

JOURNAL OF THE HOUSE

Sixty-fourth Legislative Assembly

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Bismarck, January 23, 2015

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

The prayer was offered by Rep. Sukut.

The roll was called and all members were present except Representatives Belter, Hawken, Mitskog, and Thoreson.

A quorum was declared by the Acting Speaker.

SIXTH ORDER OF BUSINESS

ACTING SPEAKER DEVLIN DEEMED approval of the amendments to HB 1045, HB 1048, HB 1136, HB 1162, HB 1277, and HB 1323.

HB 1045, HB 1048, HB 1136, HB 1162, HB 1277, and HB 1323, as amended, were placed on the Eleventh order of business on the calendar for the succeeding legislative day.

MOTION

REP. VIGESAA MOVED that HB 1382 be returned to the House floor from the **Energy and Natural Resources Committee** and be rereferred to the **Industry, Business and Labor Committee**, which motion prevailed.

Pursuant to Rep. Vigesaa's motion, HB 1382 was rereferred.

MOTION

REP. VIGESAA MOVED that HB 1073 be moved to the bottom of the calendar, which motion prevailed.

SECOND READING OF HOUSE BILL

HB 1316: A BILL for an Act to create and enact section 15.1-14-03.1 and a new section to chapter 15.1-15 of the North Dakota Century Code, relating to the evaluation and nonrenewal of principals and school district superintendents; and to amend and reenact sections 15.1-14-03 and 15.1-14-12 of the North Dakota Century Code, relating to the evaluation and nonrenewal of school district superintendents.

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 59 YEAS, 31 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

YEAS: Amerman; Anderson, B.; Anderson, D.; Anderson, P.; Boe; Boschee; Damschen; Delmore; Dockter; Fehr; Frantsov; Glassheim; Guggisberg; Haak; Hanson; Hatlestad; Headland; Hofstad; Hogan; Holman; Hunsakor; Johnson, D.; Johnson, M.; Kading; Karls; Keiser; Kelsh; Kiefert; Klein; Klemin; Kreidt; Laning; Larson; Looyen; Maragos; Martinson; Meier; Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Onstad; Oversen; Owens; Porter; Sanford; Schneider; Schreiber Beck; Seibel; Silbernagel; Strinden; Sukut; Toman; Trottier; Wallman; Zubke

NAYS: Beadle; Becker, Rich S.; Becker, Rick C.; Bellew; Boehning; Brabandt; Brandenburg; Carlson; Delzer; Devlin; Dosch; Froseth; Kasper; Kempenich; Koppelman, B.; Koppelman, K.; Kretschmar; Lefor; Louser; Olson; Paur; Pollert; Rohr; Ruby; Schatz; Schmidt; Skarphol; Steiner; Streyle; Vigesaa; Weisz

ABSENT AND NOT VOTING: Hawken; Mitskog; Thoreson; Speaker Belter

HB 1316 passed.

SECOND READING OF HOUSE BILL

HB 1146: A BILL for an Act to amend and reenact sections 26.1-44-01.1, 26.1-44-03.1, and 26.1-44-06.1 of the North Dakota Century Code, relating to surplus lines of insurance; to repeal section 26.1-44-11 of the North Dakota Century Code, relating to the surplus lines insurance multistate compliance compact; to provide an effective date; and to declare an emergency.

ROLL CALL

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

YEAS: Amerman; Anderson, B.; Anderson, D.; Anderson, P.; Beadle; Becker, Rich S.; Becker, Rick C.; Bellew; Boe; Boehning; Boschee; Brabandt; Brandenburg; Carlson; Damschen; Delmore; Delzer; Devlin; Dockter; Dosch; Fehr; Frantsvog; Froseth; Glassheim; Guggisberg; Haak; Hanson; Hatlestad; Headland; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, M.; Kading; Karls; Kasper; Keiser; Kelsh; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Laning; Larson; Lefor; Looysen; Louser; Maragos; Martinson; Meier; Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Olson; Onstad; Oversen; Owens; Paur; Pollert; Porter; Rohr; Ruby; Sanford; Schatz; Schmidt; Schneider; Schreiber Beck; Seibel; Silbernagel; Skarphol; Steiner; Streyle; Strinden; Sukut; Toman; Trottier; Vigasaa; Wallman; Weisz; Zubke

ABSENT AND NOT VOTING: Hawken; Mitskog; Thoreson; Speaker Belter

HB 1146 passed and the emergency clause was declared carried.

