

## JOURNAL OF THE HOUSE

## Sixty-second Legislative Assembly

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Bismarck, February 9, 2011

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

The prayer was offered by Father Patrick Schumacher, St. Joseph's Catholic Church, Mandan.

The roll was called and all members were present.

A quorum was declared by the Speaker.

## SIXTH ORDER OF BUSINESS

**SPEAKER DROVDAL DEEMED** approval of the amendments to HB 1044, HB 1049, HB 1057, HB 1074, HB 1091, HB 1123, HB 1128, HB 1199, HB 1202, HB 1214, HB 1232, Engrossed HB 1266, HB 1310, HB 1321, HB 1334, HB 1338, HB 1361, HB 1365, HB 1373, HB 1400, HB 1423, HB 1433, HB 1440, HB 1445, HB 1456, and HB 1462.

HB 1044, HB 1049, HB 1074, HB 1199, HB 1202, HB 1321, HB 1373, and HB 1462, as amended, were rereferred to the **Appropriations Committee**.

HB 1057, HB 1091, HB 1123, HB 1128, HB 1214, HB 1232, Engrossed HB 1266, HB 1310, HB 1334, HB 1338, HB 1361, HB 1365, HB 1400, HB 1423, HB 1433, HB 1440, HB 1445, and HB 1456, as amended, were placed on the Eleventh order of business on the calendar for the succeeding legislative day.

## SIXTH ORDER OF BUSINESS

**HB 1134: REP. GRANDE (Government and Veterans Affairs Committee) MOVED** that the amendments on HJ pages 429-430 be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**

## REQUEST

**REP. KELSH REQUESTED** a recorded roll call vote, which request was granted.

## ROLL CALL

The question being on the motion to adopt the amendments to HB 1134, the roll was called and there were 61 YEAS, 32 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**NAYS:** Amerman; Bellew; Boe; Conklin; Delmore; Glassheim; Gruchalla; Guggisberg; Hanson; Hawken; Hogan; Holman; Hunskor; Johnson, N.; Kaldor; Kelsh, J.; Kelsh, S.; Kilichowski; Kretschmar; Kroeber; Martinson; Metcalf; Meyer, S.; Mock; Monson; Mueller; Nelson, J.; Nelson, M.; Onstad; Williams; Winrich; Zaiser

**ABSENT AND NOT VOTING:** Meier, L.

The motion to adopt the amendments to HB 1134 passed.

## SECOND READING OF HOUSE BILL

**HB 1223:** A BILL for an Act to amend and reenact subsection 3 of section 57-02-08 of the North Dakota Century Code, relating to property tax exemption of the leasehold interest when a political subdivision leases property from another political

subdivision.

#### 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 91 YEAS, 3 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; 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; Vigesaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovdal

**NAYS:** Bellew; Kasper; Keiser

HB 1223 passed.

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#### SECOND READING OF HOUSE BILL

**HB 1292:** A BILL for an Act to amend and reenact sections 16.1-01-03, 16.1-04-02, and 16.1-11.1-01 of the North Dakota Century Code, relating to polling places.

#### 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 55 YEAS, 39 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Bellew; Belter; Boe; Boehning; Brabandt; Carlson; Clark; Conklin; Delmore; Delzer; Dosch; Frantsvog; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Headland; Heller; Holman; Kaldor; Kasper; Kelsh, S.; Kempenich; Koppelman; Kreidt; Kroeber; Louser; Meier, L.; Metcalf; Meyer, S.; Mock; Mueller; Nathe; Nelson, M.; Onstad; Owens; Rohr; Ruby; Rust; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Thoreson; Trottier; Wall; Weiler; Wieland; Williams; Winrich; Wrangham; Zaiser

**NAYS:** Amerman; Anderson; Beadle; Brandenburg; Dahl; Damschen; DeKrey; Devlin; Froseth; Hatlestad; Hawken; Heilman; Hofstad; Hogan; Hunskor; Johnson, D.; Johnson, N.; Karls; Keiser; Kelsch, R.; Kelsh, J.; Kilichowski; Kingsbury; Klein; Klemm; Kretschmar; Kreun; Maragos; Martinson; Monson; Nelson, J.; Paur; Pietsch; Pollert; Porter; Sanford; Vigesaa; Weisz; Speaker Drovdal

HB 1292 passed.

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#### DEEMED RECONSIDERED AND REREFERRED

**SPEAKER DROVDAL STATED** that HB 1292 is deemed reconsidered and must be rereferred to the **Appropriations Committee**.

#### SECOND READING OF HOUSE BILL

**HB 1299:** A BILL for an Act to create and enact a new section to chapter 16.1-11 of the North Dakota Century Code, relating to voting in the primary election; and to amend and reenact sections 16.1-06-14 and 16.1-11-22 of the North Dakota Century Code, relating to voting in the primary election.

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

**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; 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; Vigesaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovdal

**ABSENT AND NOT VOTING:** Heller

HB 1299 lost.

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#### MOTION

**REP. SKARPHOL MOVED** that the House reconsider its action whereby HB 1190 failed to pass for want of a Constitutional majority .

#### REQUEST

**REP. GRUCHALLA REQUESTED** a verification vote, which request was granted.

The question being on the motion to reconsider the action whereby HB 1190 failed to pass for want of a Constitutional majority, the motion prevailed on a verification vote.

#### SECOND READING OF HOUSE BILL

**HB 1190:** A BILL for an Act to create and enact a new section to chapter 39-08 of the North Dakota Century Code, relating to distracted driving; to amend and reenact subsection 2 of section 39-06.1-06 and section 39-06.1-09 of the North Dakota Century Code, relating to fees for a moving violation; and to provide a penalty.

#### 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 56 YEAS, 37 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Beadle; Bellew; Belter; Boe; Boehning; Brabandt; Brandenburg; Carlson; Dahl; Damschen; DeKrey; Delmore; Delzer; Dosch; Grande; Hawken; Headland; Heller; Hofstad; Johnson, D.; Johnson, N.; Karls; Kasper; Kelsch, R.; Kempenich; Koppelman; Kreidt; Louser; Maragos; Martinson; Meier, L.; Mock; Monson; Nathe; Nelson, J.; Owens; Paur; Pietsch; Pollert; Porter; Rohr; Ruby; Schatz; Schmidt; Skarphol; Steiner; Streyle; Thoreson; Trottier; Wall; Weiler; Weisz; Wieland; Wrangham; Speaker Drovdal

**NAYS:** Amerman; Clark; Conklin; Devlin; Frantsvog; Froseth; Glassheim; Gruchalla; Guggisberg; Hanson; Hatlestad; Heilman; Hogan; Holman; Hunskor; Kaldor; Keiser; Kelsh, J.; Kelsh, S.; Kilichowski; Kingsbury; Klein; Klemm; Kretschmar; Kreun; Kroeber; Metcalf; Mueller; Nelson, M.; Onstad; Rust; Sanford; Sukut; Vigesaa; Williams; Winrich; Zaiser

**ABSENT AND NOT VOTING:** Meyer, S.

HB 1190 passed.

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#### SECOND READING OF HOUSE BILL

**HB 1300:** A BILL for an Act to amend and reenact section 16.1-09-03 of the North Dakota Century Code, relating to the contents of a statement of interests filed by a candidate or appointed officer.

**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 23 YEAS, 71 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.; Kroeber; Metcalf; Meyer, S.; Mock; Mueller; Nelson, M.; Onstad; 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; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; 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; Trottier; Vigasaa; Wall; Weiler; Weisz; Wieland; Williams; Wrangham; Speaker Drovda

HB 1300 lost.

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**SECOND READING OF HOUSE BILL**

**HB 1312:** A BILL for an Act to amend and reenact section 11-11.1-02 of the North Dakota Century Code, relating to compensation of members of county job development authority boards of directors.

**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 91 YEAS, 1 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Bellew; Belter; Boe; Boehning; Brabandt; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; 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; 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

**NAYS:** Headland

**ABSENT AND NOT VOTING:** Brandenburg; Koppelman

HB 1312 passed.

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**SECOND READING OF HOUSE BILL**

**HB 1313:** A BILL for an Act to create and enact a new section to chapter 40-01 of the North Dakota Century Code, relating to authorizing firefighters to solicit charitable contributions from motorists in cities.

**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, 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; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Thoreson; Trottier; Vigasaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovdal

**ABSENT AND NOT VOTING:** Ruby

HB 1313 passed.

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### SECOND READING OF HOUSE BILL

**HB 1330:** A BILL for an Act to create and enact a new section to chapter 39-06 of the North Dakota Century Code, relating to an enhanced operator's license; and to provide a penalty.

### 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 9 YEAS, 85 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Beadle; Boe; Hawken; Maragos; Mock; Nelson, J.; Nelson, M.; Streyle; Zaiser

**NAYS:** Amerman; Anderson; Bellew; Belter; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Devlin; Dosch; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; 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; Martinson; Meier, L.; Metcalf; Meyer, S.; Monson; Mueller; Nathe; Onstad; Owens; Paur; Pietsch; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Sukut; Thoreson; Trottier; Vigasaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wrangham; Speaker Drovdal

HB 1330 lost.

