

JOURNAL OF THE HOUSE

Sixty-second Legislative Assembly

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Bismarck, February 10, 2011

The House convened at 1:00 p.m., with Speaker Drovdal presiding.

The prayer was offered by Larry Giese, Lord of Life Lutheran Church, Bismarck.

The roll was called and all members were present except Representatives Glassheim and Zaiser.

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-fifth Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 403, line 4, replace "overstrike" with "replace"

Page 403, line 3, replace "and insert immediately thereafter" with "with"

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

MOTION

REP. VIGESAA MOVED that HB 1047, which is on the Sixth order, be rereferred to the **Finance and Taxation Committee**, which motion prevailed. Pursuant to Rep. Vigesaa's motion, HB 1047 was rereferred.

MOTION

REP. VIGESAA MOVED that HB 1306 be moved to the bottom of the calendar, which motion prevailed.

SIXTH ORDER OF BUSINESS

SPEAKER DROVDAL DEEMED approval of the amendments to HB 1046, HB 1125, HB 1126, HB 1129, HB 1165, HB 1189, HB 1245, HB 1246, HB 1285, HB 1291, HB 1297, HB 1425, HB 1446, HB 1450, and HB 1467.

HB 1129 and HB 1285, as amended, were rereferred to the **Appropriations Committee**.

HB 1046, HB 1125, HB 1126, HB 1165, HB 1189, HB 1245, HB 1246, HB 1291, HB 1297, HB 1425, HB 1446, HB 1450, and HB 1467, as amended, were placed on the Eleventh order of business on the calendar for the succeeding legislative day.

SEVENTH ORDER OF BUSINESS

MOTION

REP. MUELLER MOVED that the report of the Minority as printed on HJ pages 465-467 be substituted for the report of the Majority on HB 1353.

REQUEST

REP. MUELLER REQUESTED a recorded roll call vote on the motion that the report of the Minority be substituted for the report of the Majority on HB 1353, which request was granted.

ROLL CALL

The question being on the motion that the report of the Minority be substituted for the report of the Majority on HB 1353, the roll was called and there were 26 YEAS, 68 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Amerman; Boe; Conklin; Delmore; Glassheim; Gruchalla; Guggisberg; Hanson;

Hogan; Holman; Hunskor; Kaldor; Kelsh, J.; Kelsh, S.; Kilichowski; Kretschmar; Kroeber; Metcalf; Meyer, S.; Mock; Mueller; Nelson, M.; Onstad; Williams; Winrich; Zaiser

NAYS: Anderson; Beadle; Bellew; Belter; Boehning; Brabandt; Brandenburg; Carlson; Clark; Dahl; Damschen; DeKrey; Delzer; Devlin; Dosch; Frantsvog; Froseth; Grande; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Johnson, D.; Johnson, N.; Karls; Kasper; Keiser; Kelsch, R.; Kempenich; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kreun; Louser; Maragos; Martinson; Meier, L.; Monson; Nathe; Nelson, J.; Owens; Paur; Pietsch; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Thoreson; Trotter; Vigasaa; Wall; Weiler; Weisz; Wieland; Wrangham; Speaker Drovdal

The motion failed on a recorded roll call vote.

Therefore, the report of the Majority was adopted and HB 1353, as amended, was rereferred to the **Appropriations Committee**.

SECOND READING OF HOUSE BILL

HB 1278: A BILL for an Act to amend and reenact subsection 2 of section 40-05-06 of the North Dakota Century Code, relating to the imposition of fees by cities for certain vehicle and traffic violations; 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 51 YEAS, 42 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Anderson; Beadle; Boe; Conklin; Dahl; Damschen; Delmore; Frantsvog; Glassheim; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Heilman; Heller; Hofstad; Hogan; Holman; Johnson, D.; Johnson, N.; Kaldor; Karls; Keiser; Kelsch, R.; Kelsh, S.; Klemin; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Mueller; Onstad; Owens; Paur; Porter; Sanford; Steiner; Streyle; Sukut; Wall; Weisz; Williams; Winrich; Zaiser

NAYS: Amerman; Bellew; Belter; Boehning; Brabandt; Brandenburg; Carlson; Clark; DeKrey; Delzer; Devlin; Dosch; Froseth; Grande; Headland; Hunskor; Kasper; Kelsh, J.; Kempenich; Kilichowski; Kingsbury; Klein; Koppelman; Kreidt; Monson; Nathe; Nelson, J.; Pietsch; Pollert; Rohr; Ruby; Rust; Schatz; Schmidt; Skarphol; Thoreson; Trotter; Vigasaa; Weiler; Wieland; Wrangham; Speaker Drovdal

ABSENT AND NOT VOTING: Nelson, M.

Engrossed HB 1278 passed but the emergency clause failed.

SECOND READING OF HOUSE BILL

HB 1305: A BILL for an Act to amend and reenact sections 4-37-01, 4-37-02, 4-37-03, and 4-37-04 of the North Dakota Century Code, relating to agriculture in the classroom.

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 93 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Amerman; Anderson; Beadle; Bellew; Belter; Boe; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Mueller; Nathe; Nelson, J.; Nelson, M.; Onstad; Owens; Paur; Pietsch; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Skarphol;

Steiner; Streyle; Sukut; Thoreson; Trottier; Vigesaa; Wall; Weiler; Weisz; Wieland; Williams; Wrangham; Zaiser; Speaker Drovdal

ABSENT AND NOT VOTING: Winrich

Engrossed HB 1305 passed.

SECOND READING OF HOUSE BILL

HB 1376: A BILL for an Act to amend and reenact sections 43-49-07, 43-49-09, and 43-09-11 of the North Dakota Century Code, relating to licensure of reflexologists.

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 86 YEAS, 8 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Amerman; Anderson; Beadle; Belter; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Devlin; Dosch; Frantsvog; Froseth; Glassheim; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Mueller; Nathe; Nelson, J.; Nelson, M.; Onstad; Owens; Paur; Pietsch; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Steiner; Streyle; Sukut; Thoreson; Trottier; Vigesaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Zaiser; Speaker Drovdal

NAYS: Bellew; Boe; Delzer; Grande; Kempenich; Pollert; Skarphol; Wrangham

Engrossed HB 1376 passed.

SECOND READING OF HOUSE BILL

HB 1424: A BILL for an Act to amend and reenact subsection 8 of section 57-39.2-04 and subsection 9 of section 57-40.2-04 of the North Dakota Century Code, relating to the sales and use tax exemption for chemicals used for agricultural purposes; 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 92 YEAS, 2 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Amerman; Anderson; Beadle; Bellew; Belter; Boe; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Mueller; Nathe; Nelson, J.; Nelson, M.; Onstad; Owens; Paur; Pietsch; Pollert; Porter; Rohr; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Thoreson; Trottier; Vigesaa; Wall; Weisz; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovdal

NAYS: Ruby; Weiler

Engrossed HB 1424 passed and the emergency clause was declared carried.