SECOND READING OF HOUSE BILL

HB 1222: A BILL for an Act provide for anti theft functionality for smartphones; and to provide for a report to the legislative management.

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 19 YEAS, 71 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

YEAS: Amerman; Anderson, P.; Boe; Glassheim; Guggisberg; Haak; Hanson; Hogan; Holman; Kelsh; Meier; Mock; Mooney; Muscha; Nelson, M.; Oversen; Schneider; Strinden; Wallman

NAYS: Anderson, B.; Anderson, D.; Beadle; Becker, Rich S.; Becker, Rick C.; Bellew; Boehning; Boschee; Brabandt; Brandenburg; Carlson; Damschen; Delmore; Delzer; Devlin; Dockter; Dosch; Fehr; Frantsvog; Froseth; Hatlestad; Headland; Hofstad; Hunskor; Johnson, D.; Johnson, M.; Kading; Karls; Kasper; Keiser; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Laning; Larson; Lefor; Looysen; Louser; Maragos; Martinson; Monson; Nathe; Nelson, J.; Olson; Onstad; Owens; Paur; Pollert; Porter; Rohr; Ruby; Sanford; Schatz; Schmidt; Schreiber Beck; Seibel; Silbernagel; Skarphol; Steiner; Streyle; Sukut; Toman; Trottier; Vigasaa; Weisz; Zubke

ABSENT AND NOT VOTING: Hawken; Mitskog; Thoreson; Speaker Belter

HB 1222 failed.

SECOND READING OF HOUSE BILL

HB 1180: A BILL for an Act to amend and reenact section 6-09.10-10 of the North Dakota Century Code, relating to the confidentiality of mediation.

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 90 YEAS, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

YEAS: Amerman; Anderson, B.; Anderson, D.; Anderson, P.; Beadle; Becker, Rich S.; Becker, Rick C.; Bellew; Boe; Boehning; Boschee; Brabandt; Brandenburg; Carlson; Damschen; Delmore; Delzer; Devlin; Dockter; Dosch; Fehr; Frantsvog; Froseth; Glassheim; Guggisberg; Haak; Hanson; Hatlestad; Headland; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, M.; Kading; Karls; Kasper; Keiser; Kelsh; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Laning; Larson; Lefor; Looysen; Louser; Maragos; Martinson; Meier; Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Olson; Onstad; Oversen; Owens; Paur; Pollert; Porter; Rohr; Ruby; Sanford; Schatz; Schmidt; Schneider; Schreiber Beck; Seibel; Silbernagel; Skarphol; Steiner; Streyle; Strinden; Sukut; Toman; Trottier; Vigasaa; Wallman; Weisz; Zubke

ABSENT AND NOT VOTING: Hawken; Mitskog; Thoreson; Speaker Belter

HB 1180 passed.

SECOND READING OF HOUSE BILL

HB 1183: A BILL for an Act to amend and reenact section 14-03-20.2 of the North Dakota Century Code, relating to middle name options on a marriage license application or marriage license.

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 90 YEAS, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

YEAS: Amerman; Anderson, B.; Anderson, D.; Anderson, P.; Beadle; Becker, Rich S.; Becker, Rick C.; Bellew; Boe; Boehning; Boschee; Brabandt; Brandenburg; Carlson; Damschen; Delmore; Delzer; Devlin; Dockter; Dosch; Fehr; Frantsvog; Froseth; Glassheim; Guggisberg; Haak; Hanson; Hatlestad; Headland; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, M.; Kading; Karls; Kasper; Keiser; Kelsh; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Laning; Larson; Lefor; Looysen; Louser; Maragos; Martinson; Meier; Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Olson; Onstad; Oversen; Owens; Paur; Pollert; Porter; Rohr; Ruby; Sanford; Schatz; Schmidt; Schneider; Schreiber Beck; Seibel; Silbernagel; Skarphol; Steiner; Streyle; Strinden; Sukut; Toman; Trottier; Vigasaa; Wallman; Weisz; Zubke

ABSENT AND NOT VOTING: Hawken; Mitskog; Thoreson; Speaker Belter

HB 1183 passed.