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### SECOND READING OF HOUSE BILL

**HB 1354:** A BILL for an Act to amend and reenact section 16.1-13-10 and subsection 3 of section 44-02-02 of the North Dakota Century Code, relating to filling a vacancy in a legislative office and resignation of a member of the legislative assembly.

### 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 41 YEAS, 53 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson; Beadle; Bellew; Boe; Brabandt; Brandenburg; Conklin; Delmore; Glassheim; Gruchalla; Guggisberg; Hanson; Hawken; Hogan; Holman; Hunskor; Kaldor; Keiser; Kelsh, J.; Kelsh, S.; Kreidt; Kretschmar; Kroeber; Louser; Maragos; Martinson; Meyer, S.; Mock; Mueller; Nelson, M.; Onstad; Paur; Rohr; Sanford; Schmidt; Streyle; Sukut; Weiler; Williams; Zaiser

**NAYS:** Belter; Boehning; Carlson; Clark; Dahl; Damschen; DeKrey; Delzer; Devlin; Dosch; Frantsvog; Froseth; Grande; Hatlestad; Headland; Heilman; Heller; Hofstad; Johnson, D.; Johnson, N.; Karls; Kasper; Kelsch, R.; Kempenich; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreun; Meier, L.; Metcalf; Monson; Nathe; Nelson, J.; Owens; Pietsch; Pollert; Porter; Ruby; Rust; Schatz; Skarphol; Steiner; Thoreson; Trottier; Vigasaa; Wall; Weisz; Wieland; Winrich; Wrangham; Speaker

Drovdal

HB 1354 lost.

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### SECOND READING OF HOUSE BILL

**HB 1358:** A BILL for an Act to create and enact a new section to chapter 24-03 of the North Dakota Century Code, relating to rumble strips.

### 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 26 YEAS, 68 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Belter; Boe; Carlson; Conklin; DeKrey; Delzer; Devlin; Dosch; Grande; Headland; Holman; Kasper; Kempenich; Kreidt; Meier, L.; Monson; Nelson, J.; Nelson, M.; Pietsch; Pollert; Schatz; Streyle; Trottier; Vigesaa; Weisz

**NAYS:** Amerman; Beadle; Bellew; Boehning; Brabandt; Brandenburg; Clark; Dahl; Damschen; Delmore; Frantsvog; Froseth; Glassheim; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Heilman; Heller; Hofstad; Hogan; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kretschmar; Kreun; Kroeber; Louser; Maragos; Martinson; Metcalf; Meyer, S.; Mock; Mueller; Nathe; Onstad; Owens; Paur; Porter; Rohr; Ruby; Rust; Sanford; Schmidt; Skarphol; Steiner; Sukut; Thoreson; Wall; Weiler; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovdal

HB 1358 lost.

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### SECOND READING OF HOUSE BILL

**HB 1383:** A BILL for an Act to create and enact a new section to chapter 16.1-08.1 of the North Dakota Century Code, relating to the use of campaign contributions; to amend and reenact subsection 4 of section 16.1-08.1-02 of the North Dakota Century Code, relating to campaign contribution and expenditure reporting requirements; and to provide a penalty.

### 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 16 YEAS, 78 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Conklin; Glassheim; Gruchalla; Guggisberg; Hanson; Hogan; Hunskor; Kaldor; Kelsh, J.; Kelsh, S.; Kroeber; Meyer, S.; Mock; Onstad; Winrich; Zaiser

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

HB 1383 lost.

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### SECOND READING OF HOUSE BILL

**HB 1401:** A BILL for an Act to amend and reenact section 57-15-06.3 of the North Dakota Century Code, relating to a limited opportunity for county imposition of a levy for

farm-to-market and federal aid roads without voter approval; 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 NOT PASS, the roll was called and there were 7 YEAS, 87 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Brandenburg; Dosch; Headland; Kelsh, J.; Kelsh, S.; Owens; Pollert

**NAYS:** Amerman; Anderson; Beadle; Bellew; Belter; Boe; Boehning; Brabandt; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Devlin; Frantsvog; Froseth; Glassheim; Grande; Gruchalla; Guggisberg; Hanson; Hatlestad; Hawken; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; 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; Paur; Pietsch; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Thoreson; Trottier; Vigesaa; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wrangham; Zaiser; Speaker Drovdal

HB 1401 lost.

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#### SECOND READING OF HOUSE BILL

**HB 1472:** A BILL for an Act to amend and reenact section 39-20-01.1 of the North Dakota Century Code, relating to chemical test of a driver in a serious crash.

#### 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 27 YEAS, 67 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Dahl; DeKrey; Glassheim; Gruchalla; Guggisberg; Hanson; Hatlestad; Hogan; Holman; Hunskor; Kaldor; Kelsh, J.; Kelsh, S.; Kreun; Kroeber; Maragos; Metcalf; Mock; Mueller; Nelson, M.; Onstad; Owens; Vigesaa; Weisz; Williams; Winrich

**NAYS:** Anderson; Beadle; Bellew; Belter; Boe; Boehning; Brabandt; Brandenburg; Carlson; Clark; Conklin; Damschen; Delmore; Delzer; Devlin; Dosch; Frantsvog; Froseth; Grande; Hawken; Headland; Heilman; Heller; Hofstad; Johnson, D.; Johnson, N.; Karls; Kasper; Keiser; Kelsch, R.; Kempenich; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Louser; Martinson; Meier, L.; Meyer, S.; Monson; Nathe; Nelson, J.; Paur; Pietsch; Pollert; Porter; Rohr; Ruby; Rust; Sanford; Schatz; Schmidt; Skarphol; Steiner; Streyle; Sukut; Thoreson; Trottier; Wall; Weiler; Wieland; Wrangham; Zaiser; Speaker Drovdal

HB 1472 lost.

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#### 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 56 YEAS, 38 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Boe; Brabandt; Conklin; Dahl; Delmore; Frantsvog; Glassheim; Gruchalla; Guggisberg; Hanson; Hawken; Heilman; Heller; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Keiser; Kelsch, R.; Kelsh, J.;

Kelsh, S.; Kilichowski; Kingsbury; Klein; Klemin; Kretschmar; Kroeber; Louser; Maragos; Martinson; Metcalf; Meyer, S.; Mock; Mueller; Nelson, M.; Onstad; Owens; Pietsch; Porter; Ruby; Sanford; Steiner; Streyle; Sukut; Vigesaa; Wall; Weiler; Wieland; Williams; Winrich; Zaiser

**NAYS:** Anderson; Beadle; Bellew; Belter; Boehning; Brandenburg; Carlson; Clark; Damschen; DeKrey; Delzer; Devlin; Dosch; Froseth; Grande; Hatlestad; Headland; Kasper; Kempenich; Koppelman; Kreidt; Kreun; Meier, L.; Monson; Nathe; Nelson, J.; Paur; Pollert; Rohr; Rust; Schatz; Schmidt; Skarphol; Thoreson; Trottier; Weisz; Wrangham; Speaker Drovdal

Engrossed HB 1042 passed.

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**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 1041, HB 1160, HB 1176, HB 1195, HB 1254, HB 1352.

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

**MR. PRESIDENT:** The House has passed, the emergency clause carried, and your favorable consideration is requested on: HB 1319, HB 1384.

**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 2244, SCR 4013.

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

**MR. SPEAKER:** The Senate has passed, the emergency clause carried, and your favorable consideration is requested on: SB 2207.

**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 1:00 p.m., Thursday, February 10, 2011, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**HB 1046: Finance and Taxation Committee (Rep. Belter, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1046 was placed on the Sixth order on the calendar.

Page 1, line 5, after the first semicolon insert "to provide for a legislative management study;"

Page 4, remove line 7

Page 4, line 8, replace "any processing plant, mining facility, or satellite facility producing potash or byproducts." with "The payment of the taxes under this chapter must be in full and in lieu of all ad valorem taxes by the state, counties, cities, school districts, and other taxing districts upon any property rights attached to or inherent in the right to producing potash and potash byproducts; upon producing potash and potash byproducts leases; upon machinery, appliances, and equipment used in and around any well producing potash or potash byproducts and actually used in the operation of the well; and upon any investment in property."