SECOND READING OF HOUSE BILL

HB 1062: A BILL for an Act to amend and reenact subsection 1 of section 54-03-20 and section 54-35-10 of the North Dakota Century Code, relating to legislative compensation; to provide an effective date; and to declare an emergency.

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 7 YEAS, 87 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Kaldor; Kelsh, J.; Kempenich; Kreidt; Monson; Onstad; Skarphol

NAYS: Amerman; Anderson; Beadle; Bellew; Belter; Boe; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, S.; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Mueller; Nathe; Nelson, J.; Nelson, M.; Owens; Paur; Pietsch; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Steiner; Streyle; Sukut; Thoreson; Trottier; Vigesaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovdal

HB 1062 lost.

SECOND READING OF HOUSE BILL

HB 1092: A BILL for an Act to create and enact a new subsection to section 15-20.4-02 of the North Dakota Century Code, relating to exemption of certain institutions from regulation by the state board for career and technical education; and to amend and reenact subsections 2 and 12 of section 43-12.1-04 of the North Dakota Century Code, relating to exemptions from the Nurse Practices Act.

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 94 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Amerman; Anderson; Beadle; Bellew; Belter; Boe; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Mueller; Nathe; Nelson, J.; Nelson, M.; Onstad; Owens; Paur; Pietsch; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Thoreson; Trottier; Vigesaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovdal

Engrossed HB 1092 passed.

SECOND READING OF HOUSE BILL

HB 1136: A BILL for an Act to create and enact chapter 44-06.1 of the North Dakota Century Code, relating to notarial acts; to amend and reenact subsection 6 of section 10-19.1-84, subsection 4 of section 44-05-01, and sections 44-08-06 and 47-19-18 of the North Dakota Century Code, relating to notarial acts; to repeal chapter 44-06 and sections 47-19-14.1, 47-19-14.2, 47-19-14.3, 47-19-14.4, 47-19-14.5, 47-19-14.6, 47-19-14.7, and 47-19-14.8 of the North Dakota Century Code, relating to notarial acts; and to provide a penalty.

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 94 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Amerman; Anderson; Beadle; Bellew; Belter; Boe; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kilichowski; Kingsbury; Klein; Klemm; Koppelman; Kreidt; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Mueller; Nathe; Nelson, J.; Nelson, M.; Onstad; Owens; Paur; Pietsch; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Thoreson; Trottier; Vigasaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovda

Engrossed HB 1136 passed.

SECOND READING OF HOUSE BILL

HB 1162: A BILL for an Act to create and enact section 28-32-08.2 of the North Dakota Century Code, relating to fiscal notes for agency rules; to amend and reenact subsection 5 of section 28-32-03, subsection 1 of section 28-32-10, and subsection 2 of section 28-32-18 of the North Dakota Century Code, relating to notice of emergency rulemaking and the administrative rules committee carrying over consideration of administrative rules; and to provide an effective 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 94 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Amerman; Anderson; Beadle; Bellew; Belter; Boe; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kilichowski; Kingsbury; Klein; Klemm; Koppelman; Kreidt; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Mueller; Nathe; Nelson, J.; Nelson, M.; Onstad; Owens; Paur; Pietsch; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Thoreson; Trottier; Vigasaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovda

Engrossed HB 1162 passed.

SECOND READING OF HOUSE BILL

HB 1164: A BILL for an Act to amend and reenact sections 39-24-09.1 and 39-29-10 of the North Dakota Century Code, relating to the operation of off-highway vehicles by individuals under sixteen years of age.

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 93 YEAS, 1 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Amerman; Anderson; Beadle; Bellew; Belter; Boe; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh,

J.; Kelsh, S.; Kempenich; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Mueller; Nathe; Nelson, J.; Nelson, M.; Onstad; Owens; Paur; Pietsch; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Thoreson; Trottier; Vigasaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wrangham; Speaker Drovdal

NAYS: Zaiser

Engrossed HB 1164 passed.

SECOND READING OF HOUSE BILL

HB 1311: A BILL for an Act to amend and reenact section 16.1-08.1-03.1 of the North Dakota Century Code, relating to contribution and expenditure statements filed by persons sponsoring the circulation of initiated measure petitions.

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 92 YEAS, 2 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Amerman; Anderson; Beadle; Belter; Boe; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Mueller; Nathe; Nelson, J.; Nelson, M.; Onstad; Owens; Paur; Pietsch; Pollert; Porter; Rohr; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Thoreson; Trottier; Vigasaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovdal

NAYS: Bellew; Ruby

Engrossed HB 1311 passed.

MOTION

REP. OWENS MOVED that the House reconsider its action whereby Engrossed HB 1042 passed, which motion prevailed on a verification vote.

SECOND READING OF HOUSE BILL

HB 1042: A BILL for an Act to amend and reenact sections 39-12-14.1 and 39-12-20 of the North Dakota Century Code, relating to extraordinary road use fees; and to provide a continuing appropriation.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 42 YEAS, 51 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Amerman; Conklin; Dahl; Delmore; Glassheim; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Heilman; Hogan; Hunskor; Johnson, N.; Kaldor; Karls; Keiser; Kelsch, R.; Kelsh, J.; Kilichowski; Kingsbury; Klemin; Kretschmar; Kreun; Kroeber; Martinson; Metcalf; Meyer, S.; Mock; Mueller; Nelson, M.; Onstad; Pietsch; Porter; Ruby; Sanford; Steiner; Sukut; Wall; Williams; Winrich; Zaiser

NAYS: Anderson; Beadle; Bellew; Belter; Boehning; Brabandt; Brandenburg; Carlson; Clark; Damschen; DeKrey; Delzer; Devlin; Dosch; Frantsvog; Froseth; Grande; Headland; Heller; Hofstad; Holman; Johnson, D.; Kasper; Kelsh, S.; Kempenich; Klein; Koppelman; Kreidt; Louser; Maragos; Meier, L.; Monson; Nathe; Nelson, J.;

Owens; Paur; Pollert; Rohr; Rust; Schatz; Schmidt; Skarphol; Streyle; Thoreson; Trotter; Vigasaa; Weiler; Weisz; Wieland; Wrangham; Speaker Drovda

ABSENT AND NOT VOTING: Boe

Engrossed HB 1042 lost.

SECOND READING OF HOUSE BILL

HB 1327: A BILL for an Act to amend and reenact section 37-17.1-10 of the North Dakota Century Code, relating to authority to evacuate during a local disaster or emergency; to provide a penalty; 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 53 YEAS, 41 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Amerman; Anderson; Brabandt; Clark; Dahl; Damschen; DeKrey; Devlin; Dosch; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Hogan; Holman; Hunskor; Johnson, N.; Karls; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kilichowski; Kingsbury; Klein; Klemm; Koppelman; Kretschmar; Kreun; Louser; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Nathe; Nelson, J.; Nelson, M.; Pietsch; Porter; Sanford; Sukut; Trotter; Vigasaa; Weiler; Weisz; Wieland; Winrich

NAYS: Beadle; Bellew; Belter; Boe; Boehning; Brandenburg; Carlson; Conklin; Delmore; Delzer; Frantsovog; Headland; Heilman; Heller; Hofstad; Johnson, D.; Kaldor; Kasper; Keiser; Kempenich; Kreidt; Kroeber; Mueller; Onstad; Owens; Paur; Pollert; Rohr; Ruby; Rust; Schatz; Schmidt; Skarphol; Steiner; Streyle; Thoreson; Wall; Williams; Wrangham; Zaiser; Speaker Drovda

Engrossed HB 1327 passed but the emergency clause failed.