SECOND READING OF HOUSE BILL

HB 1169: A BILL for an Act to create and enact subdivision m to subsection 7 of section 11-18-02.2 and subsection 7 to section 11-18-03 of the North Dakota Century Code, relating to the exemption of transfers on death deeds from required statements of full consideration and recording of transfers on death deeds without regard to taxes.

ROLL CALL

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

YEAS: Amerman; Anderson, B.; Anderson, D.; Anderson, P.; Beadle; Becker, Rich S.; Becker, Rick C.; Bellew; Boe; Boehning; Boschee; Brabandt; Brandenburg; Carlson; Damschen; Delmore; Delzer; Devlin; Dockter; Dosch; Fehr; Frantsvog; Froseth;

Glassheim; Guggisberg; Haak; Hanson; Hatlestad; Headland; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, M.; Kading; Karls; Kasper; Keiser; Kelsh; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Laning; Larson; Lefor; Looyesen; Louser; Maragos; Martinson; Meier; Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Olson; Onstad; Oversen; Owens; Paur; Pollert; Porter; Rohr; Ruby; Sanford; Schatz; Schmidt; Schneider; Schreiber Beck; Seibel; Silbernagel; Skarphol; Steiner; Streyle; Strinden; Sukut; Toman; Trottier; Vigasaa; Wallman; Weisz; Zubke

ABSENT AND NOT VOTING: Hawken; Mitskog; Thoreson; Speaker Belter

Engrossed HB 1169 passed.

SECOND READING OF HOUSE BILL

HB 1220: A BILL for an Act to create and enact section 47-34-02.1 of the North Dakota Century Code, relating to the acceptance of funds by closing agents in real estate transactions.

ROLL CALL

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

YEAS: Amerman; Anderson, B.; Anderson, D.; Anderson, P.; Beadle; Becker, Rich S.; Becker, Rick C.; Bellew; Boe; Boehning; Boschee; Brabandt; Brandenburg; Carlson; Damschen; Delmore; Delzer; Devlin; Dockter; Dosch; Fehr; Frantsvog; Froseth; Glassheim; Guggisberg; Haak; Hanson; Hatlestad; Headland; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, M.; Kading; Karls; Kasper; Keiser; Kelsh; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Laning; Larson; Lefor; Looyesen; Louser; Maragos; Martinson; Meier; Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Olson; Onstad; Oversen; Owens; Paur; Pollert; Porter; Rohr; Ruby; Sanford; Schatz; Schmidt; Schneider; Schreiber Beck; Seibel; Silbernagel; Skarphol; Steiner; Streyle; Strinden; Sukut; Toman; Trottier; Vigasaa; Wallman; Weisz; Zubke

ABSENT AND NOT VOTING: Hawken; Mitskog; Thoreson; Speaker Belter

Engrossed HB 1220 passed.

SECOND READING OF HOUSE BILL

HB 1293: A BILL for an Act to create and enact chapter 34-06.2 of the North Dakota Century Code, relating to equal pay certificates; to provide for a report to legislative management; and to provide a continuing appropriation.

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 22 YEAS, 67 NAYS, 0 EXCUSED, 5 ABSENT AND NOT VOTING.

YEAS: Amerman; Anderson, P.; Boe; Boschee; Delmore; Glassheim; Guggisberg; Haak; Hanson; Hogan; Holman; Hunskor; Kelsh; Mock; Mooney; Muscha; Nelson, M.; Onstad; Oversen; Schneider; Strinden; Wallman

NAYS: Anderson, B.; Anderson, D.; Beadle; Becker, Rich S.; Becker, Rick C.; Bellew; Boehning; Brabandt; Brandenburg; Carlson; Damschen; Delzer; Devlin; Dockter; Dosch; Fehr; Froseth; Hatlestad; Headland; Hofstad; Johnson, D.; Johnson, M.; Kading; Karls; Kasper; Keiser; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Laning; Larson; Lefor; Looyesen; Louser; Maragos; Martinson; Meier; Monson; Nathe; Nelson, J.; Olson; Owens; Paur; Pollert; Porter; Rohr; Ruby; Sanford; Schatz; Schmidt; Schreiber Beck; Seibel; Silbernagel; Skarphol; Steiner; Streyle; Sukut; Toman; Trottier; Vigasaa; Weisz; Zubke

ABSENT AND NOT VOTING: Frantsvog; Hawken; Mitskog; Thoreson; Speaker Belter

HB 1293 failed.

