

## JOURNAL OF THE HOUSE

## Sixty-fourth Legislative Assembly

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Bismarck, January 27, 2015

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

The prayer was offered by Pastor Tim Jenks, Bethel Lutheran Church, Bismarck.

The roll was called and all members were present except Representative Belter.

A quorum was declared by the Acting Speaker.

## REPORT OF PROCEDURAL COMMITTEE

**MR. SPEAKER:** Your procedural Committee on Employment (Rep. Martinson, Chairman) recommends the following House employees for the Sixty-fourth Legislative Assembly:

## 2015 HOUSE EMPLOYEES

	<u>Chief Clerk</u>	
Buell Reich		Bismarck
	<u>Assistant Chief Clerk</u>	
Fran Gronberg		Bismarck
	<u>Deputy Chief Clerk</u>	
Marlys Kienzle		Bismarck
	<u>Journal Reporter</u>	
Laverne Johnson		Bismarck
	<u>Calendar Clerk</u>	
Janice Thon		Bismarck
	<u>Bill Clerk</u>	
Frank LaQua		Bismarck
	<u>Video Recording Clerk</u>	
Joel Melarvie		Mandan
	<u>Sergeant-at-Arms</u>	
Jerry Moszer		Bismarck
	<u>Deputy Sergeant-at-Arms</u>	
Dwight Eckart		Bismarck
	<u>Assistant Sergeants-at-Arms</u>	
Roman Weiler		Mandan
Thomas Conlon		Mandan
Gwyn Herman		Bismarck
Dennis Kunz		Bismarck
Lyle Lauf		Bismarck
Brenda Huff		Bismarck
	<u>Administrative Assistant to the Speaker</u>	
Arlene Melavarie		Mandan
	<u>Administrative Assistant to the Majority Leader</u>	
Neva Carlisle		Bismarck
	<u>Staff Assistant to the Majority Leader</u>	
Conner Swanson		Bowman
Rosalyn Leighton		Minneapolis, MN
	<u>Administrative Assistant to the Minority Leader</u>	
Cynthia Kaldor		Bismarck
	<u>Staff Assistant to the Minority Leader</u>	
Robert Haider		Fargo
	<u>Communications Director (both houses)</u>	
Allison Kelly		Bismarck
	<u>Assistant Committee Clerk</u>	

Rebecca Strege		Bismarck
Jade Konig		Bismarck
Kenneth Torkelson		Bismarck
	<u>Appropriations Committee Clerk</u>	
RoyAnn Bold		Bismarck
	<u>Assistant Appropriations Committee Clerks</u>	
Gail Hrdlicka		Bismarck
Angie Dinius		Bismarck
Sheri Lewis		Bismarck
	<u>Committee Clerks</u>	
Vicky Crabtree		Mandan
Delores Shimek		Bismarck
Stephanie Schrader		Bismarck
Amanda Muscha		Biramwood, WI
ReMae Kuehn		Mandan
Jeanette Cook		New Salem
Carmen Hart		Bismarck
Mary Brucker		Bismarck
Ellen LeTang		Mandan
Donna Whetham		Wilton
	<u>Chief Legislative Assistant</u>	
Virginia Emineth		Wilton
	<u>Desk Legislative Assistant</u>	
Elvira R. Ketterling		Bismarck
	<u>Legislative Assistants</u>	
Marge Conley		Wilton
Nicholas Schon		Bismarck
Reed Christensen		Bismarck
Arlene Flanders		Robinson
Aaron Landie		Bismarck
Mary Rennick		Bismarck
	<u>Information Kiosk</u>	
Joan VonRueden		Bismarck
	<u>Parking Lot Attendant</u>	
Mark Johnstone		Bismarck

**REP. MARAGOS MOVED** that the report be adopted, which motion prevailed on a voice vote.

#### Oath of Office

**ACTING SPEAKER DEVLIN ADMINISTERED** the Oath of Office to the 2015 House employees

#### CORRECTION AND REVISION OF THE JOURNAL

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

Page 52, line 8, replace "**Finance and Taxation Committee**" with "**Government and Veterans Affairs Committee**"

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

#### SIXTH ORDER OF BUSINESS

**ACTING SPEAKER DEVLIN DEEMED** approval of the amendments to HB 1096, HB 1182, and HB 1203.

HB 1096, HB 1182, and HB 1203, as amended, were placed on the Eleventh order of business on the calendar for the succeeding legislative day.