Page 4, line 9, replace "on which" with "and"

Page 4, line 9, remove "is located"

Page 4, line 11, remove "nor excise taxes upon the sale of"

Page 4, line 12, remove "minerals or byproducts at retail"

Page 4, replace lines 22 through 26 with:

- "1. The first one million dollars of the taxes collected under this chapter from production within each spacing unit must be allocated to the county in which the spacing unit is located. If a spacing unit is located in more than one county, the first one million dollars of the taxes collected under this chapter from production within that unit must be allocated among the counties on the basis of the acreage of the spacing unit within each county. Amounts allocated to the county under this subsection must be deposited by the county treasurer in the county road and bridge fund.
2. After the allocation under subsection 1 has been made, revenue from taxes collected from production within each spacing unit must be allocated as follows:
  - a. For the first calendar year, sixty percent to the producing county and forty percent to the state general fund.
  - b. For the first calendar year after the allocation under subdivision a is completed, fifty percent to the producing county and fifty percent to the state general fund.
  - c. For the first calendar year after the allocation under subdivision b is completed, forty percent to the producing county and sixty percent to the state general fund.
  - d. After the allocation under subdivision c is completed, thirty percent to the producing county and seventy percent to the state general fund.
  - e. Before deposit of revenue allocated to the state general fund under this subsection, the state treasurer shall deduct thirty percent of that revenue and deposit that amount in the legacy fund.
3. The county treasurer shall deposit ten percent of the revenue received by the county under subsection 2 in a special potash impact grant fund for the county.

**57-65-07.1. County potash impact grant fund - Grants - Reports.**

Amounts deposited in the county potash impact grant fund under section 57-65-07 must be allocated through grants by the board of county commissioners to or for the benefit of the county or townships or cities within the county. Grants also may be awarded to the county on behalf of unorganized townships in the county. Grants may be awarded on the basis of applications for funding to offset potash development impact. Grants under this section may be awarded to grantees only to meet initial impacts affecting basic governmental services and directly necessitated by potash development impact."

Page 12, after line 7, insert:

**"57-65-19. Powers of industrial commission.**

The industrial commission shall adopt and maintain rules for potash mining, environmental protection, and reclamation. Environmental protection and reclamation rules, at a minimum, must establish a high degree of protection for surface owners, surface and underground water, productive capacity of soils, public health and safety, and participation of public officials and members of the public in counties in which potash mining will be conducted.

**SECTION 4. LEGISLATIVE MANAGEMENT STUDY - POTASH MINING TAXATION.** During the 2011-12 interim, the legislative management shall study potash mining and taxation issues. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-third legislative assembly."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1047: Finance and Taxation Committee (Rep. Belter, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (12 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). HB 1047 was placed on the Sixth order on the calendar.

Page 4, line 27, overstrike "for taxable year 2008"

Page 4, line 30, remove "For purposes of this section, "taxable valuation" means the valuation to which the mill"

Page 4, remove line 31

Page 5, remove lines 1 through 15

Page 5, line 16, remove "4."

Page 5, line 16, overstrike "The grant to a qualifying school district may not be less than the grant to that school"

Page 5, overstrike line 17 and insert immediately thereafter "For purposes of this section, "taxable valuation" means the valuation to which the mill rate is applied to determine the amount of ad valorem taxes or payments in lieu of taxes, and includes taxable valuation determined for agricultural, residential, and commercial property; gas company property, pipeline property, power company property, and railroad property assessed by the state board of equalization under chapter 57-06; mobile homes under chapter 57-55; land controlled by the game and fish department subject to valuation under chapter 57-02.1; land owned by the board of university and school lands or the state treasurer subject to valuation under chapter 57-02.3; national guard land subject to valuation under chapter 37-07.3; farmland or ranchland owned by nonprofit organizations for conservation purposes subject to valuation under section 10-06.1-10; land acquired by the state water commission for the Devils Lake project subject to valuation under chapter 61-02; a workforce safety and insurance building and associated real property subject to valuation under section 65-02-32; and carbon dioxide pipeline property subject to valuation under section 57-06-17.2. For purposes of this section, "taxable valuation" includes the taxable valuation of the homestead credit reimbursed by the state under section 57-02-08.2 and the disabled veterans' credit reimbursed by the state under section 57-02-08.8."

Page 5, line 18, remove the overstrike over "4."

Page 5, line 18, remove "5."

Page 5, line 21, remove the overstrike over "5."

Page 5, line 21, remove "6."

Page 5, line 25, remove the overstrike over "6."

Page 5, line 25, remove "7."

Page 5, line 27, remove the overstrike over "7."

Page 5, line 27, remove "8."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1058: Appropriations Committee (Rep. Delzer, Chairman)** recommends **DO NOT PASS** (21 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1058 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1059: Appropriations Committee (Rep. Delzer, Chairman)** recommends **DO NOT**

**PASS** (21 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1059 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1125: Industry, Business and Labor Committee (Rep. Keiser, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1125 was placed on the Sixth order on the calendar.

Page 1, line 2, after the semicolon insert "to provide for application;"

Page 1, after line 12, insert:

**"SECTION 2. APPLICATION.** In carrying out the requirements of section 1 of this Act, the insurance commissioner shall provide regular updates to the legislative management during the 2011-12 interim. The commissioner shall submit proposed legislation to the legislative management for consideration at a special legislative session if the commissioner is required by federal law to implement any program or requirement before January 1, 2013. For any program or requirement that must be implemented between January 1, 2013, and January 1, 2014, the commissioner shall submit proposed legislation to the legislative management before October 15, 2012."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1126: 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 1126 was placed on the Sixth order on the calendar.

Page 1, line 2, after the second semicolon insert "to provide for application;"

Page 1, line 10, replace "and implement" with "for the implementation of"

Page 1, line 17, replace "establish" with "consider establishing"

Page 1, line 19, replace "Take" with "Subject to section 3 of this Act, take"

Page 1, line 22, replace "Consider" with "Subject to section 3 of this Act, consider"

Page 2, line 1, replace "Contract" with "Subject to section 3 of this Act, contract"

Page 2, line 15, remove "- **ADDITIONAL FUNDING**"

Page 2, line 16, remove "**APPROVAL**"

Page 2, line 16, remove "The commissioner may seek emergency commission and budget section approval"

Page 2, line 17, replace "for authority to spend any general funds, special funds, or" with "There is appropriated the sum of \$1,000,000, or so much of the sum as may be necessary, out of"

Page 2, line 19, after "[Pub. L. 111-152]" insert "to the insurance commissioner for the purpose of planning for implementation of an American health benefit exchange for the state,"

Page 2, after line 20, insert:

**"SECTION 3. APPLICATION.** In carrying out the requirements of this Act, the insurance commissioner shall provide regular updates to the legislative management during the 2011-12 interim. In determining, planning, and implementing an American health benefit exchange for the state, the commissioner shall submit proposed legislation to the legislative management for consideration at a special legislative session if the commissioner is required by federal law to take any action by January 1,

2013. For any plan, program, or requirement that must be implemented between January 1, 2013, and January 1, 2014, the commissioner shall submit proposed legislation to the legislative management before October 15, 2012."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1129: Education Committee (Rep. R. Kelsch, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1129 was placed on the Sixth order on the calendar.

Page 3, after line 8, insert:

"8. Private four-year institutions chartered or incorporated and operating in the state before July 1, 1977, so long as the institutions retain accreditation by national or regional accrediting agencies recognized by the United States department of education."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1165: Industry, Business and Labor Committee (Rep. Keiser, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1165 was placed on the Sixth order on the calendar.

Page 1, replace lines 16 through 23 with:

- "3. This section does not apply to:
- a. An individual who voluntarily applies for coverage under a state-administered program pursuant to the medical assistance program under title XIX of the federal Social Security Act [42 U.S.C. 1396 et seq.] or the state's children's health insurance program under title XXI of the federal Social Security Act [42 U.S.C. 1397aa et seq.].
  - b. A student who is required by an institution of higher education to obtain and maintain health insurance as a condition of enrollment.
  - c. An individual who is required by a religious institution to obtain and maintain health insurance.
4. This section does not impair the rights of an individual to contract privately for health insurance coverage for family members or former family members."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1189: Finance and Taxation Committee (Rep. Belter, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1189 was placed on the Sixth order on the calendar.

Page 1, line 12, overstrike "five"

Page 1, line 12, after "hundredths" insert "four and nine-tenths"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1245: Finance and Taxation Committee (Rep. Belter, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS**

(10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1245 was placed on the Sixth order on the calendar.

Page 2, line 28, remove the overstrike over "~~and the gross receipts from the leasing or renting of a hotel or motel room or~~"

Page 2, line 29, remove the overstrike over "~~tourist court accommodations~~"

Page 2, line 30, remove the overstrike over "~~for periods of thirty or more consecutive days~~"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1246: 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 1246 was placed on the Sixth order on the calendar.