SECOND READING OF HOUSE BILL

HB 1308: A BILL for an Act to provide for a department of human services study of the method for calculating child support payments in the state.

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 28 YEAS, 61 NAYS, 0 EXCUSED, 5 ABSENT AND NOT VOTING.

YEAS: Beadle; Becker, Rick C.; Bellew; Boe; Boschee; Brandenburg; Glassheim; Haak; Headland; Johnson, M.; Kasper; Lefor; Meier; Nelson, J.; Nelson, M.; Olson; Onstad; Oversen; Paur; Pollert; Rohr; Ruby; Schatz; Schmidt; Skarphol; Steiner; Strinden; Zubke

NAYS: Amerman; Anderson, B.; Anderson, D.; Anderson, P.; Becker, Rich S.; Boehning; Brabandt; Carlson; Damschen; Delmore; Delzer; Devlin; Dockter; Dosch; Fehr; Froseth; Guggisberg; Hanson; Hatlestad; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Kading; Karls; Keiser; Kelsh; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Laning; Larson; Looyen; Louser; Maragos; Martinson; Mock; Monson; Mooney; Muscha; Nathe; Owens; Porter; Sanford; Schneider; Schreiber Beck; Seibel; Silbernagel; Streyle; Sukut; Toman; Trottier; Vigesaa; Wallman; Weisz

ABSENT AND NOT VOTING: Frantsvog; Hawken; Mitskog; Thoreson; Speaker Belter

HB 1308 failed.

SECOND READING OF HOUSE RESOLUTIONS ON CONSENT CALENDAR

HCR 3002: A concurrent resolution directing the Legislative Management to study issues related to restitution for criminal acts.

HCR 3004: A concurrent resolution directing the Legislative Management to continue to study medicolegal death investigation in the state and how current best practices, including authorization, reporting, training, certification, and the use of information technology and toxicology, can improve death investigation systems in the state.

HCR 3005: A concurrent resolution directing the Legislative Management to study the system of care for individuals with brain injury.

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

HCR 3002, HCR 3004, and HCR 3005 were declared adopted on a voice vote.

MESSAGE TO THE HOUSE FROM THE SENATE (JANE SCHAIBLE, SECRETARY)

MR. SPEAKER: The Senate has passed, and your favorable consideration is requested on: SB 2104, SB 2205.

MESSAGE TO THE HOUSE FROM THE SENATE (JANE SCHAIBLE, SECRETARY)

MR. SPEAKER: The Senate has passed, and your favorable consideration is requested on: SB 2184.

MOTION

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

MOTION

REP. VIGESAA MOVED that the House be on the Fourth, Fifth, and Ninth orders of business and at the conclusion of those orders, the House stand adjourned until 1:00 p.m., Monday, January 26, 2015, which motion prevailed.

REPORT OF STANDING COMMITTEE

HB 1044: Education Committee (Rep. Nathe, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1044 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to compiling and reporting of scholarship information; to"

Page 1, after line 6, insert:

"SECTION 1. A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

State board of higher education - Compiling and reporting scholarship information.

The North Dakota university system shall utilize the state longitudinal data system to compile the graduation rates of students who received either the North Dakota academic scholarship or the North Dakota career and technical education scholarship. The North Dakota university system shall provide the compiled report annually to the legislative management."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1083: Government and Veterans Affairs Committee (Rep. Kasper, Chairman) recommends **DO PASS** (13 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1083 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1085: Government and Veterans Affairs Committee (Rep. Kasper, Chairman) recommends **DO PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1085 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1093: Transportation Committee (Rep. Ruby, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1093 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1097: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1097 was placed on the Sixth order on the calendar.

Page 1, line 12, replace "aggrieved person" with "state engineer"

Page 1, line 12, after "must" insert "receive the"

Page 1, line 12, after "request" insert "for"

Page 1, line 13, after "days" insert "after the aggrieved person knew or should have reasonably known"

Page 2, line 1, after the first "applicant" insert "is"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1131: Government and Veterans Affairs Committee (Rep. Kasper, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1131 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1133: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1133 was placed on the Sixth order on the calendar.

