

## JOURNAL OF THE SENATE

## Sixty-fifth Legislative Assembly

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**Bismarck, February 10, 2017**

The Senate convened at 12:30 p.m., with President Sanford presiding.

The prayer was offered by Chaplain Rich Wyatt, Crisis Care Chaplaincy, Bismarck.

The roll was called and all members were present except Senators Campbell, Davison, and Wanzek.

A quorum was declared by the President.

**MOTION**

**SEN. KLEIN MOVED** that Engrossed SB 2326 be rereferred to the **Finance and Taxation Committee**, which motion prevailed. Pursuant to Sen. Klein's motion, Engrossed SB 2326 was rereferred.

**MOTION**

**SEN. KLEIN MOVED** that after action taken on the Sixth order, SB 2285 and SB 2186 be placed on the Eleventh order for immediate second reading and final passage, which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**SB 2307: SEN. RUST (Education Committee) MOVED** that the amendments on SJ pages 353-354 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

**CONSIDERATION OF AMENDMENTS**

**SB 2149: SEN. ARMSTRONG (Judiciary Committee) MOVED** that the amendments on SJ pages 349-350 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

**CONSIDERATION OF AMENDMENTS**

**SB 2261: SEN. VEDAA (Government and Veterans Affairs Committee) MOVED** that the amendments on SJ pages 352-353 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

**CONSIDERATION OF AMENDMENTS**

**SB 2329: SEN. BEKKEDAHL (Government and Veterans Affairs Committee) MOVED** that the amendments on SJ page 354 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

**CONSIDERATION OF AMENDMENTS**

**SB 2245: SEN. PIEPKORN (Agriculture Committee) MOVED** that the amendments on SJ page 352 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

**CONSIDERATION OF AMENDMENTS**

**SB 2285: SEN. RUST (Education Committee) MOVED** that the amendments on SJ page 353 be adopted and then be placed on the Eleventh order with **DO PASS**.

**REQUEST**

**SEN. KILZER REQUESTED** a recorded roll call vote, which request was granted.

**ROLL CALL**

The question being on the motion to adopt the amendments to SB 2285, the roll was called and there were 18 YEAS, 26 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Burckhard; Clemens; Holmberg; Kannianen; Kreun; Laffen; Larson, D.; Lee, J.;

Nelson; Oban; Osland; Robinson; Roers; Rust; Schaible; Sorvaag; Vedaa; Wardner

**NAYS:** Anderson; Armstrong; Bekkedahl; Bowman; Casper; Cook; Dever; Dotzenrod; Erbele; Grabinger; Heckaman; Hogue; Kilzer; Klein; Krebsbach; Larsen, O.; Lee, G.; Luick; Marcellais; Mathern; Meyer; Myrdal; Oehlke; Piepkorn; Poolman; Unruh

**ABSENT AND NOT VOTING:** Campbell; Davison; Wanzek

The proposed amendments to SB 2285 failed on a recorded roll call vote.

#### SECOND READING OF SENATE BILL

**SB 2285:** A BILL for an Act to create and enact section 15-10-12.4 of the of the North Dakota Century Code, relating to naming university and college buildings.

#### 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 16 YEAS, 28 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Armstrong; Bekkedahl; Bowman; Clemens; Cook; Dever; Hogue; Kilzer; Klein; Larsen, O.; Lee, G.; Luick; Myrdal; Osland; Poolman; Schaible

**NAYS:** Anderson; Burckhard; Casper; Dotzenrod; Erbele; Grabinger; Heckaman; Holmberg; Kannianen; Krebsbach; Kreun; Laffen; Larson, D.; Lee, J.; Marcellais; Mathern; Meyer; Nelson; Oban; Oehlke; Piepkorn; Robinson; Roers; Rust; Sorvaag; Unruh; Vedaa; Wardner

**ABSENT AND NOT VOTING:** Campbell; Davison; Wanzek

SB 2285 failed.

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#### CONSIDERATION OF AMENDMENTS

**SB 2186: SEN. OBAN (Education Committee) MOVED** that the amendments on SJ pages 350-352 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

#### SECOND READING OF SENATE BILL

**SB 2186:** A BILL for an Act to create and enact a new section to chapter 15.1-06 of the North Dakota Century Code, relating to the creation of an innovative education program; and to amend and reenact section 15.1-06-08.1 of the North Dakota Century Code, relating to statutory waivers.