SECOND READING OF HOUSE BILL

HB 1077: A BILL for an Act to amend and reenact subsections 4 and 5 of section 57-51-15 of the North Dakota Century Code, relating to elimination of the limitation on allocations that may be received by a city under the oil and gas gross production tax; and to provide an effective date.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 93 YEAS, 1 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

YEAS: Amerman; Anderson; Beadle; Belter; Boe; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Frantsovog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Headland; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kilichowski; Kingsbury; Klein; Klemm; Koppelman; Kreidt; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Monson; Mueller; Nathe; Nelson, J.; Nelson, M.; Onstad; Owens; Paur; Pietsch; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Thoreson; Trotter; Vigasaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovda

NAYS: Bellew

HB 1077 passed.

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

MR. PRESIDENT: The House has passed, and your favorable consideration is requested on: HB 1190, HB 1223, HB 1312, HB 1313.

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 2161, SB 2174, SB 2296, SB 2341.

MOTION

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

MOTION

REP. VIGESAA MOVED that the House be on the Fourth, Fifth, and Ninth orders of business and at the conclusion of those orders, the House stand adjourned until 12:30 p.m., Friday, February 11, 2011, which motion prevailed.

REPORT OF STANDING COMMITTEE

HB 1142: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1142 was placed on the Sixth order on the calendar.

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

Page 1, line 2, after "agritourism" insert "activity"

Page 1, line 8, after "Agritourism" insert "activity"

Page 1, line 8, after "any" insert "rural"

Page 1, line 8, remove "customarily carried out on a working or historical"

Page 1, line 9, replace "farm, ranch, forestry operation, or winery, if" with ", including farming and ranching activities, or any historic, cultural, or natural attraction, that is viewed or enjoyed by"

Page 1, line 9, remove "are invited"

Page 1, line 10, replace "to view or allowed to participate, with or without fees or charges, in the activities" with an underscored comma

Page 1, line 11, after "purposes" insert ", regardless of whether the member of the general public pays to participate in the rural activity or to view or enjoy the attraction; provided, however, that agritourism does not include any rural activity in which an individual is paid to participate"

Page 1, line 13, replace the first underscored comma with "or"

Page 1, line 13, remove ", or hazard"

Page 1, line 13, replace "a normal and customary" with "an integral"

Page 1, line 13, remove "an"

Page 1, line 14, remove "operation"

Page 1, line 17, after "of" insert "land,"

Page 1, line 17, after "vegetation" insert ", and water"

Page 1, line 19, after "equipment" insert "ordinarily used in farming or ranching"

Page 1, line 20, replace "Any act of negligence on the part" with "The potential"

Page 1, line 20, after "participant" insert "to act in a negligent manner"

Page 1, line 21, after "in" insert "an"

Page 1, line 22, after "agritourism" insert "activity"

Page 1, line 23, remove "is invited to view or allowed"

Page 1, line 24, replace "to participate in agritourism, with or without fees or charges" with "engages in a registered agritourism activity"

Page 1, after line 24, insert:

4. "Registered agritourism activity" means an agritourism activity that is registered with the agriculture commissioner.
5. "Registered agritourism location" means a legally described parcel of real property that is registered with the agriculture commissioner and on which a registered agritourism activity occurs.
6. "Registered agritourism operator" means a person that is registered with the agriculture commissioner and that is engaged in the provision of a registered agritourism activity.

Registration - Requirements.

1. A person may become a registered agritourism operator by registering with the agriculture commissioner.
2. The registration must include a description of the agritourism activity that the person provides or intends to provide and a legal description of the real property on which the agritourism activity occurs or will occur.
3. The agriculture commissioner may not impose any fees or other charges to register agritourism operators.
4. A registration under this section is effective for five years.

Registered agritourism operators - Maintenance of list.

The agriculture commissioner shall:

1. Maintain a list of all registered agritourism operators;
2. Maintain a legal description of all real property on which registered agritourism activity occurs or will occur; and
3. Maintain a list of all registered agritourism activities.

Liability of registered agritourism operator.

This chapter does not prevent or limit the liability of a registered agritourism operator if the operator:

1. Injures a participant willfully or through conduct that amounts to gross negligence; or
2. a. Has actual knowledge of or should have known of:
 - (1) A dangerous condition on the registered agritourism location, including in a facility on the location;
 - (2) A dangerous condition with respect to equipment used in the registered agritourism activity; or

- (3) The dangerous propensity of a particular animal used in the registered agritourism activity; and
- b. Does not exercise ordinary care to remedy the danger or to warn a participant of the danger; and
- c. The danger causes injury to the participant or contributes to the injury of the participant."

Page 2, remove lines 1 through 18

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1264: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **DO NOT PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1264 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1279: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (8 YEAS, 4 NAYS, 2 ABSENT AND NOT VOTING). HB 1279 was placed on the Sixth order on the calendar.

Page 1, line 1, after "Act" insert "to create and enact a new subdivision to subsection 3 of section 53-06.1-03 of the North Dakota Century Code, relating to the maximum number of paperless pull tab devices per site; and"

Page 3, line 5, after "15." insert ""Paperless pull tab" means an electronic image of a pull tab.
16."

Page 3, line 6, after "tabs" insert "and which dispenses a paper cash-out slip for the redemption of winnings"

Page 3, line 7, replace "16." with "17."

Page 3, line 9, replace "17." with "18."

Page 3, line 11, replace "18." with "19."

Page 3, line 12, replace "19." with "20."

Page 3, line 15, replace "20." with "21."

Page 3, line 23, replace "21." with "22."

Page 4, line 1, replace "22." with "23."

Page 4, line 4, replace "23." with "24."

Page 4, after line 21, insert:

"SECTION 3. A new subdivision to subsection 3 of section 53-06.1-03 of the North Dakota Century Code is created and enacted as follows:

"The maximum number of paperless pull tab devices per site is limited to six."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1284: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1284 was placed on the

Sixth order on the calendar.

Page 1, line 22, replace "and of" with an underscored comma

Page 1, line 23, after "57-12-01" insert ", and the requirement that a person must have appealed to both the township and county boards of equalization to be eligible to appeal to the state board of equalization"

Page 2, line 10, replace "and of" with an underscored comma

Page 2, line 11, after "57-12-01" insert ", and the requirement that a person must have appealed to both the city and county boards of equalization to be eligible to appeal to the state board of equalization"

Page 3, line 25, replace the first "and" with an underscored comma

Page 3, line 26, after "57-13-03" insert ", and the requirement that a person must have appealed to both the local and county boards of equalization to be eligible to appeal to the state board of equalization"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1289: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1289 was placed on the Sixth order on the calendar.