Page 1, line 8, replace "subsection 10" with "subsections 5, 6, 7, 10, 15, and 16"

Page 1, line 8, replace the second "section" with "sections 57-36-02, 57-36-04, 57-36-05, 57-36-09, 57-36-09.1, 57-36-24,"

Page 1, line 8, after the fourth comma insert "57-36-26, 57-36-28, 57-36-29, and 57-36-33,"

Page 1, line 9, replace the second "section" with "sections 57-39.2-03.9, 57-40.2-03.2, and"

Page 1, line 14, after the first comma insert "sales tax and use tax on tobacco products,"

Page 4, replace lines 16 through 19 with:

"SECTION 8. AMENDMENT. Subsections 5, 6, 7, 10, 15, and 16 of section 57-36-01 of the North Dakota Century Code are amended and reenacted as follows:

5. "Consumer" means any person who has title to or possession of cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products in storage, for use or other consumption in this state.
6. "Dealer" includes any person other than a distributor who is engaged in the business of selling cigarettes, cigarette papers, cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products, or any product of a cigarette-making machine.
7. "Distributor" includes any person engaged in the business of producing or manufacturing cigarettes, cigarette papers, cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products, or importing into this state cigarettes, cigarette papers, cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products, for the purpose of distribution and sale thereof to dealers and retailers.
10. "Other tobacco products" means snuff and chewing tobacco; any product, not otherwise defined in this section, which is made up or composed of tobacco in whole or in part. "Other tobacco products" do not include any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar noncombustible product, or device containing nicotine which employs a heating element, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, which can be used to produce vapor from nicotine in a solution or other form, or any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.
15. "Storage" means any keeping or retention of cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products for use or consumption in this state.
16. "Use" means the exercise of any right or power incidental to the ownership or possession of cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products.

SECTION 9. AMENDMENT. Section 57-36-02 of the North Dakota Century Code is amended and reenacted as follows:

57-36-02. Distributors and dealers to be licensed.

Each person engaged in the business of selling cigarettes, cigarette papers, snuff, cigars, pipe tobacco, chewing tobacco, or other tobacco products in this state, including any distributor or dealer, must secure a license from the attorney general before engaging or continuing to engage in business. A separate application and license is required for each distributor at each outlet or place of business within the state, and a separate dealer's license is required for each retail outlet when a person owns or controls more than one place of business dealing in cigarettes, cigarette papers, snuff, cigars, pipe tobacco, chewing tobacco, or other tobacco products. No retailer will be granted a distributor's license except a retailer who, in the usual course of business, performed a distributor's or wholesaler's function for at least one year prior to filing the license application. The application prescribed by the attorney general must include the name and address of the applicant, the address and place of business, the type of business, and other information as required for the proper administration of this chapter. Each application for a wholesale or distributor's outlet license must be accompanied by a fee of twenty-five dollars and a surety bond approved by the attorney general. Each application for a dealer's outlet license must be accompanied by a fee of fifteen dollars. A reinstatement fee of fifty dollars is required in addition to the annual license fee for each license renewal applied for after June thirtieth. The total reinstatement fee may not exceed five hundred dollars for any one licensee in any fiscal year. A distributor's license does not authorize the holder to make retail sales. Each license issued must be prominently displayed on the premises covered by the license.

SECTION 10. AMENDMENT. Section 57-36-04 of the North Dakota Century Code is amended and reenacted as follows:

57-36-04. Revocation of license - Penalty.

The attorney general may revoke the license of any dealer or distributor for failure to comply with any of the provisions of this chapter, or any of the rules or regulations prescribed by the tax commissioner or the attorney general. When a license has been legally revoked, no license may be issued again to the licensee for a period of one year thereafter. A person may not sell any cigarettes, cigarette papers, snuff, cigars, pipe tobacco, chewing tobacco, or other tobacco products after that person's license has been revoked as provided in this chapter.

SECTION 11. AMENDMENT. Section 57-36-05 of the North Dakota Century Code is amended and reenacted as follows:

57-36-05. Unlawful to sell without license.

A dealer or distributor may not sell cigarettes, cigarette papers, snuff, cigars, pipe tobacco, chewing tobacco, or other tobacco products in this state at wholesale or at retail unless a license has been issued to that dealer or distributor as prescribed by this chapter, and a person may not sell, offer for sale, or possess with the intent to sell, any cigarettes, cigarette papers, snuff, cigars, pipe tobacco, chewing tobacco, or other tobacco products without such license.