Page 1, line 7, remove the overstrike over "~~, not exceeding~~"

Page 1, line 7, after "~~two~~" insert "twenty"

Page 1, line 7, remove the overstrike over "~~aeres~~"

Page 1, line 7, after the overstruck closing bracket insert "[8.09 hectares]"

Page 1, line 7, remove the overstrike over "~~in extent,~~"

Page 1, line 7, remove "that does not"

Page 1, remove line 8

Page 1, line 9, remove "real property"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1272: Finance and Taxation Committee (Rep. Belter, Chairman)** recommends **DO NOT PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1272 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1281: Industry, Business and Labor Committee (Rep. Keiser, Chairman)** recommends **DO NOT PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1281 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1282: Finance and Taxation Committee (Rep. Belter, Chairman)** recommends **DO NOT PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1282 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1285: Finance and Taxation Committee (Rep. Belter, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (13 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1285 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 57-02-08.1 of the North Dakota Century Code, relating to eligibility for the homestead property tax credit; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 57-02-08.1 of the North Dakota Century Code is amended and reenacted as follows:

**57-02-08.1. Homestead credit.**

1. a. Any person sixty-five years of age or older or permanently and totally disabled, in the year in which the tax was levied, with an income that does not exceed the limitations of subdivision c is entitled to receive a reduction in the assessment on the taxable valuation on the person's homestead. An exemption under this subsection applies regardless of whether the person is the head of a family.
- b. The exemption under this subsection continues to apply if the person does not reside in the homestead and the person's absence is due to confinement in a nursing home, hospital, or other care facility, for as long as the portion of the homestead previously occupied by the person is not rented to another person.
- c. The exemption must be determined according to the following schedule:
  - (1) If the person's income is not in excess of ~~eighteen~~nineteen thousand ~~eight hundred~~ dollars, a reduction of one hundred percent of the taxable valuation of the person's homestead up to a maximum reduction of four thousand five hundred dollars of taxable valuation.
  - (2) If the person's income is in excess of ~~eighteen~~nineteen thousand ~~eight hundred~~ dollars and not in excess of ~~twenty~~twenty-two thousand dollars, a reduction of eighty percent of the taxable valuation of the person's homestead up to a maximum reduction of three thousand six hundred dollars of taxable valuation.
  - (3) If the person's income is in excess of ~~twenty~~twenty-two thousand dollars and not in excess of ~~twenty-two~~twenty-four thousand ~~two hundred~~ dollars, a reduction of sixty percent of the taxable valuation of the person's homestead up to a maximum reduction of two thousand seven hundred dollars of taxable valuation.
  - (4) If the person's income is in excess of ~~twenty-two~~twenty-four thousand ~~two hundred~~ dollars and not in excess of ~~twenty-four~~twenty-six thousand ~~four hundred~~ dollars, a reduction of forty percent of the taxable valuation of the person's homestead up to a maximum reduction of one thousand eight hundred dollars of taxable valuation.
  - (5) If the person's income is in excess of ~~twenty-four~~twenty-six thousand ~~four hundred~~ dollars and not in excess of ~~twenty-six~~twenty-eight thousand ~~six hundred~~ dollars, a reduction of twenty percent of the taxable valuation of the person's homestead up to a maximum reduction of nine hundred dollars of taxable valuation.
- d. Persons residing together, as spouses or when one or more is a dependent of another, are entitled to only one exemption between or among them under this subsection. Persons residing together, who are not spouses or dependents, who are coowners of the property are each entitled to a percentage of a full exemption under this subsection equal to their ownership interests in the property.
- e. This subsection does not reduce the liability of any person for special assessments levied upon any property.
- f. Any person claiming the exemption under this subsection shall sign a verified statement of facts establishing the person's eligibility.



- b. "Homestead" has the same meaning as provided in section 47-18-01.
- c. "Income" means income for the most recent complete taxable year from all sources, including the income of any dependent of the applicant, and including any county, state, or federal public assistance benefits, social security, or other retirement benefits, but excluding any federal rent subsidy, any amount excluded from income by federal or state law, and medical expenses paid during the year by the applicant or the applicant's dependent which is not compensated by insurance or other means.
- d. "Medical expenses" has the same meaning as it has for state income tax purposes, except that for transportation for medical care the person may use the standard mileage rate allowed for state officer and employee use of a motor vehicle under section 54-06-09.
- e. "Permanently and totally disabled" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than twelve months as established by a certificate from a licensed physician or a written determination of disability from the social security administration.

**SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2010, for ad valorem property taxes and for taxable years beginning after December 31, 2011, for mobile home taxes."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1291: Industry, Business and Labor Committee (Rep. Keiser, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 4 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 authorize the governor to enter the state in the interstate health care freedom compact.

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

#### SECTION 1.

##### Interstate health care freedom compact.

The governor shall enter the interstate health care freedom compact on behalf of the state in a form substantially as follows:

##### Interstate Health Care Freedom Compact

The party states agree to the following articles of the interstate health care freedom compact.

##### Article I. Findings and Declaration of Policy

1. 4 U.S.C. 112 gives congressional consent "to any two or more States to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and in the enforcement of their respective criminal laws and policies, and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts".
2. Pursuant to their police powers to protect public health, safety, welfare, and morals, the party states have enacted or anticipate enacting laws or constitutional provisions to protect and guarantee their residents' rights and

freedom to pay, or not to pay, directly for health care services and to participate, or not to participate, in health plans and health systems.

3. The party states have enacted or anticipate enacting laws that make it a crime in their states for anyone to interfere with their residents' enjoyment of the rights and freedoms guaranteed by their respective health care freedom laws.
4. The party states find it necessary and deem it desirable for making effective their respective current or anticipated health care freedom criminal laws, as well as this agreement and compact, to do the following:
  - a. Prohibit any governmental agent from depriving any resident of any party state of the rights and freedoms guaranteed under their respective current or anticipated health care freedom laws.
  - b. Prohibit any governmental agent from penalizing any resident of any party state for exercising the rights and freedoms guaranteed under their respective current or anticipated health care freedom laws.
  - c. Cooperate with each other and to give each other mutual assistance in the prevention of crimes under the health care freedom criminal laws of any party state.
  - d. Cooperate with each other and to give each other mutual assistance in the criminal prosecution of anyone who violates the health care freedom criminal laws of any party state.

#### Article II. Definitions

As used in this compact, unless the context clearly indicates otherwise:

1. "Compel" includes legal mandates, penalties, or fines.
2. "Health care freedom criminal laws" means any state law that makes it a crime for anyone to interfere with a resident's enjoyment of the freedoms protected and guaranteed by the state's respective health care freedom laws.
3. "Health care freedom laws" means any state law or constitutional provision that protects and guarantees a resident's freedom to pay or not to pay directly for lawful health care services and to participate or not to participate in health care plans and health care systems.
4. "Health care plan" means any legally binding arrangement under which at least one person or entity promises and undertakes, in exchange for consideration of a set or assessed amount of money, to make a payment to another party or a third party if a specified event occurs involving the provision of health care services.
5. "Health care system" means any public or private entity whose function or purpose is the management of, processing of, enrollment of individuals in health care plans or payment for, in full or in part, health care services or health care data or health care information for its participants.
6. "Lawful health care services" means any health-related service or treatment to the extent that the service or treatment is permitted or not prohibited by law or regulation and that may be provided by persons or businesses otherwise permitted to offer such services.
7. "Pay directly" means payment for lawful health care services without a public or private third party, not including an employer, paying for any portion of the service.

8. "Penalty" means any civil penalty, criminal fine, tax, salary or wage withholding or surcharge or any named fee with a similar effect established by law or rule by a government established, created or controlled agency that is used to punish or discourage the exercise of rights protected under this state's health care freedom law.
9. "State" means a state of the United States.

#### Article III. Terms

Notwithstanding any state or federal law to the contrary:

1. Each party state shall give full faith and credit to the health care freedom criminal laws and health care freedom laws of every party state.
2. A governmental agent shall not deprive residents of party states of the rights and freedoms protected under their respective states' health care freedom criminal laws and guaranteed by their respective states' health care freedom laws.
3. Governmental agents shall not penalize residents of party states for exercising the rights and freedoms protected under their respective states' health care freedom criminal laws and guaranteed by their respective states' health care freedom laws.
4. The party states shall cooperate with each other and give each other mutual assistance in the prevention of crimes under the health care freedom criminal laws of any party state.
5. The party states shall cooperate with each other and give each other mutual assistance in the criminal prosecution of any person who violates the health care freedom criminal laws of any party state.

#### Article IV. Enforcement

Notwithstanding any state or federal law to the contrary:

1. The chief law enforcement officer of each party state shall enforce this agreement and compact.
2. A taxpaying resident of any party state has standing in the courts of any party state to require the chief law enforcement officer of any party state to enforce this agreement and compact.

#### Article V. Compact Administrator and Interchange of Information

1. The governor of each party state, or the governor's designee, is the compact administrator. The compact administrator shall:
  - a. Maintain an accurate list of all party states.
  - b. Consistent with subsections 3 and 4, transmit in a timely fashion to other party states citations of all current health care freedom laws and current health care freedom criminal laws of the compact administrator's respective state.
  - c. Receive and maintain a complete list of the health care freedom laws and health care freedom criminal laws of each party state.
  - d. Formulate all necessary and proper procedures to effectuate this compact.
  - e. Delegate needed tasks to other state agencies.