Page 1, line 21, overstrike "\$33,950" and insert immediately thereafter "\$34,500"

Page 1, line 22, overstrike "\$33,950" and insert immediately thereafter "\$34,500"

Page 1, line 22, replace "529.62" with "538.20"

Page 1, line 23, overstrike "\$82,250" and insert immediately thereafter "\$83,600"

Page 1, line 23, overstrike "\$33,950" and insert immediately thereafter "\$34,500"

Page 1, line 24, overstrike "\$82,250" and insert immediately thereafter "\$83,600"

Page 1, line 24, replace "1,939.98" with "1,971.92"

Page 2, line 1, overstrike "\$171,550" and insert immediately thereafter "\$174,400"

Page 2, line 1, overstrike "\$82,250" and insert immediately thereafter "\$83,600"

Page 2, line 2, overstrike "\$171,550" and insert immediately thereafter "\$174,400"

Page 2, line 2, replace "4,833.30" with "4,913.84"

Page 2, line 3, overstrike "\$372,950" and insert immediately thereafter "\$379,150"

Page 2, line 3, overstrike "\$171,550" and insert immediately thereafter "\$174,400"

Page 2, line 4, overstrike "\$372,950" and insert immediately thereafter "\$379,150"

Page 2, line 4, replace "12,405.94" with "12,612.44"

Page 2, line 6, overstrike "\$372,950" and insert immediately thereafter "\$379,150"

Page 2, line 9, overstrike "\$56,750" and insert immediately thereafter "\$57,700"

Page 2, line 10, overstrike "\$56,750" and insert immediately thereafter "\$57,700"

Page 2, line 10, replace "885.30" with "900.12"

Page 2, line 11, overstrike "\$137,050" and insert immediately thereafter "\$139,350"

Page 2, line 11, overstrike "\$56,750" and insert immediately thereafter "\$57,700"

Page 2, line 12, overstrike "\$137,050" and insert immediately thereafter "\$139,350"

Page 2, line 12, replace "3,230.06" with "3,284.30"

Page 2, line 13, overstrike "\$208,850" and insert immediately thereafter "\$212,300"

Page 2, line 13, overstrike "\$137,050" and insert immediately thereafter "\$139,350"

Page 2, line 14, overstrike "\$208,850" and insert immediately thereafter "\$212,300"

Page 2, line 14, replace "5,556.38" with "5,647.88"

Page 2, line 15, overstrike "\$372,950" and insert immediately thereafter "\$379,150"

Page 2, line 15, overstrike "\$208,850" and insert immediately thereafter "\$212,300"

Page 2, line 16, overstrike "\$372,950" and insert immediately thereafter "\$379,150"

Page 2, line 16, replace "11,726.54" with "11,921.44"

Page 2, line 18, overstrike "\$372,950" and insert immediately thereafter "\$379,150"

Page 2, line 21, overstrike "\$28,375" and insert immediately thereafter "\$28,850"

Page 2, line 22, overstrike "\$28,375" and insert immediately thereafter "\$28,850"

Page 2, line 22, replace "442.65" with "450.06"

Page 2, line 23, overstrike "\$68,525" and insert immediately thereafter "\$69,675"

Page 2, line 23, overstrike "\$28,375" and insert immediately thereafter "\$28,850"

Page 2, line 24, overstrike "\$68,525" and insert immediately thereafter "\$69,675"

Page 2, line 24, replace "1,615.03" with "1,642.15"

Page 2, line 25, overstrike "\$104,425" and insert immediately thereafter "\$106,150"

Page 2, line 25, overstrike "\$68,525" and insert immediately thereafter "\$69,675"

Page 2, line 26, overstrike "\$104,425" and insert immediately thereafter "\$106,150"

Page 2, line 26, replace "2,778.19" with "2,823.94"

Page 2, line 27, overstrike "\$186,475" and insert immediately thereafter "\$189,575"

Page 2, line 28, overstrike "\$186,475" and insert immediately thereafter "\$189,575"

Page 2, line 28, replace "5,863.27" with "5,960.72"

Page 2, line 29, overstrike "\$186,475" and insert immediately thereafter "\$189,575"

Page 3, line 1, overstrike "\$45,500" and insert immediately thereafter "\$46,250"

Page 3, line 2, overstrike "\$45,500" and insert immediately thereafter "\$46,250"

Page 3, line 2, replace "709.80" with "721.50"

Page 3, line 3, overstrike "\$117,450" and insert immediately thereafter "\$119,400"

Page 3, line 3, overstrike "\$45,500" and insert immediately thereafter "\$46,250"

Page 3, line 4, overstrike "\$117,450" and insert immediately thereafter "\$119,400"

Page 3, line 4, replace "2,810.74" with "2,857.48"

Page 3, line 5, overstrike "\$190,200" and insert immediately thereafter "\$193,350"

Page 3, line 5, overstrike "\$117,450" and insert immediately thereafter "\$119,400"

Page 3, line 6, overstrike "\$190,200" and insert immediately thereafter "\$193,350"

Page 3, line 6, replace "5,167.84" with "5,253.46"

Page 3, line 7, overstrike "\$372,950" and insert immediately thereafter "\$379,150"

Page 3, line 7, overstrike "\$190,200" and insert immediately thereafter "\$193,350"

Page 3, line 8, overstrike "\$372,950" and insert immediately thereafter "\$379,150"

Page 3, line 8, replace "12,039.24" with "12,239.54"

Page 3, line 10, overstrike "\$372,950" and insert immediately thereafter "\$379,150"

Page 3, line 15, overstrike "\$5,350" and insert immediately thereafter "\$5,450"

Page 3, line 16, overstrike "\$5,350" and insert immediately thereafter "\$5,450"

Page 3, line 16, replace "124.94" with "127.86"

Page 3, line 17, overstrike "\$8,200" and insert immediately thereafter "\$8,300"

Page 3, line 17, overstrike "\$5,350" and insert immediately thereafter "\$5,450"

Page 3, line 18, overstrike "\$8,200" and insert immediately thereafter "\$8,300"

Page 3, line 18, replace "217.28" with "220.20"

Page 3, line 19, overstrike "\$11,150" and insert immediately thereafter "\$11,350"

Page 3, line 19, overstrike "\$8,200" and insert immediately thereafter "\$8,300"

Page 3, line 20, overstrike "\$11,150" and insert immediately thereafter "\$11,350"

Page 3, line 20, replace "328.20" with "334.88"

Page 3, line 21, overstrike "\$11,150" and insert immediately thereafter "\$11,350"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1324: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **DO NOT PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1324 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1385: Education Committee (Rep. R. Kelsch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1385 was placed on the Sixth order on the calendar.

Page 1, line 7, after "1." insert "a."

Page 1, line 7, replace "fifty-five" with "sixty-five"

Page 1, line 7, after "attend" insert "for credit or audit"

Page 1, after line 11, insert:

"b. Subdivision a does not extend to any online course or class."