SECTION 12. AMENDMENT. Section 57-36-09 of the North Dakota Century Code is amended and reenacted as follows:

57-36-09. Records to be kept by distributors and reports made - Penalty.

Distributors shall keep records and make reports relating to purchases and sales of cigarettes, cigarette papers, cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products made by them, and must be punished for failure so to do, as follows:

1. Each distributor who shall dispose of cigarettes, cigarette papers, cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products shall keep and preserve for one year all invoices of cigarettes, cigarette papers, cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products purchased by the distributor and shall permit the state tax

commissioner, and assistants, authorized agents, or representatives of the state tax commissioner, to inspect and examine all taxable merchandise, invoices, receipts, books, papers, and memoranda as may be deemed necessary by the state tax commissioner, and assistants, authorized agents, or representatives of the state tax commissioner in determining the amount of the tax as may be yet due. Each person selling or otherwise disposing of cigarettes, cigarette papers, cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products as a distributor shall keep a record of all sales made within the state showing the name and address of the purchaser and the date of sale. For sales of other tobacco products, the records must also include the net weight in ounces, as listed by the manufacturer.

2. On or before the fifteenth day of each month, each licensed distributor, on such form as the state tax commissioner shall prescribe, shall report to the tax commissioner all purchases and sales of cigarettes, cigarette papers, cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products made from or to any persons either within or without this state during the preceding month. For sales of other tobacco products, each licensed distributor shall also report to the tax commissioner the net weight in ounces, as listed by the manufacturer. The tax levied by this chapter is payable monthly and must be remitted to the tax commissioner by each licensed distributor on or before the fifteenth day of the month following the monthly period.
3. Any person failing to file any prescribed form or return or to pay any tax within the time required or permitted by this section is subject to a penalty of five percent of the amount of tax due or five dollars, whichever is greater, plus interest of one percent of the tax per month or fraction of a month of delay except the first month after the return or the tax became due. The tax commissioner, if satisfied that the delay was excusable, may waive all or any part of the penalty. The penalty must be paid to the tax commissioner and disposed of in the same manner as are other receipts under this chapter.

SECTION 13. AMENDMENT. Section 57-36-09.1 of the North Dakota Century Code is amended and reenacted as follows:

57-36-09.1. Warehouse - Record of deliveries and shipments.

Records of all deliveries of shipments of cigarettes ~~and cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products~~ from a licensed public warehouse to persons within this state must be kept by the warehouse and be available to the tax commissioner for inspection. They must show the name and address of the consignee, the date, the quantity of cigarettes, snuff, cigars, pipe tobacco, chewing tobacco, or other tobacco products delivered, and such other information as the tax commissioner may require. These records must be preserved for one year from the date of delivery of the cigarettes, snuff, cigars, pipe tobacco, chewing tobacco, or other tobacco products.

SECTION 14. AMENDMENT. Section 57-36-24 of the North Dakota Century Code is amended and reenacted as follows:

57-36-24. Exemptions.

All gift cigarettes, snuff, cigars, pipe tobacco, chewing tobacco, and other tobacco products, not for resale, which are given to the North Dakota veterans' home or the North Dakota state hospital for distribution to the occupants thereof, are exempt from the excise taxes levied under this chapter."

Page 5, remove the overstrike over lines 8 and 9

Page 5, after line 28, insert:

"SECTION 16. AMENDMENT. Section 57-36-26 of the North Dakota Century Code is amended and reenacted as follows:

57-36-26. Cigars, pipe tobacco, chewing tobacco, snuff, and other tobacco products - Excise tax payable by dealers - Reports - Penalties - Collection - Allocation of revenue.