**MOTION**

**REP. VIGESAA MOVED** that HB 1073, which is on the Eleventh order, be rereferred to the **Industry, Business and Labor Committee**, which motion prevailed. Pursuant to Rep. Vigesaa's motion, HB 1073 was rereferred.

**MOTION**

**REP. VIGESAA MOVED** that HB 1306 be returned to the House floor from the **Political Subdivisions Committee** for the purpose of withdrawal, which motion prevailed.

**REQUEST**

**REP. K. KOPPELMAN REQUESTED** the unanimous consent of the House to withdraw HB 1306. There being no objection, it was so ordered by the Speaker.

**MOTION**

**REP. VIGESAA MOVED** that Engrossed HB 1203 be rereferred to the **Appropriations Committee**, which motion prevailed. Pursuant to Rep. Vigesaa's motion, Engrossed HB 1203 was rereferred.

**SECOND READING OF HOUSE BILL**

**HB 1083:** A BILL for an Act to provide for a legislative management study of statutory and regulatory requirements placed on North Dakota state government agencies by United States government agencies.

**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 77 YEAS, 16 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**NAYS:** Brandenburg; Carlson; Delmore; Delzer; Devlin; Glassheim; Guggisberg; Hogan; Holman; Kelsh; Kreidt; Nelson, M.; Pollert; Schmidt; Strinden; Wallman

**ABSENT AND NOT VOTING:** Speaker Belter

HB 1083 passed.

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**SECOND READING OF HOUSE BILL**

**HB 1085:** A BILL for an Act to create and enact a new section to chapter 54-27 of the North Dakota Century Code, relating to federal funds reporting requirements by state agencies and reports to the legislative management; and to amend and reenact section 54-27-27 of the North Dakota Century Code, relating to federal grant applications reporting requirements by state agency.

**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 74 YEAS, 19 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Anderson, B.; Anderson, D.; Anderson, P.; Beadle; Becker, Rich S.; Becker, Rick C.; Bellew; Boe; Boehning; Brabandt; Brandenburg; Carlson; Damschen; Delmore; Delzer; Devlin; Dockter; Dosch; Fehr; Frantsvog; Froseth; Glassheim; Hatlestad; Hawken; Headland; Hofstad; Hunskor; Johnson, D.; Johnson, M.; Kading; Karls; Kasper; Keiser; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.;

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; Thoreson; Toman; Trottier; Vigesaa; Weisz; Zubke

**NAYS:** Amerman; Boschee; Guggisberg; Haak; Hanson; Hogan; Holman; Kelsh; Kreidt; Mitskog; Mock; Mooney; Muscha; Nelson, M.; Onstad; Oversen; Schneider; Strinden; Wallman

**ABSENT AND NOT VOTING:** Speaker Belter

HB 1085 passed.

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### SECOND READING OF HOUSE BILL

**HB 1131:** A BILL for an Act to amend and reenact section 37-19.1-02 of the North Dakota Century Code, relating to the employment preference for veterans.

### 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, 2 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson, B.; Anderson, D.; Anderson, P.; Beadle; Becker, Rich S.; Bellew; Boe; Boehning; Boschee; Brabandt; Brandenburg; Carlson; Damschen; Delmore; Delzer; Devlin; Dockter; Dosch; Fehr; Frantsvog; Froseth; Glassheim; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Headland; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, M.; Karls; Kasper; Keiser; Kelsh; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Laning; Larson; Lefor; Looyesen; Louser; Maragos; Martinson; Meier; Mitskog; 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; Thoreson; Toman; Trottier; Vigesaa; Wallman; Weisz; Zubke

**NAYS:** Becker, Rick C.; Kading

**ABSENT AND NOT VOTING:** Speaker Belter

HB 1131 passed.