Page 1, line 18, after "attended" insert "for credit"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1387: Energy and Natural Resources Committee (Rep. Porter, Chairman)
recommends **DO NOT PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).
HB 1387 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1418: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1418 was placed on the Sixth order on the calendar.

Page 1, line 19, after "5." insert "Plan sponsor means the employer in the case of an employee benefit plan established or maintained by a single employer, or the employee organization in the case of a plan established or maintained by an employee organization, an association, joint board of trustees, committee, or other similar group that establishes or maintains the plan."

6."

Page 2, line 4, replace "this" with "any"

Page 2, line 5, remove "or conducted by"

Page 2, line 6, remove "the state board of pharmacy"

Page 2, line 7, replace "eighteen" with "twenty-four"

Page 2, line 9, replace "eighteen" with "twenty-four"

Page 2, remove line 11

Page 2, line 12, replace "e." with "d."

Page 2, line 12, replace "seven" with "five"

Page 2, line 14, replace "f." with "e."

Page 2, line 17, replace "g." with "f."

Page 2, line 20, replace "h." with "g."

Page 3, line 11, remove "The insurance commissioner shall adopt rules establishing parameters of audits."

Page 3, replace lines 12 and 13 with "The parameters of an audit must comply with consumer-oriented parameters based on manufacturer listings or recommendations for the following:"

- a. The day supply for eye drops must be calculated so that the consumer pays only one 30-day copayment if the bottle of eye drops is intended by the manufacturer to be a thirty-day supply.
- b. The day supply for insulin must be calculated so that the highest dose prescribed is used to determine the day supply and consumer copayment.

- c. The day supply for a topical product must be determined by the judgment of the pharmacist based upon the treated area."

Page 3, line 19, remove "which must"

Page 3, remove lines 20 through 23

Page 3, line 24, remove "to the pharmacy"

Page 3, line 27, replace "thirty" with "one hundred twenty"

Page 3, line 29, replace "thirty" with "sixty"

Page 4, remove lines 8 through 10

Page 4, line 11, replace "7." with "6."

Page 4, line 11, after the second "the" insert "plan"

Page 4, line 11, remove "of the plan"

Page 4, line 13, remove "and the copayment must be returned directly to the patient."

Page 4, remove line 14

Page 4, line 15, remove "auditing entity"

Page 4, line 18, replace "December 31, 2010" with "July 31, 2011"

Page 4, line 19, replace "investigative audit that involves" with "audit, review, or investigation that is initiated based upon alleged"

Page 5, after line 15, insert:

"4. This Act does not apply to state medicaid programs."

Page 5, replace lines 18 and 19 with "Any person violating this Act is guilty of a class B misdemeanor."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1437: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1437 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "legislative approval" with "limitation of the rate"

Page 1, line 10, replace "**Legislative approval**" with "**Rate restriction**"

Page 1, line 11, remove "1."

Page 1, line 12, replace "without receiving approval from the" with "at a rate exceeding one-half of one percent. Sales and use taxes or gross receipts taxes levied under this chapter before July 1, 2011, at a rate exceeding one-half of one percent may continue to be imposed at the rate in effect on June 30, 2011, until the expiration of the period for which the tax rate in excess of one-half of one percent was approved but may not thereafter be reimposed at a rate exceeding one-half of one percent."

Page 1, remove lines 13 through 21

Page 2, line 1, replace "**Legislative approval**" with "**Rate restriction**"

Page 2, line 2, remove "1."

Page 2, line 3, replace "without receiving approval from the" with "at a rate exceeding one and one-half percent. Sales and use taxes or gross receipts taxes levied under this chapter before July 1, 2011, at a rate exceeding one and one-half percent may continue to be imposed at the rate in effect on June 30, 2011, until the expiration of the period for which the tax rate in excess of one and one-half percent was approved but may not thereafter be reimposed at a rate exceeding one and one-half percent."

Page 2, remove lines 4 through 12

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1441: Transportation Committee (Rep. Ruby, Chairman) recommends **DO NOT PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1441 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1458: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1458 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact chapter 17-09, a new subsection to section 57-51-15, and section 57-51-15.1 of the North Dakota Century Code, relating to establishment of an energy infrastructure development office and grant program, an energy infrastructure development fund, and to provide for deposit and allocation of certain oil and gas gross production tax revenues; to amend and reenact sections 21-06-10, 57-51-15, and 57-62-03 of the North Dakota Century Code, relating to allocation of revenues from federal flood control mineral leases and oil and gas gross production tax allocation; to repeal sections 57-62-03.1 and 57-62-04 of the North Dakota Century Code, relating to the energy development impact office; to provide for a transfer; to provide appropriations; to provide a continuing appropriation; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 17-09 of the North Dakota Century Code is created and enacted as follows:

17-09-01. Infrastructure development office - Appointment of director - Staff - Assistance of department of transportation.

The infrastructure development office is established within the office of the commissioner of the board of university and school lands, the director of which must be appointed by and serve at the pleasure of the governor. The director must be knowledgeable in matters of state and local government and infrastructure development.

The director may employ staff and fix staff compensation within the appropriation made for that purpose. The director may employ a certified public accountant and certified planner among staff members. The director and staff shall monitor and cooperate with political subdivisions awarded grants to assure proper use and reporting of grant funds.

The department of transportation shall provide technical assistance as required by the infrastructure development office to evaluate, prioritize, and monitor infrastructure development projects and coordinate commencement of those projects with the department's projects. The department shall monitor county, city, and township infrastructure development contracting to determine if an adequate amount of qualified contractors are available to maintain competitive bidding and timely completion of county, city, and township infrastructure development projects. If the department finds there is an inadequate amount of qualified contractors, the department shall assist counties, cities, and townships to reach a broader audience of qualified contractors with requests for project bids.

17-09-02. Powers and duties of infrastructure development office director.

The infrastructure development office director shall:

1. Develop a plan for infrastructure development assistance through financial grants or other means of providing assistance for counties, cities, and townships in energy infrastructure development areas.
2. Establish procedures and prescribe forms for political subdivisions to use in making application for and using grant funds as provided in this chapter.
3. Make and administer grants to counties, cities, and townships as provided in this chapter and chapter 57-51 and within the limits of available funds. In determining the amount of grants for which political subdivisions are eligible, the amount of funds available and revenue to which such political subdivisions will be entitled from property taxes and local, state, federal, and other sources must be considered.

17-09-03. Guidelines on energy infrastructure development grants.

Grants distributed by the infrastructure development office under section 57-51-15.1 must be used by grantees to meet energy infrastructure development needs. Grants distributed by the infrastructure development office from the energy infrastructure development grant fund must be used by grantees to meet initial impacts affecting basic governmental services, and directly necessitated by oil and gas development. As used in this section, "basic governmental services" do not include activities relating to marriage or guidance counseling or services or programs to alleviate other sociological impacts. All grant applications and presentations to the infrastructure development office must be made by an appointed or elected government official.