1. There is levied and assessed, upon all cigars and pipe tobacco purchased in another state and brought into this state by a dealer for the purpose of sale at retail, an excise tax at the rate of twenty-eight percent of the wholesale purchase price and, upon all chewing tobacco, snuff, and other tobacco products purchased in another state and brought into this state by a dealer for the purpose of sale at retail, an excise tax at the rates indicated in section 57-36-25, at the time the products were brought into this state. For the purposes of this section, the term "wholesale purchase price" means the established price for which a manufacturer sells cigars or pipe tobacco to a distributor exclusive of any discount or other reduction. However, the dealer may elect to report and remit the tax on the cost price of the products to the dealer rather than on the wholesale purchase price. The proceeds of the tax, together with the forms of return and in accordance with any rules and regulations the tax commissioner may prescribe, must be remitted to the tax commissioner by the dealer on a monthly basis on or before the fifteenth day of the month following the monthly period for which it is paid. The tax commissioner shall have the authority to place any dealer on an annual remittance basis when in the judgment of the tax commissioner the operations of the dealer merit that remittance period. In addition, the tax commissioner shall have the authority to permit the consolidation of the filing of a dealer's return when the dealer has more than one location and thereby would be required to file more than one return.
2. If cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products have been subjected already to a tax by any other state in respect to their sale in an amount less than the tax imposed by this section, the provisions of this section apply, but at a rate measured by the difference only between the rate fixed in this section and the rate by which the previous tax upon the sale was computed. If the tax imposed in the other state is twenty percent of the wholesale purchase price or more, then no tax is due on the article. The provisions of this subsection apply only if the other state allows a tax credit with respect to the excise tax on cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products imposed by this state which is substantially similar in effect to the credit allowed by this subsection.
3. Any person failing to file any prescribed forms of return or to pay any tax within the time required by this section is subject to a penalty of five dollars or a sum equal to five percent of the tax due, whichever is greater, plus one percent of the tax for each month of delay or fraction thereof excepting the month within which the return was required to be filed or the tax became due. The tax commissioner, if satisfied that the delay was excusable, may waive all or any part of the penalty. The penalty must be paid to the tax commissioner and disposed of in the same manner as are other receipts under this chapter.
4. All moneys received by the tax commissioner under the provisions of this section must be transmitted to the state treasurer at the end of each month and deposited in the state treasury to the credit of the general fund.

SECTION 17. AMENDMENT. Section 57-36-28 of the North Dakota Century Code is amended and reenacted as follows:

57-36-28. Consumer's use tax - Cigars, pipe tobacco, chewing tobacco, snuff, and other tobacco products - Reports - Remittances.

1. A tax is imposed upon the use or storage by consumers of cigars, pipe tobacco, chewing tobacco, snuff, and other tobacco products in this state, and upon those consumers, at the rates indicated in section 57-36-25.
2. This tax does not apply if the tax imposed by section 57-36-25 or 57-36-26 has been paid and it does not apply to cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products exempt under section 57-36-24.
3. On or before the tenth day of each calendar quarter, every consumer who, during the preceding calendar quarter, has acquired title to or possession of cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products for use or storage in this state, upon which products the tax imposed by either section 57-36-25 or 57-36-26 has not been paid, shall file a return with the tax commissioner showing the quantity of such products so acquired. For sales of other tobacco products, the return must also include the net weight in ounces, as listed by the manufacturer. The return must be made upon a form furnished and prescribed by the tax commissioner and must contain such other information as the tax commissioner may require. The return must be accompanied by a remittance for the full unpaid tax liability shown by it.
4. As soon as practicable after any return is filed, the tax commissioner shall examine the return and correct it, if necessary, according to the tax commissioner's best judgment and information.
5. If any consumer required to pay the tax levied by this section fails to file a return or remit the tax as required, the tax commissioner shall make an assessment of tax against the consumer according to the tax commissioner's best judgment and information.
6. All of the provisions of this chapter relating to corrections of returns, deficiency assessments, protests, hearings, interest and penalties, and collections of taxes apply to consumers under this section.

SECTION 18. AMENDMENT. Section 57-36-29 of the North Dakota Century Code is amended and reenacted as follows:

57-36-29. Correction of errors.

1. If it appears that as a result of a mistake an amount of tax, penalty, or interest has been paid which was not due under the provisions of this chapter, then such amount becomes due under this chapter, and the amount must be credited or refunded to such person or firm by the tax commissioner.
2. Whenever a distributor destroys cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products accidentally, or intentionally, because of staleness or other unfitness for sale, a credit or refund must be given to the wholesaler under the terms and conditions prescribed by the tax commissioner.

SECTION 19. AMENDMENT. Section 57-36-33 of the North Dakota Century Code is amended and reenacted as follows:

57-36-33. Penalties for violation of chapter.