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### SECOND READING OF HOUSE BILL

**HB 1199:** A BILL for an Act to amend and reenact subsection 4 of section 54-03-20 of the North Dakota Century Code, relating to housing reimbursement for members of the legislative assembly; 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 91 YEAS, 2 NAYS, 0 EXCUSED, 1 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; Glassheim; Guggisberg; Haak; Hanson; Hatlestad; Hawken; 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; Mitskog; Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Olson; Onstad; Oversen; Owens; Pollert; Porter; Rohr; Ruby; Sanford; Schatz; Schmidt; Schneider; Schreiber Beck; Seibel; Silbernagel; Skarphol; Steiner; Streyle; Strinden; Sukut; Thoreson; Toman; Trottier; Vigesaa; Wallman; Weisz; Zubke

**NAYS:** Froseth; Paur

**ABSENT AND NOT VOTING:** Speaker Belter

HB 1199 passed and the emergency clause was declared carried.

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### SECOND READING OF HOUSE BILL

**HB 1174:** A BILL for an Act to amend and reenact section 15.1-16-03 of the of the North Dakota Century Code, relating to education factfinding commission compensation.

### 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, 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; Hawken; 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; Mitskog; 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; Thoreson; Toman; Trottier; Vigesaa; Wallman; Weisz; Zubke

**ABSENT AND NOT VOTING:** Speaker Belter

HB 1174 passed.

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### SECOND READING OF HOUSE BILL

**HB 1330:** A BILL for an Act to amend and reenact section 50 of chapter 257 of the 2013 Session Laws, relating to the contingent effective date for implementation of the electronic filing system.

### 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 89 YEAS, 4 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson, B.; Anderson, D.; 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; Hawken; Headland; Hofstad; Hogan; Holman; Hunskor; 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; Mitskog; Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Olson; Oversen; Owens; Paur; Pollert; Porter; Rohr; Ruby; Sanford; Schatz; Schmidt; Schneider; Schreiber Beck; Seibel; Silbernagel; Skarphol; Steiner; Strinden; Sukut; Thoreson; Toman; Trottier; Vigesaa; Wallman; Weisz; Zubke

**NAYS:** Anderson, P.; Kelsh; Onstad; Streyle

**ABSENT AND NOT VOTING:** Speaker Belter

HB 1330 passed.

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**SECOND READING OF HOUSE BILL**

**HB 1337:** A BILL for an Act to amend and reenact subsection 2 of section 44-04-18, subsection 1 of section 44-04-18.3, section 44-04-18.20, and subsection 7 of section 44-04-19.1 of the North Dakota Century Code, relating to the regulation and enforcement of the open record and meeting laws.

**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, 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; Hawken; 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; Mitskog; 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; Thoreson; Toman; Trottier; Vigesaa; Wallman; Weisz; Zubke

**ABSENT AND NOT VOTING:** Speaker Belter

HB 1337 passed.

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**SECOND READING OF HOUSE BILL**

**HB 1093:** A BILL for an Act to amend and reenact section 54-27-19 of the North Dakota Century Code, relating to allocation and distribution of the highway tax distribution fund.

**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, 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; Hawken; 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; Mitskog; 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; Thoreson; Toman; Trottier; Vigesaa; Wallman; Weisz; Zubke

**ABSENT AND NOT VOTING:** Speaker Belter

HB 1093 passed.

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**SECOND READING OF HOUSE BILL**

**HB 1171:** A BILL for an Act to amend and reenact section 29-27-02.1 of the North Dakota Century Code, relating to certain fees to state highway tax distribution fund; and to provide an effective date.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 65 YEAS, 28 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Anderson, B.; Anderson, D.; Becker, Rick C.; Bellew; Boe; Boschee; Brabandt; Brandenburg; Damschen; Dockter; Dosch; Fehr; Frantsvog; Glassheim; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Headland; Hofstad; Hogan; Johnson, D.; Kading; Karls; Kasper; Keiser; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Laning; Larson; Lefor; Looyesen; Louser; Martinson; Meier; Nathe; Nelson, M.; Olson; Oversen; Owens; Paur; Pollert; Porter; Rohr; Ruby; Sanford; Schatz; Schneider; Seibel; Silbernagel; Steiner; Streyle; Sukut; Thoreson; Toman; Trottier; Vigesaa; Weisz; Zubke

**NAYS:** Amerman; Anderson, P.; Beadle; Becker, Rich S.; Boehning; Carlson; Delmore; Delzer; Devlin; Froseth; Holman; Hunskor; Johnson, M.; Kelsh; Kempenich; Maragos; Mitskog; Mock; Monson; Mooney; Muscha; Nelson, J.; Onstad; Schmidt; Schreiber Beck; Skarphol; Strinden; Wallman

**ABSENT AND NOT VOTING:** Speaker Belter

HB 1171 passed.

