359 384</u>	<u>307 332</u>
92,001 - 94,000	<u>516 541</u>	<u>440 465</u>	<u>373 398</u>	<u>319 344</u>
94,001 - 96,000	<u>536 561</u>	<u>457 482</u>	<u>387 412</u>	<u>334 356</u>
96,001 - 98,000	<u>556 581</u>	<u>474 499</u>	<u>404 426</u>	<u>343 368</u>
98,001 - 100,000	<u>576 601</u>	<u>494 516</u>	<u>415 440</u>	<u>355 380</u>
100,001 - 102,000	<u>596 621</u>	<u>508 533</u>	<u>429 454</u>	<u>367 392</u>
102,001 - 104,000	<u>616 641</u>	<u>525 550</u>	<u>443 468</u>	<u>379 404</u>
104,001 - 105,500	<u>636 661</u>	<u>542 567</u>	<u>457 482</u>	<u>394 416</u>

6. A motor vehicle registered in subsection 5 may be used for custom combining operations by displaying identification issued by the department and upon payment of a fee of twenty-five dollars.
7. Twenty dollars of each registration fee collected under subsections 2 and 5 must be deposited in the state highway fund."

Page 3, after line 27, insert:

- "1. Except as otherwise provided in this section, a tax of ~~twenty-one~~ twenty-three cents per gallon [3.79 liters] is imposed on all motor vehicle fuel sold or used in this state.
2. A supplier or distributor shall remit the tax imposed by this section on motor vehicle fuel used, on the wholesale distribution of motor vehicle fuel to a retailer, and on direct sales of motor vehicle fuel to a consumer.
3. The tax imposed by this section does not apply on a sale by a supplier to another supplier, on a sale by a supplier to a distributor, on a sale by a distributor to another distributor, on an export, or on a sale to an exempt consumer.
4. The person required to remit the tax imposed by this section shall pass the tax on to the retailer and to the consumer. A retailer who paid the tax to the supplier or distributor shall pass the tax on to the consumer.
5. The person required to remit the tax imposed by this section shall pay the tax to the commissioner by the twenty-fifth day of the calendar month after the month during which the motor vehicle fuel was sold or used by the person. When the twenty-fifth day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day after the Saturday, Sunday, or legal holiday. When payment is made by mail, the payment is timely if the envelope containing the payment is postmarked by the United States postal service or other postal carrier service before midnight of the due date.
6. The commissioner shall pay over all of the money received during each calendar month to the state treasurer.

SECTION 5. AMENDMENT. Section 57-43.1-02 of the North Dakota Century Code is amended and reenacted as follows:

57-43.1-02. Tax imposed on motor vehicle fuels."

Page 4, after line 19, insert:

"SECTION 6. REPEAL. Section 7 of chapter 12 of the 2003 Session Laws is repealed.

SECTION 7. EFFECTIVE DATE. Sections 3 and 5 of this Act become effective on July 1, 2009.

SECTION 8. EXPIRATION DATE. Sections 2 and 4 of this Act are effective through June 30, 2009, and after that date are ineffective."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1463: Government and Veterans Affairs Committee (Rep. Haas, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1463 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "and a new section to"

Page 1, line 2, remove "chapter 54-07"

Page 1, line 3, replace the first comma with "and" and remove ", and removal of gubernatorial"

Page 1, line 4, remove "appointees" and after the semicolon insert "and"

Page 1, line 7, replace "; and to repeal section 54-07-01.2 of the North Dakota" with a period

Page 1, remove line 8

Page 9, remove lines 9 through 15

Page 10, remove lines 26 and 27

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1522: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1522 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 57-36-27 of the North Dakota Century Code, relating to consumer's use tax.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

57-36-27. Consumer's use tax - Cigarettes - Reports - Remittances.

1. A tax is hereby imposed upon the use or storage by consumers of cigarettes in this state, and upon such 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.

2. This tax does not apply if the tax imposed by section 57-36-06 has been paid.
3. ~~This tax does not apply to the use or storage of cigarettes in quantities of two hundred or less in the possession of any one consumer nor to cigarettes exempt pursuant to section 57-36-24.~~
4. On or before the tenth day of each calendar quarter, every consumer who during the preceding calendar quarter has acquired title or possession of cigarettes for use or storage in this state, upon which cigarettes the tax imposed by section 57-36-06 has not been paid, shall file a return with the tax commissioner showing the quantity of cigarettes so acquired. The return must be made upon a form furnished and prescribed by the tax commissioner and must contain such other information as the tax commissioner may require. The return must be accompanied by a remittance for the full unpaid tax liability shown by it.
5. 4. As soon as practicable after any return is filed, the tax commissioner shall examine the return and correct it, if necessary, according to the tax commissioner's best judgment and information.
6. 5. In case any consumer required to pay the tax levied by this section fails to file a return or remit the tax as herein required, the tax commissioner has the authority to make an assessment of tax against the consumer according to the commissioner's best judgment and information.
7. 6. All of the provisions of this chapter relating to corrections of returns, deficiency assessments, protests thereto, hearings thereon, interest and penalties, and collections of taxes are applicable to consumers under this section in like manner as though set out in full herein."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HCR 3015: Political Subdivisions Committee (Rep. Devlin, Chairman) recommends **DO PASS** (7 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HCR 3015 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HCR 3043: Human Services Committee (Rep. Price, Chairman) recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (11 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3043 was placed on the Tenth order on the calendar.

REPORT OF STANDING COMMITTEE

HCR 3045: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HCR 3045 was placed on the Sixth order on the calendar.

Page 1, line 2, after "government" insert "liability"

Page 1, line 13, after "government" insert "liability"

Page 1, line 15, after "government" insert "liability"

Page 1, line 20, after "government" insert "liability"

Page 1, line 25, after "government" insert "liability"

Renumber accordingly

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

Bradley C. Fay, Chief Clerk