#### 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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Armstrong; Bekkedahl; Bowman; Burckhard; Casper; Clemens; Cook; Dever; Dotzenrod; Erbele; Grabinger; Heckaman; Hogue; Holmberg; Kannianen; Kilzer; Klein; Krebsbach; Kreun; Laffen; Larsen, O.; Larson, D.; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Nelson; Oban; Oehlke; Osland; Piepkorn; Poolman; Robinson; Roers; Rust; Schaible; Sorvaag; Unruh; Vedaa; Wardner

**ABSENT AND NOT VOTING:** Campbell; Davison; Wanzek

Engrossed SB 2186 passed.

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#### SECOND READING OF SENATE BILL

**SB 2297:** A BILL for an Act to create and enact a new chapter to title 36 of the North Dakota Century Code, relating to commercial dog breeders; and to provide a penalty.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 13 YEAS, 31 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Bekkedahl; Casper; Dotzenrod; Grabinger; Heckaman; Kreun; Marcellais; Mathern; Nelson; Oban; Piepkorn; Robinson; Unruh

**NAYS:** Anderson; Armstrong; Bowman; Burckhard; Clemens; Cook; Dever; Erbele; Hogue; Holmberg; Kannianen; Kilzer; Klein; Krebsbach; Laffen; Larsen, O.; Larson, D.; Lee, G.; Lee, J.; Luick; Meyer; Myrdal; Oehlke; Osland; Poolman; Roers; Rust; Schaible; Sorvaag; Vedaa; Wardner

**ABSENT AND NOT VOTING:** Campbell; Davison; Wanzek

SB 2297 failed.

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**SECOND READING OF SENATE BILL**

**SB 2312:** A BILL for an Act to amend and reenact subsection 5 of section 23-27-02 and section 23-27-04.4 of the North Dakota Century Code, relating to emergency medical services professionals.

**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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Armstrong; Bekkedahl; Bowman; Burckhard; Casper; Clemens; Cook; Dever; Dotzenrod; Erbele; Grabinger; Heckaman; Hogue; Holmberg; Kannianen; Kilzer; Klein; Krebsbach; Kreun; Laffen; Larsen, O.; Larson, D.; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Nelson; Oban; Oehlke; Osland; Piepkorn; Poolman; Robinson; Roers; Rust; Schaible; Sorvaag; Unruh; Vedaa; Wardner

**ABSENT AND NOT VOTING:** Campbell; Davison; Wanzek

Engrossed SB 2312 passed.

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**SECOND READING OF SENATE BILL**

**SB 2320:** A BILL for an Act to create and enact a new subsection to section 19-03.4-02 and a new section to chapter 23-01 of the North Dakota Century Code, relating to drug paraphernalia guidelines and a syringe exchange program; and to declare an emergency.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 41 YEAS, 3 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Armstrong; Bekkedahl; Bowman; Burckhard; Casper; Clemens; Cook; Dotzenrod; Erbele; Grabinger; Heckaman; Hogue; Holmberg; Kannianen; Kilzer; Klein; Krebsbach; Kreun; Laffen; Larsen, O.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Nelson; Oban; Oehlke; Osland; Piepkorn; Poolman; Robinson; Roers; Rust; Schaible; Sorvaag; Unruh; Vedaa; Wardner

**NAYS:** Dever; Larson, D.; Lee, G.

**ABSENT AND NOT VOTING:** Campbell; Davison; Wanzek

Engrossed SB 2320 passed and the emergency clause was declared carried.

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**SECOND READING OF SENATE BILL**

**SB 2301:** A BILL for an Act to create and enact a new section to chapter 19-02.1 of the North Dakota Century Code, relating to specialty pharmacy services; to provide a penalty; and to provide for application.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Armstrong; Bekkedahl; Bowman; Burckhard; Casper; Clemens; Cook; Dever; Dotzenrod; Erbele; Grabinger; Heckaman; Hogue; Holmberg; Kannianen; Kilzer; Klein; Krebsbach; Kreun; Laffen; Larsen, O.; Larson, D.; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Nelson; Oban; Oehlke; Osland; Piepkorn; Poolman; Robinson; Roers; Rust; Schaible; Sorvaag; Unruh; Vedaa; Wardner

**ABSENT AND NOT VOTING:** Campbell; Davison; Wanzek

Engrossed SB 2301 passed.