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**SECOND READING OF HOUSE BILL**

**HB 1207:** A BILL for an Act to amend and reenact section 39-21-01 of the North Dakota Century Code, relating to the hours motor vehicle headlamps must be illuminated.

**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 11 YEAS, 82 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Devlin; Froseth; Hawken; Hogan; Holman; Kretschmar; Mock; Mooney; Nelson, J.; Silbernagel; Weisz

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

**ABSENT AND NOT VOTING:** Speaker Belter

HB 1207 failed.

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**SECOND READING OF HOUSE BILL**

**HB 1331:** A BILL for an Act to amend and reenact section 39-21-01 of the North Dakota Century Code, relating to headlamps on motorcycles.

**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 12 YEAS, 81 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Froseth; Hawken; Hogan; Keiser; Kretschmar; Maragos; Mock; Mooney; Nelson, J.; Oversen; Schneider

**NAYS:** 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; Glassheim; Guggisberg; Haak; Hanson; Hatlestad; Headland; Hofstad; Holman; Hunskor; Johnson, D.; Johnson, M.; Kading; Karls; Kasper; Kelsh; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Laning; Larson; Lefor; Looyesen; Louser; Martinson; Meier; Mitskog; Monson; Muscha; Nathe; Nelson, M.; Olson; Onstad; Owens; Paur; Pollert; Porter; Rohr; Ruby; Sanford; Schatz; Schmidt; Schreiber Beck; Seibel; Silbernagel; Skarphol; Steiner; Streyle; Strinden; Sukut; Thoreson; Toman; Trottier; Vigesaa; Wallman; Weisz; Zubke

**ABSENT AND NOT VOTING:** Speaker Belter

HB 1331 failed.

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### SECOND READING OF HOUSE BILL

**HB 1191:** A BILL for an Act to create and enact a new section to chapter 47-16 of the North Dakota Century Code, relating to service or assistance animals in rental dwelling units.

### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 88 YEAS, 5 NAYS, 0 EXCUSED, 1 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; Hawken; Headland; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Kading; Karls; Kasper; Keiser; Kelsh; Kempenich; Kiefert; Klein; Klemin; Koppelman, B.; Koppelman, K.; Kreidt; Kretschmar; Laning; Larson; Lefor; Looyesen; Louser; Maragos; Martinson; Meier; Mitskog; Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Olson; Onstad; Owens; Paur; Pollert; Porter; Rohr; Ruby; Sanford; Schatz; Schmidt; Schneider; Schreiber Beck; Seibel; Silbernagel; Skarphol; Streyle; Sukut; Thoreson; Toman; Trottier; Vigesaa; Weisz; Zubke

**NAYS:** Johnson, M.; Oversen; Steiner; Strinden; Wallman

**ABSENT AND NOT VOTING:** Speaker Belter

Engrossed HB 1191 passed.

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### SECOND READING OF HOUSE BILL

**HB 1237:** A BILL for an Act to create and enact chapter 10-37 of the North Dakota Century Code, relating to North Dakota public benefit corporations.

### 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 87 YEAS, 6 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Anderson, B.; Anderson, D.; Anderson, P.; Beadle; Becker, Rich S.; Bellew; Boe; Boehning; Boschee; Brabandt; Brandenburg; Carlson; Damschen; Delmore; Delzer; Devlin; Dockter; Dosch; Fehr; Frantsvog; Froseth; Glassheim; Guggisberg; Haak; Hanson; Hatlestad; Hawken; Headland; Hofstad; Hogan; Holman; Hunskor; Johnson, D.; Johnson, M.; Karls; Kasper; Keiser; Kelsh; Kempenich; Kiefert; Klein; Klemin; Koppelman, K.; Kreidt; Kretschmar; Laning; Larson; Lefor; Looyesen; Louser; Maragos; Martinson; Meier; Mitskog; Mock; Monson; Mooney; Muscha; Nathe; Nelson, J.; Nelson, M.; Olson; Onstad; Oversen; Owens; Paur; Pollert; Porter; Sanford; Schatz; Schmidt; Schneider; Schreiber Beck;

Seibel; Silbernagel; Skarphol; Steiner; Streyle; Strinden; Sukut; Thoreson; Trottier; Vigesaa; Wallman; Weisz; Zubke

**NAYS:** Becker, Rick C.; Kading; Koppelman, B.; Rohr; Ruby; Toman

**ABSENT AND NOT VOTING:** Speaker Belter

Engrossed HB 1237 passed.