2. The compact administrator of each party state shall furnish to the compact administrator of each party state any information or documents that are reasonably necessary to facilitate the administration of this compact.
3. Within ten days after executing this agreement and compact, and thereafter on the close of each of their respective succeeding legislative sessions, the party states shall notify each other in writing and by appropriate citation of each of their current health care freedom laws, which shall be deemed within the subject matter of this agreement and compact, unless the compact administrator of one or more party states gives specific notice in writing to all other party states within sixty days of such notice that it objects to the inclusion of such law or laws in this agreement and compact.
4. Within ten days after executing this agreement and compact, and thereafter on the close of each of their respective succeeding legislative sessions, the party states shall notify each other in writing and by appropriate citation of each of their current health care freedom criminal laws, which shall be deemed within the subject matter of this agreement and compact, unless the compact administrator of one or more party states gives specific notice in writing to all other party states within sixty days of such notice that it objects to the inclusion of such law or laws in this agreement and compact.

#### Article VI. Entry Into Effect and Withdrawal

1. This compact is deemed accepted when at least two states deliver a notice of confirmation, which is duly executed by their respective authorized representative and which acknowledges complete agreement to the terms of this compact, to each other's governor, the office of the clerk of the United States house of representatives, the office of the secretary of the United States senate, the president of the United States senate, and the speaker of the United States house of representatives. Thereafter, the compact is deemed accepted by any state when a respective notice of confirmation, which is duly executed by the state's respective authorized representative and which acknowledges complete agreement to the terms of this compact, is delivered to each party state's compact administrator, the office of the clerk of the United States house of representatives, the office of the secretary of the United States senate, the president of the United States senate, and the speaker of the United States house of representatives.
2. Four years after this compact first becomes effective, any party state may withdraw from this compact by enacting a joint resolution declaring such withdrawal and delivering notice of the withdrawal to each other party state. A withdrawal does not affect the validity or applicability of the compact to states remaining party to the compact.

#### Article VII. Construction and Severability

1. This compact shall be liberally construed so as to effectuate its purposes.
2. This compact is not intended to:
  - a. Affect which health care services a health care provider or hospital is required to perform or provide under state or federal law.
  - b. Affect which health care services are permitted by state or federal law.
3. This compact is intended to operate as the law of the nation with respect to the party states under 4 U.S.C. 112, to supersede any inconsistent state and federal law, and to establish vested rights in favor of residents of the party states in the enjoyment of the rights and freedoms protected by the respective health care freedom criminal laws and guaranteed by the respective health care freedom laws.
4. If any phrase, clause, sentence, or provision of this compact is declared in a final judgment by a court of competent jurisdiction to be contrary to the

Constitution of the United States or is otherwise held invalid, the validity of the remainder of this compact shall not be affected.

5. If the applicability of any phrase, clause, sentence, or provision of this compact to any government, agency, person, or circumstance is declared in a final judgment by a court of competent jurisdiction to be contrary to the Constitution of the United States or is otherwise held invalid, the validity of the remainder of this compact and the applicability of the remainder of this compact to any government, agency, person, or circumstance shall not be affected.
6. If this compact is held to be contrary to the constitution of any party state, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the affected party state as to all severable matters."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1294: Finance and Taxation Committee (Rep. Belter, Chairman)** recommends **DO NOT PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1294 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1297: Human Services Committee (Rep. Weisz, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1297 was placed on the Sixth order on the calendar.

Page 1, line 6, remove "and"

Page 1, line 6, after "report" insert "; and to provide a statement of legislative intent"

Page 4, line 15, replace "the" with "an"

Page 4, line 15, remove "of her pregnancy without first determining"

Page 4, line 16, remove "postfertilization age"

Page 4, line 16, after "the" insert "twenty-four-hour"

Page 4, line 16, remove "necessary to determine"

Page 4, line 17 remove "postfertilization age"

Page 4, line 22, after "10." insert "Physician means an individual who is licensed to practice medicine or osteopathy under chapter 43-17 or a physician who practices in the armed services of the United States or in the employ of the United States.

11."

Page 4, line 22, overstrike "the judgment of the"

Page 4, line 23, overstrike "attending physician" and insert immediately thereafter "reasonable medical judgment"

Page 4, line 25, replace "11." with "12."

Page 4, line 28, replace "12." with "13."

Page 4, line 29, replace "13." with "14."

Page 7, line 9, after "abortion" insert "compliance"

Page 7, line 9, after "form" insert "and an abortion data report form"

Page 7, line 10, after "The" insert "abortion compliance report"

Page 7, line 12, after the underscored period insert "The abortion data report form must include the data called for in the United States standard report of induced termination of pregnancy as recommended by the national center for health statistics."

Page 8, line 29, overstrike "Proceedings" and insert immediately thereafter "All proceedings"

Page 9, line 2, after the period insert "A court may change the venue of proceedings under this section to another county only upon finding that a transfer is required in the best interests of the minor."

Page 9, line 3, remove "in the juvenile court of the county of the minor's residence"

Page 12, line 14, after "abortion" insert "data"

Page 12, line 14, after the underscored comma insert "abortion compliance reports."

Page 12, line 27, after the first "abortion" insert "compliance"

Page 12, line 27, after "report" insert "and an individual abortion data report"

Page 12, line 28, after "The" insert "abortion data"

Page 12, line 28, remove the overstrike over "~~must be confidential and~~"

Page 12, line 29, overstrike "This reporting" and insert immediately thereafter "The abortion data report"

Page 13, line 20, after "abortion" insert "compliance"

Page 13, line 21, after the first underscored comma insert "abortion data reports."

Page 13, line 22, overstrike "therefrom" and insert immediately thereafter "from these reports"

Page 13, line 24, replace "reports, complication reports, and adverse event" with "compliance"

Page 13, line 25, remove "The board may not release the name or"

Page 13, replace lines 26 and 27 with "Except for disclosure to a law enforcement officer or state agency, the department may not disclose an abortion compliance report without first removing any individually identifiable health information and any other demographic information, including race, marital status, number of previous live births, and education regarding the woman upon whom the abortion was performed."

Page 16, after line 26, insert:

**"SECTION 16. STATEMENT OF LEGISLATIVE INTENT.** The costs incurred by the state department of health as a result of producing the printed information required under section 2 of this Act may not exceed fifty thousand dollars."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1320, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)** recommends **DO PASS** (21 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1320 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1345: Finance and Taxation Committee (Rep. Belter, Chairman)** recommends **DO NOT PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1345 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE (MAJORITY)**

**HB 1353: Education Committee (Rep. R. Kelsch, Chairman)** A **MAJORITY** of your committee (Reps. R. Kelsch, Heller, Karls, Heilman, D. Johnson, Rohr, Rust, Sanford, Schatz, Wall) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee**.

Page 1, line 1, after "to" insert "create and enact three new sections to chapter 15-52 of the North Dakota Century Code, relating to the school of medicine and health sciences advisory council; to"

Page 1, line 1, after the third comma insert "23-42-01, 23-42-04, 23-42-05,"

Page 1, line 4, after the comma insert "the tobacco prevention and control program,"

Page 1, line 4, remove "to repeal chapter"

Page 1, remove line 5

Page 1, line 6, remove "prevention and control program and water development trust fund expenditures;"

Page 1, remove lines 17 through 24

Page 2, remove lines 1 through 31

Page 3, remove lines 1 through 30

Page 3, after line 30, insert:

**"SECTION 2. AMENDMENT.** Section 15-52-03 of the North Dakota Century Code is amended and reenacted as follows:

**15-52-03. School of medicine and health sciences advisory council - Members, terms, meetings.**

4. To assure the proper coordination of the university of North Dakota school of medicine and health sciences with all other health activities of the state, a permanent school of medicine and health sciences advisory council is established to perform the duties in section 15-52-04.
2. ~~The council consists of fifteen members:~~
  - a. ~~(1) Two members of the senate, one of whom must be from the majority party and one of whom must be from the minority party, selected by the chairman of the legislative management; and~~
    - (2) Two members of the house of representatives, one of whom must be from the majority party and one of whom must be from the minority party, to be selected by the chairman of the legislative management;
  - b. One member selected by each of the following:
    - (1) The department of human services;
    - (2) The state board of higher education;
    - (3) The state department of health;
    - (4) The North Dakota medical association;
    - (5) The North Dakota healthcare association;
    - (6) The veterans administration hospital in Fargo; and