17-09-04. Energy infrastructure development fund and energy infrastructure development grant fund - Continuing appropriation.

There is created in the state treasury an energy infrastructure development fund and an energy infrastructure development grant fund. The moneys accumulated in the energy infrastructure development fund and energy infrastructure development grant fund are provided as a continuing appropriation and must be allocated for distribution through grants as provided by this chapter and chapter 57-51 through the infrastructure development office to cities, counties, and townships.

SECTION 2. AMENDMENT. Section 21-06-10 of the North Dakota Century Code is amended and reenacted as follows:

21-06-10. Moneys received through leasing of lands acquired by United States for flood control distributed to counties for schools and roads.

The state treasurer shall pay the moneys allocated to the state under 33 U.S.C. 701(c)(3) to the counties entitled to receive them in proportion to the area of the land in the county acquired by the United States for which compensation is being provided under 33 U.S.C. 701(c)(3) as that area bears to the total of these federal lands in the state. A county receiving an allocation under this section shall disburse the moneys received as follows:

1. One-half must be paid to the school districts in the county which have lost land subject to taxation because of the acquisition of lands by the United States for which compensation is being provided under 33 U.S.C. 701(c)(3) in proportion to the area of these federal lands in each district as that area bears to the total of such lands in all of the school districts in the county. If, however, all of the land in a district has been acquired by the United States, that district's proportionate share of the funds allocated under this subsection must be paid into the county tuition fund and expended according to the law governing that fund.

2. ~~One-quarter must be paid to the county for road purposes to be expended as the county commissioners shall determine.~~
3. ~~The final quarter must be allocated among the organized townships, if any, which have lost land subject to taxation because of land acquisitions by the United States for which compensation is being provided under 33 U.S.C. 701(c)(3) and the county for road purposes in proportion to the area of these lands in each township as that area bears to the total area of these federal lands in the county. The county must be allocated a similar proportionate share based on the area of these lands in the county not within an organized township.~~

~~This section applies to all funds heretofore received or to be received by the counties entitled thereto deposit all amounts received in a special federal flood control mineral leasing fund in the county treasury. From the federal flood control mineral leasing fund, the county treasurer shall make a payment to each school district in the county that has lost land subject to taxation because of the acquisition of lands by the United States for which compensation is being provided under 33 U.S.C. 701(c)(3). The payment to a school district is determined by multiplying the lost land acres in the school district times the current average taxable valuation of agricultural property in the county, multiplying the resulting amount by the current school district general fund mill rate before reduction under chapter 57-64, and multiplying that result times ten. However, the total of annual payments to school districts may not exceed fifty percent of the balance of the fund. After the annual payment to school districts, remaining amounts in the federal flood control mineral leasing fund may be used for infrastructure development by the county, provided through grants to school districts in the county for one-time expenditures, or provided through grants to townships, or for the benefit of unorganized townships, for township road and bridge purposes.~~

SECTION 3. AMENDMENT. Section 57-51-15 of the North Dakota Century Code is amended and reenacted as follows:

57-51-15. Apportionment and use of proceeds of tax.

The gross production tax provided for in this chapter must be apportioned as follows:

1. First the tax revenue collected under this chapter equal to one percent of the gross value at the well of the oil and one-fifth of the tax on gas must be deposited with the state treasurer who shall:
 - a. ~~Credit thirty-three and one-third percent of the revenues to the oil and gas impact grant fund, but not in an amount exceeding credit~~ eight million dollars per biennium;
 - b. ~~Allocate five hundred thousand dollars per fiscal year to each city in an oil-producing county which has a population of seven thousand five hundred or more and more than two percent of its private covered employment engaged in the mining industry, according to data compiled by job service North Dakota. The allocation under this subdivision must be doubled if the city has more than seven and one-half percent of its private covered employment engaged in the mining industry, according to data compiled by job service North Dakota; and~~
 - e. Credit to the energy infrastructure development grant fund and credit the remaining revenues to the state general fund.
2. After deduction of the amount provided in subsection 1, annual revenue collected under this chapter from oil and gas produced in each county must be allocated as follows:
 - a. The first two million dollars must be allocated to the county.
 - b. The next one million dollars must be allocated seventy-five percent to the county and twenty-five percent to the state general fund.

- c. The next one million dollars must be allocated fifty percent to the county and fifty percent to the state general fund.
 - d. The next fourteen million dollars must be allocated twenty-five percent to the county and seventy-five percent to the state general fund.
 - e. All annual revenue remaining after the allocation in subdivision d must be allocated ten percent to the county, fifteen percent to the energy infrastructure development fund, and ninetyseveny-five percent to the state general fund.
3. The amount to which each county is entitled under subsection 2 must be allocated within the county ~~so the first five million three hundred fifty thousand dollars is allocated~~ under subsection 4 for each fiscal year ~~and anyfor the first three million nine hundred thousand dollars for a county with a population of fewer than three thousand, four million one hundred thousand dollars for a county with a population of three thousand to six thousand, and four million six hundred thousand dollars for a county with a population of more than six thousand. Any amount received by a county exceeding five million three hundred fifty thousand dollars is credited~~the amount to be allocated under subsection 4 must be allocated by the county treasurer ~~to the county infrastructure fund and allocated~~ under subsection 5.
4. a. Forty-five percent of all revenues allocated to any county for allocation under this subsection must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy a total of at least ten mills for combined levies for county road and bridge, farm-to-market and ~~federal aid~~federal aid road, and county road purposes.
- b. Thirty-five percent of all revenues allocated to any county for allocation under this subsection must be apportioned by the county treasurer no less than quarterly to school districts within the county on the average daily attendance distribution basis, as certified to the county treasurer by the county superintendent of schools. However, no school district may receive in any single academic year an amount under this subsection greater than the county average per student cost multiplied by seventy percent, then multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Provided, however, that in any county in which the average daily attendance or the school census, whichever is greater, is fewer than four hundred, the county is entitled to one hundred twenty percent of the county average per student cost multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Once this level has been reached through distributions under this subsection, all excess funds to which the school district would be entitled as part of its thirty-five percent share must be deposited instead in the county general fund. The county superintendent of schools of each oil-producing county shall certify to the county treasurer by July first of each year the amount to which each school district is limited pursuant to this subsection. As used in this subsection, "average daily attendance" means the average daily attendance for the school year immediately preceding the certification by the county superintendent of schools required by this subsection.