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### SECOND READING OF HOUSE BILL

**HB 1097:** A BILL for an Act to create and enact two new sections to chapter 61-03 of the North Dakota Century code, relating to the effect of pending administrative actions on permits and emergency action plans for dams; to amend and reenact section 61-03-22 of the North Dakota Century Code, relating to appeals from an action or decision of the state engineer; and to repeal section 61-03-05 of the North Dakota Century Code, relating to fees of the state engineer.

### ROLL CALL

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

**YEAS:** Amerman; Anderson, 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; Hawken; 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; Mitskog; 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; Thoreson; Toman; Trottier; Vigesaa; Wallman; Weisz; Zubke

**ABSENT AND NOT VOTING:** Speaker Belter

Engrossed HB 1097 passed.

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### SECOND READING OF HOUSE CONCURRENT RESOLUTION

**HCR 3009:** A concurrent resolution urging Congress to pass H.R. 5078 or otherwise address the concerns of the agriculture industry, water development industry, and water management industry, in defining the "waters of the United States" in the Clean Water Act.

### ROLL CALL

The question being on the final adoption of the amended resolution, 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, 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; Hawken; 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; Mitskog; 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; Thoreson; Toman; Trottier; Vigesaa; Wallman; Weisz; Zubke

**ABSENT AND NOT VOTING:** Speaker Belter

Engrossed HCR 3009 was declared adopted on a recorded roll call vote.

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

**MR. SPEAKER:** The Senate has passed, and your favorable consideration is requested on: SB 2029, SB 2057, SB 2084, SB 2172, SB 2183, SB 2186, SB 2195, SB 2208.

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

**MR. SPEAKER:** The Senate has passed, and your favorable consideration is requested on: SB 2052, SB 2083, SB 2089, SB 2143.

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

**MR. SPEAKER:** The Senate has passed, and your favorable consideration is requested on: SCR 4007.

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

**MR. SPEAKER:** The Senate has passed, the emergency clause carried, and your favorable consideration is requested on: SB 2159.

**MOTION**

**REP. VIGESAA MOVED** that the absent member 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., Wednesday, January 28, 2015, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**HB 1054: Finance and Taxation Committee (Rep. Headland, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). HB 1054 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 57-02-27.2 of the North Dakota Century Code, relating to assessment of agricultural property; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 57-02-27.2 of the North Dakota Century Code is amended and reenacted as follows:

**57-02-27.2. Valuation and assessment of agricultural lands.**

1. "True and full value" of agricultural lands must be their agricultural value for the purposes of sections 57-02-27, 57-02-27.1, 57-02-27.2, and 57-55-04. Agricultural value is defined as the "capitalized average annual gross return", except for ~~inundated nonproductive~~ agricultural land. The "annual gross return" must be determined from crop share rent, cash rent, or a combination thereof reduced by estimated property taxes and crop marketing expenses incurred by farmland owners renting their lands on a cash or crop share basis.
2. For purposes of this section, "annual gross return" for cropland used for growing crops other than sugar beets and potatoes means thirty percent of annual gross income produced, "annual gross return" for cropland used for growing sugar beets and potatoes means twenty percent of annual gross income produced, and "annual gross return" for land used for grazing farm animals means twenty-five percent of an amount determined by the department of agribusiness and applied economics of North Dakota state university to represent the annual gross income