- (7) ~~The university of North Dakota center for rural health; and~~
- e. ~~Four members selected by the dean of the university of North Dakota school of medicine and health sciences, one from each of the four campuses of the school of medicine and health sciences with headquarters in Bismarck, Fargo, Grand Forks, and Minot.~~
3. ~~The representatives named by the state agencies and boards must be selected to serve as members of the advisory council for periods of at least one year, but may not serve longer than their term of office on the public agency. The representatives from the North Dakota state medical association and the North Dakota healthcare association shall serve a term of three years or until their successors are named and qualified.~~
4. ~~The council shall name its own chairman and the dean of the university of North Dakota school of medicine and health sciences shall serve as executive secretary of the council. The council shall meet not less than twice each year, and, from time to time, on its own motion or upon request of the university administration. The council consists of:~~
  1. The following voting members:
    - a. (1) Two members of the senate, one of whom must be from the majority party and one of whom must be from the minority party, appointed by the chairman of the legislative management; and
    - (2) Two members of the house of representatives, one of whom must be from the majority party and one of whom must be from the minority party, appointed by the chairman of the legislative management;
    - b. Eight individuals appointed by the governor, provided:
      - (1) Each of the eight individuals must be located within the boundaries of a separate human service center region;
      - (2) (a) Four of the eight individuals must be located in communities having a population fewer than five thousand;
      - (b) Two of the eight individuals must be located in communities having a population of at least five thousand but fewer than thirty thousand; and
      - (c) Two of the eight individuals must be located in communities having a population of at least thirty thousand; and
      - (3) (a) Five of the eight individuals must be health care providers regularly involved in patient care;
      - (b) One of the eight individuals must be a hospital or clinic administrator; and
      - (c) One of the eight individuals must be involved in the field of mental health;
    - c. Two individuals appointed by the dean of the university of North Dakota school of medicine and health sciences, provided each individual must represent a separate campus of the school of medicine and health sciences; and
    - d. One individual appointed by the state board of higher education; and
  2. The following ex officio, nonvoting members:
    - a. The director of the university of North Dakota center for rural health; and

- b. The director of the department of human services.

**SECTION 3.** A new section to chapter 15-52 of the North Dakota Century Code is created and enacted as follows:

**Terms of office.**

1. a. The term of office for each member of the legislative assembly appointed to the council is four years. A member of the legislative assembly may not serve more than two consecutive terms.
- b. The term of office for each member appointed by the governor is three years, except that the terms of those members initially appointed must be staggered so that four serve for terms of two years and four serve for terms of three years. A member appointed by the governor may not serve more than two consecutive terms.
- c. The term of office for each member appointed by the dean of the university of North Dakota school of medicine and health sciences is three years. A member appointed by the dean may not serve more than two consecutive terms.
2. Any member who is absent from more than three council meetings within a two-year period is precluded from further service on the council and a new member must be appointed, as provided for in section 15-52-03, to complete the term of office.

**SECTION 4.** A new section to chapter 15-52 of the North Dakota Century Code is created and enacted as follows:

**Compensation.**

1. Each member of the council, other than one who is employed by the state, is entitled to receive compensation in the amount of one hundred forty-eight dollars per day plus reimbursement for expenses as provided by law for state officers, if the member is attending meetings or participating in meetings through electronic means, or if the member is performing duties directed by the council.
2. Each member of the council who is employed by the state is entitled to receive reimbursement for expenses as provided by law for state officers, if the member is attending meetings or participating in meetings through electronic means, or if the member is performing duties directed by the council.

**SECTION 5.** A new section to chapter 15-52 of the North Dakota Century Code is created and enacted as follows:

**Chairman - Meetings.**

The council shall elect one member to serve as the chairman. The council must meet at least four times each year and may meet at its own call or at the request of university administration."

Page 5, after line 15, insert:

**"SECTION 7. AMENDMENT.** Section 23-42-01 of the North Dakota Century Code is amended and reenacted as follows:

**23-42-01. Definitions.**

As used in this chapter:

1. "Advisory committee" is the nine-member tobacco prevention and control advisory committee responsible to develop the comprehensive plan.

2. "Comprehensive plan" means a comprehensive statewide tobacco prevention and control program that is consistent with the centers for disease control best practices for comprehensive tobacco prevention and control programs and does not duplicate the work of the community health grant program created in chapter 23-38.
3. "Executive committee" means the three-member committee selected by the advisory committee and charged with implementation and administration of the comprehensive plan.
4. ~~"Tobacco prevention and control fund" consists of all principal and interest of the tobacco prevention and control trust fund established by section 54-27-25.~~

**SECTION 8. AMENDMENT.** Section 23-42-04 of the North Dakota Century Code is amended and reenacted as follows:

**23-42-04. Powers of the executive committee.**

To implement the purpose of this chapter and, in addition to any other authority granted elsewhere in this chapter, to support its efforts and implement the comprehensive plan, the executive committee may employ staff and fix their compensation, accept grants, property, and gifts, enter contracts, make loans, provide grants, borrow money, lease property, ~~provide direction to the state investment board for investment of the tobacco prevention and control fund~~, and take any action that any private individual, corporation, or limited liability company lawfully may do except as restricted by the provisions of this chapter.

**SECTION 9. AMENDMENT.** Section 23-42-05 of the North Dakota Century Code is amended and reenacted as follows:

**23-42-05. Development of the comprehensive plan.**

The advisory committee shall develop the initial comprehensive plan within one hundred eighty days of the initial meeting of the advisory committee. ~~The comprehensive plan must be funded at a level equal to or greater than the centers for disease control recommended funding level. Funding for the comprehensive plan must supplement and may not supplant any funding that in the absence of this chapter would be or has been provided for the community health trust fund or other health initiatives."~~

Page 6, line 23, after "of" insert "the comprehensive tobacco control advisory committee and the"

Page 6, remove lines 29 and 30

Page 7, after line 13, insert:

**"SECTION 13. APPROPRIATION - COMPREHENSIVE TOBACCO CONTROL ADVISORY COMMITTEE.** There is appropriated out of any moneys in the health care programs trust fund in the state treasury, not otherwise appropriated, the sum of \$9,000,000, or so much of the sum as may be necessary, to the comprehensive tobacco control advisory committee for the purpose of defraying the expenses of the committee, for the biennium beginning July 1, 2011, and ending June 30, 2013."

Renumber accordingly

**REPORT OF STANDING COMMITTEE (MINORITY)**

**HB 1353: Education Committee (Rep. R. Kelsch, Chairman)** A **MINORITY** of your committee (Reps. Hanson, Hunskor, L. Meier, Mock, Mueller) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee**.

Page 1, line 1, replace "54-27-25" with "57-36-32"

Page 1, line 4, replace "the tobacco settlement trust fund" with "additional tax on the sale of cigarettes"

Page 1, line 4, remove "chapter"

Page 1, line 5, remove "23-42 and"

Page 1, line 5, remove "the tobacco"

Page 1, line 6, remove "prevention and control program and"

Page 1, line 6, after the semicolon insert "and"

Page 1, line 7, remove "; and to provide for a transfer"

Page 1, line 13, remove the overstrike over "educate"

Page 1, line 13, remove "increase the health care workforce in the state by educating"

Page 1, line 13, remove the underscored comma

Page 1, line 14, remove "with a focus on the education of primary care physicians."

Page 1, line 14, after "professionals" insert ", increase the health care workforce in the state with a focus on the education of primary care physicians."

Page 2, line 7, remove the overstrike over "{1}"

Page 2, line 7, remove the overstrike over "~~, one of whom must be from the majority party~~"

Page 2, remove the overstrike over line 8

Page 2, line 9, remove the overstrike over "of the legislative management;"

Page 2, line 10, remove the overstrike over "{2} Two"

Page 2, line 10, remove "two"

Page 2, line 10, remove the overstrike over "~~, one of whom must be~~"

Page 2, line 11, remove the overstrike over "~~from the majority party and one of whom must be from the minority party,~~"

Page 5, replace lines 16 through 31 with:

**"SECTION 4. AMENDMENT.** Section 57-36-32 of the North Dakota Century Code is amended and reenacted as follows:

**57-36-32. Separate and additional tax on the sale of cigarettes - Collection - Allocation of revenue - Tax avoidance prohibited.**

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

Page 6, remove lines 1 through 28

Page 6, line 29, replace "Chapter 23-42 and section" with "Section"

Page 6, line 30, replace "are" with "is"

Page 7, line 2, replace "health care programs trust" with "general"

Page 7, line 8, replace "health care programs trust" with "general"

Page 7, remove lines 14 through 19

Renumber accordingly

The reports of the majority and the minority were placed on the Seventh order of business on the calendar for the succeeding legislative day.

#### REPORT OF STANDING COMMITTEE

**HB 1374: Appropriations Committee (Rep. Delzer, Chairman)** recommends **DO NOT PASS** (19 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1374 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1403: Appropriations Committee (Rep. Delzer, Chairman)** recommends **DO NOT PASS** (14 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING). HB 1403 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1412: Education Committee (Rep. R. Kelsch, Chairman)** recommends **DO NOT PASS** (10 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1412 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1420: Finance and Taxation Committee (Rep. Belter, Chairman)** recommends **DO NOT PASS** (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1420 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1425, as engrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1425 was placed on the Sixth order on the calendar.