~~The countywide allocation to school districts under this subdivision is subject to the following:~~

- (1) ~~The first three hundred fifty thousand dollars is apportioned entirely among school districts in the county.~~

- (2) ~~The next three hundred fifty thousand dollars is apportioned seventy-five percent among school districts in the county and twenty-five percent to the county infrastructure fund.~~
 - (3) ~~The next two hundred sixty-two thousand five hundred dollars is apportioned two-thirds among school districts in the county and one-third to the county infrastructure fund.~~
 - (4) ~~The next one hundred seventy-five thousand dollars is apportioned fifty percent among school districts in the county and fifty percent to the county infrastructure fund.~~
 - (5) ~~Any remaining amount is apportioned to the county infrastructure fund except from that remaining amount the following amounts are apportioned among school districts in the county:~~
 - (a) ~~Four hundred ninety thousand dollars, for counties having a population of three thousand or fewer.~~
 - (b) ~~Five hundred sixty thousand dollars, for counties having a population of more than three thousand and fewer than six thousand.~~
 - (c) ~~Seven hundred thirty-five thousand dollars, for counties having a population of six thousand or more.~~
- c. Twenty percent of all revenues allocated to any county for allocation under this subsection must be apportioned no less than quarterly by the state treasurer to the incorporated cities of the county. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. A city may not receive an allocation for a fiscal year under this subsection and subsection 5 which totals more than seven hundred fifty dollars per capita. Once this level has been reached through distributions under this subsection, all excess funds to which any city would be entitled except for this limitation must be deposited instead in that county's general fund. In determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of this subdivision must be increased by eight hundred percent. If a city receives a direct allocation under subsection 4~~6~~, the allocation to that city receives no allocation under this subsection is limited to sixty percent of the amount otherwise determined for that city under this subsection and the amount exceeding this limitation must be reallocated among the other cities in the county.
5. a. Forty-five percent of all revenues to be allocated to a county infrastructure fund under subsections 3 and 4~~under this subsection~~ must be credited by the county treasurer to the county general fund. However, the allocation to a county general fund under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal-aid~~federal aid~~ road, and county road purposes.
- b. Thirty-five percent of all revenues to be allocated to~~under this subsection must be deposited in the county infrastructure fund under subsections 3 and 4 must be allocated for allocation~~ by the board of county commissioners to or for the benefit of townships in the county on the basis of applications by townships for funding to offset oil and gas development impact to township roads or other infrastructure needs ~~or applications by school districts for repair or replacement of school-district vehicles necessitated by damage or deterioration attributable to travel on oil and gas development impacted roads~~. An organized township is not eligible for an allocation of funds under this subdivision

unless during that fiscal year that township levies at least ten mills for township purposes. For unorganized townships within the county, the board of county commissioners may expend an appropriate portion of revenues under this subdivision to offset oil and gas development impact to township roads or other infrastructure needs in those townships. The amount deposited during each calendar year in the county infrastructure fund which is designated for allocation under this subdivision and which is unexpended and unobligated at the end of the calendar year must be transferred by the county treasurer to the county road and bridge fund for use on county road and bridge projects.

- c. ~~Twenty percent of all revenues to be allocated to any county infrastructure fund under subsections 3 and 4 under this subsection~~ must be allocated by the county treasurer no less than quarterly to the incorporated cities of the county. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. A city may not receive an allocation for a fiscal year under this subsection and subsection 4 which totals more than seven hundred fifty dollars per capita. Once this per capita limitation has been reached, all excess funds to which a city would otherwise be entitled must be deposited instead in that county's general fund. If a city receives a direct allocation under subsection 4~~6~~, the allocation to that city receives no allocation under this subsection is limited to sixty percent of the amount otherwise determined for that city under this subsection and the amount exceeding this limitation must be reallocated among the other cities in the county.
6. From the revenue that would otherwise be deposited in the state general fund under subsections 1 and 2, the state treasurer shall provide a payment in September of each year, or as soon as funds become available, to each city with a population of seven thousand five hundred or more which is located in an oil-producing county. The payment under this subsection must be ten million dollars per fiscal year if the city's private covered employment engaged in the mining industry exceeds twelve percent, five million dollars per fiscal year if the city's private covered employment engaged in the mining industry exceeds two percent but does not exceed twelve percent, and two million five hundred thousand dollars per fiscal year if the city's private covered employment engaged in the mining industry is measurable but totals two percent or less. For purposes of this subsection, job service North Dakota shall determine the annual percentage of oil and gas-related private employment for cities eligible for allocation of funds under this subsection.
7. ~~Within sixty days~~ thirty days after the end of each ~~fiscal~~ calendar year, the board of county commissioners of each county that has received an allocation under this section shall file a report for the ~~fiscal~~ calendar year with the tax commissioner, in a format prescribed by the tax commissioner, ~~showing~~ including:
 - a. ~~The amount received by the county in its own behalf, the amount of those funds expended for each purpose to which funds were devoted, and the share of county property tax revenue expended for each of those purposes, and the amount of those funds unexpended at the end of the fiscal year~~ The county's statement of revenues and expenditures; and
 - b. The amount available in the county infrastructure fund for allocation to or for the benefit of townships ~~or school districts~~, the amount allocated to each organized township ~~or school district~~ and the amount expended from each such allocation by that township ~~or school district~~, the amount expended by the board of county commissioners on behalf of each unorganized township for which an expenditure was made, and the amount available for allocation to or for the benefit of townships ~~or~~

school districts which remained unexpended at the end of the fiscal year.

Within ~~sixty~~fifteen days after the time when reports under this subsection were due, the tax commissioner shall provide ~~a report~~the reports to the legislative council ~~compiling the information from reports received under this subsection and the infrastructure development office.~~

~~—In developing the format for reports under this subsection, the tax commissioner shall consult the energy development impact office and at least two county auditors from oil-producing counties.~~

SECTION 4. A new subsection to section 57-51-15 of the North Dakota Century Code is created and enacted as follows:

From the revenue that would otherwise be deposited in the state general fund under subsections 1 and 2, the state treasurer shall provide a payment in September of each year, or as soon as funds become available, to each city that has a population of seven thousand five hundred or more which is located in an oil-producing county. The payment must be four hundred thousand dollars for each full or fractional percentage point of the city's oil and gas-related private employment, but the payment to a city may not exceed ten million dollars. For purposes of this subsection, job service North Dakota shall determine the annual percentage of oil and gas-related private employment for cities eligible for allocation of funds under this subsection.

SECTION 5. Section 57-51-15.1 of the North Dakota Century Code is created and enacted as follows:

57-51-15.1. Energy infrastructure development fund - Continuing appropriation.

Revenue deposited in the energy infrastructure development fund is appropriated to the infrastructure development office to be allocated as follows:

1. Eighty percent to counties experiencing a need for energy infrastructure development to implement the plan recommendations of the upper great plains transportation institute submitted to the department of commerce in December 2010. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.
 - a. Eighty percent of the funds under this subsection must be allocated monthly directly to counties and allocated among counties in proportion to their shares of total oil production in the state. Funds received by counties under this subdivision must be used to fully or partially fund county infrastructure development projects.
 - b. Twenty percent of the funds under this subsection may be awarded by the infrastructure development office as grants to counties to supplement funding under subdivision a or to provide full or partial funding for county infrastructure development projects not fully funded under subdivision a. Applications by counties for grant funding under this subsection must be made in a format prescribed by the director. Grants under this subdivision must obtain prior approval from the budget section of the legislative management.
2. Twelve percent may be awarded by the infrastructure development office as grants to cities with a population of fewer than seven thousand five hundred to meet energy infrastructure development needs.
3. Eight percent to or for the benefit of townships.