- potential of the land based upon the animal unit carrying capacity of the land.
3. The "average annual gross return" for each county must be determined as follows:
    - a. Total the annual gross returns for the ten years immediately preceding the current year for which data is available and discard the highest and lowest annual gross returns of the ten.
    - b. The department of agribusiness and applied economics of North Dakota state university shall establish a base year index of prices paid by farmers using annual statistics on that topic compiled by the national agricultural statistics service for the seven-year period ending in 1995, discarding the highest and lowest years' indexes, and averaging the remaining five years' indexes. The department of agribusiness and applied economics shall gather the national agricultural statistics service annual index of prices paid by farmers for the ten years ending with the most recent year used under subdivision a, discard the highest and lowest years' indexes, average the remaining eight years' indexes, and divide the resulting amount by the base year index of prices paid by farmers. This amount must be divided into the amount determined under subdivision a.
    - c. Divide the figure arrived at in subdivision b by eight.
  4. To find the "capitalized average annual gross return", the average annual gross return must be capitalized by a rate that is a ten-year average of the gross agribank mortgage rate of interest for North Dakota, ~~but the rate used for capitalization under this section may not be less than eight percent for taxable year 2009, seven and seven-tenths percent for taxable year 2010, and seven and four-tenths percent for taxable year 2011.~~ The ten-year average must be computed from the twelve years ending with the most recent year used under subdivision a of subsection 3, discarding the highest and lowest years, ~~and the~~ The gross agribank mortgage rate of interest for each year must be determined in the manner provided in section 20.2032A-4(e)(1) of the United States treasury department regulations for valuing farm real property for federal estate tax purposes, except that the interest rate may not be adjusted as provided in section 20.2032A-4(e)(2).
  5. The department of agribusiness and applied economics of North Dakota state university shall compute annually an estimate of the average agricultural value per acre [.40 hectare] of agricultural lands on a statewide and on a countywide basis; shall compute the average agricultural value per acre [.40 hectare] for cropland; ~~and noncropland; and inundated agricultural land for each county; and shall, and~~ and provide the tax commissioner with this information by December first of each year. Fifty percent of the annual gross income from irrigated cropland must be considered additional expense of production and may not be included in computation of the average agricultural value per acre [.40 hectare] for cropland for the county as determined by the department of agribusiness and applied economics. Before January first of each year, the tax commissioner shall provide to each county director of tax equalization these estimates of agricultural value for each county.
  6. ~~For purposes of this section, "inundated agricultural land" means property classified as agricultural property containing~~ The county director of tax equalization may classify agricultural land as nonproductive agricultural land if it consists of a minimum of ten five contiguous acres if the value of the inundated land exceeds ten percent of the average agricultural value of noncropland for the county, which is inundated to an extent making it and is unsuitable for growing crops or grazing farm animals for two consecutive growing seasons or more; ~~and which~~

~~produced~~ did not produce revenue from any source in the most recent prior year which is ~~less~~ more than fifty percent of the county average revenue per acre for noncropland calculated by the department of agribusiness and applied economics of North Dakota state university. Land may not be classified as nonproductive agricultural land solely because it is wooded.

Application for classification as ~~inundated~~ nonproductive agricultural land for property that was not so classified in the prior year must be made ~~by the owner in writing to the township assessor or county director of tax equalization by March thirty-first of each~~ the taxable year. The owner shall thereafter furnish to the county director of tax equalization, when requested to do so, any information that is believed will support the claim to retain nonproductive agricultural land classification for any subsequent year. Before all or part of a parcel of property may be classified as ~~inundated~~ nonproductive agricultural land, the board of county commissioners must approve that classification for that property for the taxable year.

The agricultural value of ~~inundated~~ nonproductive agricultural lands for purposes of this section must be determined ~~by the department of agribusiness and applied economics of North Dakota state university to be ten percent of the average agricultural value of noncropland for the county as determined under this section. Valuation of individual parcels of inundated agricultural land may recognize the probability that the property will be suitable for agricultural production as cropland or for grazing farm animals in the future.~~

Determinations made under this subsection may be appealed through the ~~informal~~ equalization process and ~~formal~~ abatement process provided for in this title.

7. Before the second Wednesday in February first of each year, the county director of tax equalization in each county shall provide to all assessors within the county an estimate of the average agricultural value of agricultural lands within each assessment district. The estimate must be based upon the average agricultural value for the county adjusted by the relative values of lands within each assessment district compared to the county average. In determining the relative value of lands for each assessment district compared to the county average, the county director of tax equalization shall use soil type and soil classification data from detailed and general soil surveys.
8. Each local assessor shall determine the relative value of each assessment parcel within the assessor's jurisdiction and shall determine the agricultural value of each assessment parcel by adjusting the agricultural value estimate for the assessment district by the relative value of the parcel. ~~Each parcel must then be assessed according to section 57-02-27. If either a local assessor or a township board of equalization develops an agricultural value for the lands in its assessment district differing substantially from the estimate provided by the county director of tax equalization, written evidence to support the change must be provided to the county director of tax equalization. In determining the relative value of each assessment parcel, the local assessor shall apply the following considerations, which are listed in descending order of significance to the assessment determination:~~
  - a. Soil type and soil classification data from detailed or general soil surveys. It is presumed that if the soil capability class is 2, 3, or 4, that soil must be valued as cropland and if the soil capability class is 5, 6, 7, or 8, that soil must be valued as noncropland. How the property is used by the owner, by itself, does not overcome this presumption.