Page 1, line 9, remove "a building, plumbing, or"

Page 1, line 10, replace "electrical" with "an equivalent"

Page 1, line 10, replace "city, township, or county may not include a requirement" with "political subdivision must provide"

Page 1, line 11, replace "buildings" with "a building"

Page 1, line 11, remove "have a"

Page 1, replace lines 12 through 18 with "may be constructed and inspected as a temporary structure as defined by the state building code or may be permitted as a permanent school portable classroom. The foundation system of such a structure must comply with the recommendations of the manufacturer's engineering report for a preengineered unit or a structural engineer's report. Frost-free footings may not be required for a temporary structure that meets the requirements of the state building code unless required by an engineering report. Temporary electrical and plumbing installations may be allowed for any structure by the state agencies governing those areas of construction or the applicable codes."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1446: Industry, Business and Labor Committee (Rep. Keiser, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (8 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). HB 1446 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "and loan"

Page 1, line 1, remove the second "and"

Page 1, line 2, after "appropriation" insert "; and to provide an exemption"

Page 1, replace lines 4 through 23 with:

**"SECTION 1. OIL REFINERY INCENTIVE GRANT PROGRAM -  
DEPARTMENT OF COMMERCE.**

1. During the 2011-13 biennium, the department of commerce shall establish and administer a program to provide a matching grant to a qualified applicant for the purpose of assisting the applicant with the costs associated with the oil refinery permitting process for a new oil refinery.
2. In order to qualify for a grant under this section, an applicant:
  - a. Must have completed a feasibility analysis and have a viable business plan;
  - b. Must have the necessary expertise to pursue the project;
  - c. Shall establish the proposed project would have a positive impact on the state, with an anticipated minimum capacity of twenty thousand barrels per day;
  - d. Shall establish the availability of one dollar of nonstate, cash matching funds for each one dollar of state funds available under this program;
  - e. Shall meet the requirements established by the department of commerce;
  - f. Shall agree to postaward monitoring by the department of commerce; and
  - g. Shall agree to the department of commerce's terms relating to ownership of information if the permitting process is not successful.
3. A grant under this program may not exceed five million dollars.
4. A qualified applicant shall begin the permitting process no later than six months following the grant approval.
5. The department of commerce shall distribute awarded grant funds on a reimbursement basis. As a term of distribution of funds under this section, the qualified applicant shall provide the department of commerce with any documentation required by the department."

Page 2, remove lines 1 through 14

Page 2, line 15, after "**APPROPRIATION**" insert "**- EXEMPTION**"

Page 2, line 21, after the period insert "The amount appropriated under this section is not subject to section 54-44.1-11."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1450: Human Services Committee (Rep. Weisz, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1450 was placed on the Sixth order on the calendar.

Page 5, line 12, remove "licensed"

Page 5, line 12, after "physician" insert "licensed to practice medicine under chapter 43-17"

Page 5, line 15, remove ", including"

Page 5, remove line 16

Page 5, line 17, remove "molar pregnancies, and separation of conjoined twins"

Page 5, line 19, remove "knowingly"

Page 5, line 20, remove "the time when a pregnancy could be"

Page 5, line 21, replace "determined through conventional medical testing" with "a clinically diagnosable pregnancy of a woman"

Page 5, line 22, after "actor" insert ", other than the pregnant woman."

Page 5, line 23, remove "This section may not be"

Page 5, remove lines 24 through 26

Page 6, line 2, remove "licensed"

Page 6, line 2, after "physician" insert "licensed to practice medicine under chapter 43-17"

Page 6, line 5, remove ", including"

Page 6, remove line 6

Page 6, line 7, remove "molar pregnancies, and separation of conjoined twins"

Page 6, line 9, remove "knowingly"

Page 6, line 9, replace "the death of" with "injury to"

Page 6, line 10, remove "the time when a pregnancy could be"

Page 6, line 11, replace "determined through conventional medical testing" with "a clinically diagnosable pregnancy of a woman"

Page 6, line 12, after "actor" insert ", other than the pregnant woman."

Page 6, line 13, remove "This section may not be"

Page 6, remove lines 14 through 16

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1467: Finance and Taxation Committee (Rep. Belter, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1467 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 57-51.1-03 of the North Dakota Century Code, relating to a triggered

oil extraction tax rate reduction; to provide an effective date; and to provide an expiration date.

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

**SECTION 1. AMENDMENT.** Section 57-51.1-03 of the North Dakota Century Code is amended and reenacted as follows:

**57-51.1-03. (Effective through June 30, ~~2012~~2013) Exemptions from oil extraction tax.**

The following activities are specifically exempted from the oil extraction tax:

1. The activity of extracting from the earth any oil that is exempt from the gross production tax imposed by chapter 57-51.
2. The activity of extracting from the earth any oil from a stripper well property.
3. For a well drilled and completed as a vertical well, the initial production of oil from the well is exempt from any taxes imposed under this chapter for a period of fifteen months, except that oil produced from any well drilled and completed as a horizontal well is exempt from any taxes imposed under this chapter for a period of twenty-four months. Oil recovered during testing prior to well completion is exempt from the oil extraction tax. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.
4. The production of oil from a qualifying well that was worked over is exempt from any taxes imposed under this chapter for a period of twelve months, beginning with the first day of the third calendar month after the completion of the work-over project. The exemption provided by this subsection is only effective if the well operator establishes to the satisfaction of the industrial commission upon completion of the project that the cost of the project exceeded sixty-five thousand dollars or production is increased at least fifty percent during the first two months after completion of the project. A qualifying well under this subsection is a well with an average daily production of no more than fifty barrels of oil during the latest six calendar months of continuous production. A work-over project under this subsection means the continuous employment of a work-over rig, including recompletions and reentries. The exemption provided by this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.
5.
  - a. The incremental production from a secondary recovery project which has been certified as a qualified project by the industrial commission after July 1, 1991, is exempt from any taxes imposed under this chapter for a period of five years from the date the incremental production begins.
  - b. The incremental production from a tertiary recovery project that does not use carbon dioxide and which has been certified as a qualified project by the industrial commission is exempt from any taxes imposed under this chapter for a period of ten years from the date the incremental production begins. Incremental production from a tertiary recovery project that uses carbon dioxide and which has been certified as a qualified project by the industrial commission is exempt from any taxes imposed under this chapter from the date the incremental production begins.

- c. For purposes of this subsection, incremental production is defined in the following manner:
- (1) For purposes of determining the exemption provided for in subdivision a and with respect to a unit where there has not been a secondary recovery project, incremental production means the difference between the total amount of oil produced from the unit during the secondary recovery project and the amount of primary production from the unit. For purposes of this paragraph, primary production means the amount of oil which would have been produced from the unit if the secondary recovery project had not been commenced. The industrial commission shall determine the amount of primary production in a manner which conforms to the practice and procedure used by the commission at the time the project is certified.
  - (2) For purposes of determining the exemption provided for in subdivision a and with respect to a unit where a secondary recovery project was in existence prior to July 1, 1991, and where the industrial commission cannot establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the unit during a new secondary recovery project and the amount of production which would be equivalent to the average monthly production from the unit during the most recent twelve months of normal production reduced by a production decline rate of ten percent for each year. The industrial commission shall determine the average monthly production from the unit during the most recent twelve months of normal production and must upon request or upon its own motion hold a hearing to make this determination. For purposes of this paragraph, when determining the most recent twelve months of normal production the industrial commission is not required to use twelve consecutive months. In addition, the production decline rate of ten percent must be applied from the last month in the twelve-month period of time.
  - (3) For purposes of determining the exemption provided for in subdivision a and with respect to a unit where a secondary recovery project was in existence before July 1, 1991, and where the industrial commission can establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the unit during the new secondary recovery project and the total amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced. For purposes of this paragraph, the total amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced includes both primary production and production that occurred as a result of the secondary recovery project that was in existence before July 1, 1991. The industrial commission shall determine the amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced in a manner that conforms to the practice and procedure used by the commission at the time the new secondary recovery project is certified.
  - (4) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there has not been a secondary recovery project, incremental production means the difference between the total amount of oil produced from the unit during the tertiary recovery project and the amount of primary production from the unit. For purposes of this paragraph, primary production means the amount of oil which would have been produced from the unit if the tertiary recovery project had not been commenced. The industrial commission shall determine the

amount of primary production in a manner which conforms to the practice and procedure used by the commission at the time the project is certified.