Except as otherwise provided in this chapter:

1. Any person who violates any provision of this chapter is guilty of a class A misdemeanor.

2. All cigarettes, cigarette papers, cigars, pipe tobacco, chewing tobacco, snuff, or other tobacco products in the possession of the person who violates any provision of this chapter, or in the place of business of the person, may be confiscated by the tax commissioner as provided under section 57-36-14 and forfeited to the state. Any cigarette-making machine that is maintained or operated in violation of sections 57-36-05.3, 57-36-05.4, or 57-36-06.1 must be confiscated by the tax commissioner and forfeited to the state in accordance with chapter 29-31.1."

Page 6, after line 18, insert:

"SECTION 22. AMENDMENT. Section 57-39.2-03.9 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-03.9. Sales tax on tobacco products.

Notwithstanding any other provision of law, the sales taxes imposed by this chapter apply to the gross receipts of retailers from all sales at retail of cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, and other tobacco products. For purposes of this section, "gross receipts" from the sale of cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, and other tobacco products includes any other taxes imposed on ~~such~~the merchandise or its use or on the retail or other sale of ~~such~~the merchandise.

SECTION 23. AMENDMENT. Section 57-40.2-03.2 of the North Dakota Century Code is amended and reenacted as follows:

57-40.2-03.2. Use tax on tobacco products.

Notwithstanding any other provision of law, the use taxes imposed by this chapter apply to the storage, use, or consumption in this state of cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, and other tobacco products, provided that gross receipts from the sale ~~thereof~~ cigarettes, cigars, pipe tobacco, chewing tobacco, snuff, and other tobacco products mean and include any other taxes imposed on ~~such~~the merchandise or its use or on the retail or other sale ~~thereof~~ the merchandise."

Page 7, line 16, replace "10" with "20"

Page 7, line 16, replace "11" with "21"

Page 7, line 17, replace "8, 12," with "24"

Page 7, line 17, replace "13" with "25"

Page 7, line 18, after the fifth comma insert "8,"

Page 7, line 18, after the sixth comma insert "10, 11, 12, 13,"

Page 7, line 18, remove "and"

Page 7, line 18, after "14" insert ", 15, 16, 17, 18, 19, 22, 23, and 26"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1151: Education Committee (Rep. Nathe, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1151 was placed on the Sixth order on the calendar.

Page 1, line 10, remove the overstrike over "4,"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1156: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1156 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1158: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1158 was rereferred to the **Appropriations Committee**.

REPORT OF STANDING COMMITTEE

HB 1171: Transportation Committee (Rep. Ruby, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1171 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1174: Political Subdivisions Committee (Rep. Klemin, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1174 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1177: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **DO NOT PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1177 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1191: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1191 was placed on the Sixth order on the calendar.

Page 1, line 10, replace "doctor" with "physician"

Page 1, line 11, remove "or an individual authorized to act on behalf of a peer support group or a"

Page 1, line 12, remove "nonmedical service agency"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1196: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **DO NOT PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1196 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1199: Government and Veterans Affairs Committee (Rep. Kasper, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1199 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1207: Transportation Committee (Rep. Ruby, Chairman) recommends **DO NOT PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1207 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1237: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 1 NAYS, 4 ABSENT AND NOT VOTING). HB 1237 was placed on the Sixth order on the calendar.

Page 3, line 24, replace "10-37.04" with "10-37-04"

Page 8, line 22, after "identification" insert " of"

Page 9, line 27, after "corporation" insert " - Authority to transact business"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1240: Education Committee (Rep. Nathe, Chairman) recommends **DO NOT PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1240 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1263: Education Committee (Rep. Nathe, Chairman) recommends **DO NOT PASS** (7 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). HB 1263 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1330: Political Subdivisions Committee (Rep. Klemin, Chairman) recommends **DO PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1330 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1331: Transportation Committee (Rep. Ruby, Chairman) recommends **DO NOT PASS** (12 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). HB 1331 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HB 1337: Political Subdivisions Committee (Rep. Klemin, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1337 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

HCR 3006: Government and Veterans Affairs Committee (Rep. Kasper, Chairman) recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3006 was placed on the Tenth order on the calendar.

REPORT OF STANDING COMMITTEE

HCR 3009: Agriculture Committee (Rep. D. Johnson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3009 was placed on the Sixth order on the calendar.

Page 1, line 2, after "industry" insert ", water development industry, and water management industry,"

Page 1, line 17, remove the first "the"

Page 2, line 6, after "industry" insert ", water development industry, and water management industry,"

Renumber accordingly

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

Buell J. Reich, Chief Clerk