- b. ~~The schedule of modifiers that must~~may be used to adjust agricultural property assessments within the county ~~as approved by the state supervisor of assessments under subsection 9~~and the guidelines established by the state supervisor of assessments for application of those modifiers.
  - e. ~~Actual use of the property for cropland or noncropland purposes by the owner of the parcel.~~
9. Modifiers that may be applied to an agricultural property assessment parcel are:
- a. Inaccessibility, consisting of topographic conditions making farm machinery access impracticable.
  - b. Nonconformity, consisting of an area of relatively higher productivity soil type surrounded by nonproductive or lower productivity soil type land, making it impracticable to utilize the area to its highest productive capacity.
  - c. Uncharacteristic salinity, consisting of a greater degree of salinity than is characteristic of the soil type where it exists, by reason of water seepage, discharge, or collection.
10. ~~Before the second Wednesday in February first of each year, the county director of tax equalization in each county shall provide to all assessors of agricultural property within the county instruction on how to use and apply available soil survey resources, a schedule of modifiers that must be used to adjust agricultural property assessments within the county and directions a copy of the current guidelines established by the state supervisor of assessments regarding how those modifiers must be applied by assessors. Before the schedule of modifiers is provided to assessors within the county, the county director of tax equalization shall obtain the approval of the state supervisor of assessments for use of the schedule within the county. Modifiers may be applied to reduce the soil type valuation of an area consisting of at least five contiguous acres of a soil type affected by conditions described for one or more of the allowable modifiers, if the assessor confirms the existence of those conditions.~~
11. An agricultural property owner may challenge any aspect of the agricultural property assessment determined for a parcel of that person's property, including the soil survey determinations, the application or nonapplication of modifiers, and the application or nonapplication of nonproductive status. The owner must present the evidence and argument supporting the challenge to the assessor or through the equalization or abatement process provided for in this title.
- ~~10-12.~~ For any county that has not fully implemented use of soil type and soil classification data from detailed or general soil surveys by February first of any taxable year after 2011, the tax commissioner shall direct the state treasurer to withhold five percent of that county's allocation each quarter from the state aid distribution fund under section 57-39.2-26.1 beginning with the first quarter of 2013, and continuing until the tax commissioner certifies to the state treasurer that that county has fully implemented use of soil type or soil classification data. The amount withheld from the allocation must be deposited into the agricultural land valuation fund. The amount withheld from the allocation must be withheld entirely from the portion of the allocation which may be retained by the county and may not reduce allocations to any political subdivisions within the county.

**SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2015."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1058: Finance and Taxation Committee (Rep. Headland, Chairman)** recommends **DO NOT PASS** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1058 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 line 8

Page 5, line 8, overstrike "other tobacco products" and insert immediately thereafter "snuff and chewing tobacco"

Page 5, remove the overstrike over line 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 1140: Finance and Taxation Committee (Rep. Headland, Chairman)** recommends **DO NOT PASS** (12 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). HB 1140 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1170: Finance and Taxation Committee (Rep. Headland, Chairman)** recommends **DO NOT PASS** (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1170 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1190: Finance and Taxation Committee (Rep. Headland, Chairman)** recommends **DO NOT PASS** (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1190 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1227: Finance and Taxation Committee (Rep. Headland, Chairman)** recommends **DO NOT PASS** (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1227 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1244: Human Services Committee (Rep. Weisz, Chairman)** recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1244 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1448: Judiciary Committee (Rep. K. Koppelman, Chairman)** recommends **DO PASS** (12 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1448 was placed on the Eleventh order on the calendar.

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

**Buell J. Reich, Chief Clerk**