- a. Two-thirds of the funds under this subsection must be allocated directly to townships, or to the county for the benefit of unorganized townships, in annual payments of five thousand dollars for each township with at least one producing oil or gas well plus an additional three hundred fifty dollars for each additional producing well, up to a maximum of ten thousand dollars per township. The unexpended amount under this subdivision at the end of the fiscal year must be transferred to the state treasurer to be allocated among oil-producing counties in proportion to their shares of total oil production in the state and deposited by a recipient county in its county infrastructure fund for use as provided in section 57-51-15.
- b. One-third of the funds under this subsection may be awarded as grants by the infrastructure development office to townships, or to the county for the benefit of unorganized townships, requiring infrastructure development attributable to oil and gas development activity, including townships that have no production of oil or gas. Applications for township grants under this subdivision must be reviewed by the board of county commissioners, which shall prioritize and make its funding recommendation for each grant application.
4. Grant awards under this section may be made over one or more years and may extend beyond the end of a biennium. Grant awards and unexpended grant funds are not subject to section 54-44.1-11.
5. Through August 31, 2012, all allocations under this section must be made from funds specifically appropriated for that purpose by the legislative assembly and any amounts deposited in the energy infrastructure development fund under section 57-51-15 after June 30, 2011, must be accumulated and may not be expended until after August 31, 2012. The amount that may be expended from the energy infrastructure development fund after August 31, 2012, is subject to determination by the budget section of the legislative management, after receiving the recommendation of the infrastructure development office.

SECTION 6. AMENDMENT. Section 57-62-03 of the North Dakota Century Code is amended and reenacted as follows:

57-62-03. Loans - Terms and conditions - Repayment.

The board of university and school lands is authorized to make loans to coal development-impacted counties, cities, and school districts before or after the beginning of actual coal mining from moneys deposited in the coal development trust fund established by subsection 2 of section 57-62-02. Loans made prior to actual mining must be preceded by site permitting and by beginning actual construction of the mine or its mine mouth facility. Loans may be made for any purpose for which a grant may be made pursuant to this chapter, but before making any loan the board of university and school lands shall receive the recommendation of the ~~energy-~~ infrastructure development impact office. The board of university and school lands shall prescribe the terms and conditions of such loans within the provisions of this chapter and shall require a warrant executed by the governing body of the county, city, or school district as evidence of such loan. The warrants must bear interest at a rate not to exceed six percent. The warrants shall be payable only from the allocations of moneys from the coal development fund to the borrowing county, city, or school district and shall not constitute a general obligation of the county, city, or school district nor may such loans be considered as indebtedness of the county, city, or school district. Loans made in advance of actual coal mining must provide that repayment is to begin when the borrowing county, city, or school district receives allocations from the coal development fund. The terms of the loan must provide that not less than ten percent of each allocation made to the borrowing county, city, or school district pursuant to this chapter must be withheld by the state treasurer to repay the principal of the warrants and the interest thereon. The amount withheld by the state treasurer as payment of interest must be deposited in the general fund and the amount withheld by the state treasurer as payment of principal must be remitted to the board of university and school lands and deposited by the board in the trust fund

provided for in subsection 2 of section 57-62-02. The warrants executed by the county, city, or school district have all of the qualities and incidents of negotiable paper and are not subject to taxation by the state of North Dakota or by any political subdivision thereof.

The board of university and school lands is authorized to sell such warrants to other parties and the proceeds of such sale which constitute principal must be deposited in the coal development trust fund and that which constitutes interest in the general fund. If the future allocations of moneys to the borrowing county, city, or school district should, for any reason, permanently cease, the loan shall be canceled except that if the county, city, or school district is merged with another county, city, or school district which receives an allocation of moneys from the coal development fund, the surviving county, city, or school district is obligated to repay the loan from such allocation. If the loan is canceled due to the permanent cessation of allocations of moneys to the county, city, or school district pursuant to this chapter, the board of university and school lands shall cancel those warrants it holds from such county, city, or school district and shall pay from any moneys in the trust fund provided for in subsection 2 of section 57-62-02 the principal and interest, as it becomes due, on those warrants of the county, city, or school district which are held by another party.

SECTION 7. REPEAL. Sections 57-62-03.1 and 57-62-04 of the North Dakota Century Code are repealed.

SECTION 8. TRANSFER. As soon as feasible after June 30, 2011, the state treasurer shall close out the oil and gas impact grant fund and transfer any remaining unobligated balance to the energy infrastructure development grant fund.

SECTION 9. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$172,500,000, or so much of the sum as may be necessary, to the infrastructure development office for the purpose of allocation for energy infrastructure enhancement as provided in section 57-51-15.1, with not more than \$102,500,000 of that amount to be expended during the first fiscal year of the biennium beginning July 1, 2011, and ending June 30, 2013. From the amount appropriated in this section, the infrastructure development office may transfer \$350,000, or so much of the sum as may be necessary, to the upper great plains transportation institute for the purpose of updating its December 2010 report on energy infrastructure development and monitoring progress on implementation of the recommendations that report by political subdivisions, for the biennium beginning July 1, 2011, and ending June 30, 2013.

SECTION 10. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$100,000, or so much of the sum as may be necessary, to job service North Dakota for the purpose of upgrading collection and use of employment data to correctly identify transportation and other employees who should be included for statistical purposes in oil and gas-related employment, for the biennium beginning July 1, 2011, and ending June 30, 2013.

SECTION 11. EFFECTIVE DATE - EXPIRATION DATE. Sections 3 and 5 of this Act are effective for taxable events occurring after June 30, 2011, and through June 30, 2015, and are thereafter ineffective. Section 4 of this Act is effective for taxable events occurring after June 30, 2015."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1461: Judiciary Committee (Rep. DeKrey, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1461 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1469: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1469 was placed on the Sixth order on the calendar.

Page 1, line 13, remove the overstrike over "~~under applicable building code~~"

Page 3, line 17, remove the overstrike over "~~engage in the~~"

Page 3, line 17, after "~~practice~~" insert "solicitation"

Page 3, line 17, remove the overstrike over "~~of architecture or~~"

Page 3, line 18, remove the overstrike over "~~landscape architecture~~"

Page 3, line 18, replace "holds itself out to the public" with "services"

Page 3, line 18, replace "architectural" with "individual or"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HCR 3010: Transportation Committee (Rep. Ruby, Chairman) recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3010 was placed on the Tenth order on the calendar.

REPORT OF STANDING COMMITTEE

HCR 3024: Agriculture Committee (Rep. D. Johnson, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3024 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HCR 3032: Transportation Committee (Rep. Ruby, Chairman) recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3032 was placed on the Tenth order on the calendar.

FIRST READING OF HOUSE CONCURRENT RESOLUTION

Reps. Owens, Ruby, Weiler, Weisz and Sen. Laffen introduced:

HCR 3038: A concurrent resolution directing the Legislative Management to study transportation funding options.

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

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

Buell J. Reich, Chief Clerk