- (5) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there is or has been a secondary recovery project, incremental production means the difference between the total amount of oil produced during the tertiary recovery project and the amount of production which would be equivalent to the average monthly production from the unit during the most recent twelve months of normal production reduced by a production decline rate of ten percent for each year. The industrial commission shall determine the average monthly production from the unit during the most recent twelve months of normal production and must upon request or upon its own motion hold a hearing to make this determination. For purposes of this paragraph, when determining the most recent twelve months of normal production the industrial commission is not required to use twelve consecutive months. In addition, the production decline rate of ten percent must be applied from the last month in the twelve-month period of time.
  - (6) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there is or has been a secondary recovery project and where the industrial commission can establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the unit during the tertiary recovery project and the total amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced. For purposes of this paragraph, the total amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced includes both primary production and production that occurred as a result of any secondary recovery project. The industrial commission shall determine the amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced in a manner that conforms to the practice and procedure used by the commission at the time the tertiary recovery project is certified.
- d. The industrial commission shall adopt rules relating to this exemption that must include procedures for determining incremental production as defined in subdivision c.
6. The production of oil from a two-year inactive well, as determined by the industrial commission and certified to the state tax commissioner, for a period of ten years after the date of receipt of the certification. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.
  7. The production of oil from a horizontal reentry well, as determined by the industrial commission and certified to the state tax commissioner, for a period of nine months after the date the well is completed as a horizontal well. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.

8. The initial production of oil from a well is exempt from any taxes imposed under this chapter for a period of sixty months if:
  - a. The well is located within the boundaries of an Indian reservation;
  - b. The well is drilled and completed on lands held in trust by the United States for an Indian tribe or individual Indian; or
  - c. The well is drilled and completed on lands held by an Indian tribe if the interest is in existence on August 1, 1997.
9. The first seventy-five thousand barrels or the first four million five hundred thousand dollars of gross value at the well, whichever is less, of oil produced during the first eighteen months after completion, from a horizontal well drilled and completed after April 30, 2009, is subject to a reduced tax rate of two percent of the gross value at the well of the oil extracted under this chapter. A well eligible for a reduced tax rate under this subsection is eligible for the exemption for horizontal wells under subsection 3, if the exemption under subsection 3 is effective during all or part of the first twenty-four months after completion. The rate reduction under this subsection becomes effective on the first day of the month following a month for which the average price of a barrel of crude oil is less than fifty-five dollars. The rate reduction under this subsection becomes ineffective on the first day of the month following a month in which the average price of a barrel of crude oil exceeds seventy dollars. If the rate reduction under this subsection is effective on the date of completion of a well, the rate reduction applies to production from that well for up to eighteen months after completion, subject to the other limitations of this subsection. If the rate reduction under this subsection is ineffective on the date of completion of a well, the rate reduction under this subsection does not apply to production from that well at any time.

**(Effective after June 30, 2012-2013) Exemptions from oil extraction tax.**

The following activities are specifically exempted from the oil extraction tax:

1. The activity of extracting from the earth any oil that is exempt from the gross production tax imposed by chapter 57-51.
2. The activity of extracting from the earth any oil from a stripper well property.
3. For a well drilled and completed as a vertical well, the initial production of oil from the well is exempt from any taxes imposed under this chapter for a period of fifteen months, except that oil produced from any well drilled and completed as a horizontal well is exempt from any taxes imposed under this chapter for a period of twenty-four months. Oil recovered during testing prior to well completion is exempt from the oil extraction tax. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.
4. The production of oil from a qualifying well that was worked over is exempt from any taxes imposed under this chapter for a period of twelve months, beginning with the first day of the third calendar month after the completion of the work-over project. The exemption provided by this subsection is only effective if the well operator establishes to the satisfaction of the industrial commission upon completion of the project that the cost of the project exceeded sixty-five thousand dollars or production is increased at least fifty percent during the first two months after completion of the project. A qualifying well under this subsection is a well with an average daily production of no more than fifty barrels of oil during the latest six calendar months of continuous production. A work-over project under this subsection means the continuous employment of a work-over rig, including recompletions and reentries. The exemption provided by this subsection

becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.

5. a. The incremental production from a secondary recovery project which has been certified as a qualified project by the industrial commission after July 1, 1991, is exempt from any taxes imposed under this chapter for a period of five years from the date the incremental production begins.
- b. The incremental production from a tertiary recovery project that does not use carbon dioxide and which has been certified as a qualified project by the industrial commission is exempt from any taxes imposed under this chapter for a period of ten years from the date the incremental production begins. Incremental production from a tertiary recovery project that uses carbon dioxide and which has been certified as a qualified project by the industrial commission is exempt from any taxes imposed under this chapter from the date the incremental production begins.
- c. For purposes of this subsection, incremental production is defined in the following manner:
  - (1) For purposes of determining the exemption provided for in subdivision a and with respect to a unit where there has not been a secondary recovery project, incremental production means the difference between the total amount of oil produced from the unit during the secondary recovery project and the amount of primary production from the unit. For purposes of this paragraph, primary production means the amount of oil which would have been produced from the unit if the secondary recovery project had not been commenced. The industrial commission shall determine the amount of primary production in a manner which conforms to the practice and procedure used by the commission at the time the project is certified.
  - (2) For purposes of determining the exemption provided for in subdivision a and with respect to a unit where a secondary recovery project was in existence prior to July 1, 1991, and where the industrial commission cannot establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the unit during a new secondary recovery project and the amount of production which would be equivalent to the average monthly production from the unit during the most recent twelve months of normal production reduced by a production decline rate of ten percent for each year. The industrial commission shall determine the average monthly production from the unit during the most recent twelve months of normal production and must upon request or upon its own motion hold a hearing to make this determination. For purposes of this paragraph, when determining the most recent twelve months of normal production the industrial commission is not required to use twelve consecutive months. In addition, the production decline rate of ten percent must be applied from the last month in the twelve-month period of time.
  - (3) For purposes of determining the exemption provided for in subdivision a and with respect to a unit where a secondary recovery project was in existence before July 1, 1991, and where the industrial commission can establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the unit during the new secondary recovery project and the total amount of oil that

would have been produced from the unit if the new secondary recovery project had not been commenced. For purposes of this paragraph, the total amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced includes both primary production and production that occurred as a result of the secondary recovery project that was in existence before July 1, 1991. The industrial commission shall determine the amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced in a manner that conforms to the practice and procedure used by the commission at the time the new secondary recovery project is certified.

- (4) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there has not been a secondary recovery project, incremental production means the difference between the total amount of oil produced from the unit during the tertiary recovery project and the amount of primary production from the unit. For purposes of this paragraph, primary production means the amount of oil which would have been produced from the unit if the tertiary recovery project had not been commenced. The industrial commission shall determine the amount of primary production in a manner which conforms to the practice and procedure used by the commission at the time the project is certified.
  - (5) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there is or has been a secondary recovery project, incremental production means the difference between the total amount of oil produced during the tertiary recovery project and the amount of production which would be equivalent to the average monthly production from the unit during the most recent twelve months of normal production reduced by a production decline rate of ten percent for each year. The industrial commission shall determine the average monthly production from the unit during the most recent twelve months of normal production and must upon request or upon its own motion hold a hearing to make this determination. For purposes of this paragraph, when determining the most recent twelve months of normal production the industrial commission is not required to use twelve consecutive months. In addition, the production decline rate of ten percent must be applied from the last month in the twelve-month period of time.
  - (6) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there is or has been a secondary recovery project and where the industrial commission can establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the unit during the tertiary recovery project and the total amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced. For purposes of this paragraph, the total amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced includes both primary production and production that occurred as a result of any secondary recovery project. The industrial commission shall determine the amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced in a manner that conforms to the practice and procedure used by the commission at the time the tertiary recovery project is certified.
- d. The industrial commission shall adopt rules relating to this exemption that must include procedures for determining incremental production as defined in subdivision c.

6. The production of oil from a two-year inactive well, as determined by the industrial commission and certified to the state tax commissioner, for a period of ten years after the date of receipt of the certification. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.
7. The production of oil from a horizontal reentry well, as determined by the industrial commission and certified to the state tax commissioner, for a period of nine months after the date the well is completed as a horizontal well. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.
8. The initial production of oil from a well is exempt from any taxes imposed under this chapter for a period of sixty months if:
  - a. The well is located within the boundaries of an Indian reservation;
  - b. The well is drilled and completed on lands held in trust by the United States for an Indian tribe or individual Indian; or
  - c. The well is drilled and completed on lands held by an Indian tribe if the interest is in existence on August 1, 1997.
9. The first seventy-five thousand barrels of oil produced during the first eighteen months after completion, from a horizontal well drilled and completed in the Bakken formation after June 30, 2007, and before July 1, 2008, is subject to a reduced tax rate of two percent of the gross value at the well of the oil extracted under this chapter. A well eligible for a reduced tax rate under this subsection is eligible for the exemption for horizontal wells under subsection 3, if the exemption under subsection 3 is effective during all or part of the first twenty-four months after completion.

**SECTION 2. EFFECTIVE DATE - EXPIRATION DATE.** This Act is effective for taxable events occurring after June 30, 2011, and is effective through June 30, 2013, and is thereafter ineffective."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HCR 3016: Industry, Business and Labor Committee (Rep. Keiser, Chairman)** recommends **DO PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HCR 3016 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3034: Human Services Committee (Rep. Weisz, Chairman)** recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3034 was placed on the Tenth order on the calendar.

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

**Buell J. Reich, Chief Clerk**