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**SECOND READING OF SENATE BILL**

**SB 2258:** A BILL for an Act to create and enact a new section to chapter 19-02.1 of the North Dakota Century Code, relating to pharmacy claim fees and pharmacy rights; to provide a penalty; and to provide for application.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Armstrong; Bekkedahl; Bowman; Burckhard; Casper; Clemens; Cook; Dever; Dotzenrod; Erbele; Grabinger; Heckaman; Hogue; Holmberg; Kannianen; Kilzer; Klein; Krebsbach; Kreun; Laffen; Larsen, O.; Larson, D.; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Nelson; Oban; Oehlke; Osland; Piepkorn; Poolman; Robinson; Roers; Rust; Schaible; Sorvaag; Unruh; Vedaa; Wardner

**ABSENT AND NOT VOTING:** Campbell; Davison; Wanzek

Engrossed SB 2258 passed.

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**SECOND READING OF SENATE BILL**

**SB 2299:** A BILL for an Act to amend and reenact section 15-52-03 of the North Dakota Century Code, relating to the members of the university of North Dakota school of medicine and health sciences advisory council.

**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 44 YEAS, 0 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Armstrong; Bekkedahl; Bowman; Burckhard; Casper; Clemens; Cook; Dever; Dotzenrod; Erbele; Grabinger; Heckaman; Hogue; Holmberg; Kannianen; Kilzer; Klein; Krebsbach; Kreun; Laffen; Larsen, O.; Larson, D.; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Nelson; Oban; Oehlke; Osland; Piepkorn; Poolman; Robinson; Roers; Rust; Schaible; Sorvaag; Unruh; Vedaa; Wardner

**ABSENT AND NOT VOTING:** Campbell; Davison; Wanzek

SB 2299 passed.

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**SECOND READING OF SENATE BILL**

**SB 2306:** A BILL for an Act to amend and reenact section 23-10-11 and subsection 4 of section 47-32-01 of the North Dakota Century Code, relating to ejection from a mobile home park and maintainable evictions.

**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 3 YEAS, 41 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Clemens; Larsen, O.; Vedaa

**NAYS:** Anderson; Armstrong; Bekkedahl; Bowman; Burckhard; Casper; Cook; Dever; Dotzenrod; Erbele; Grabinger; Heckaman; Hogue; Holmberg; Kannianen; Kilzer; Klein; Krebsbach; Kreun; Laffen; Larson, D.; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Meyer; Myrdal; Nelson; Oban; Oehlke; Osland; Piepkorn; Poolman; Robinson; Roers; Rust; Schaible; Sorvaag; Unruh; Wardner

**ABSENT AND NOT VOTING:** Campbell; Davison; Wanzek

SB 2306 failed.

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**MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**

**MR. SPEAKER:** The Senate has passed, unchanged: HCR 3023.

**MOTION**

**SEN. KLEIN MOVED** that the absent members be excused, which motion prevailed.

**MOTION**

**SEN. KLEIN MOVED** that the Senate be on the Fourth, Fifth, Ninth, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Monday, February 13, 2017, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**SB 2031: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2031 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2035: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (12 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). SB 2035 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2183, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2183 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2216: Judiciary Committee (Sen. Armstrong, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2216 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "sections 12.1-17-01, 12.1-17-01.1, and"

Page 1, line 2, remove "assault on a health care"

Page 1, line 3, remove "facility provider and"

Page 1, remove lines 5 through 24

Page 2, remove lines 1 through 31

Page 3, line 17, after "contact" insert ". A "health care facility" means an office or institution providing health care services or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including a hospital; clinic; ambulatory surgery center; outpatient care facility; weight control clinic; nursing home; basic care or assisted living facility; laboratory; or office of any medical professional licensed or registered under title 43 or any individual who is included within a specialty and subspecialty of those fields. The term includes a waiting room, hallway, private room, semiprivate room, ward, and any mobile or temporary facility"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2288: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2288 was placed on the Sixth order on the calendar.

Page 1, line 3, after "sections" insert "11-23-04, 40-40-04, 40-40-06, 40-40-08, and 40-51.2-06, subdivision c of subsection 1 of section 40-51.2-07, sections 40-51.2-16,"

Page 1, line 3, replace "and 57-15-02.1" with ", 57-05-01, 57-05-01.1, 57-05-06, 57-05-07, 57-05-08, 57-06-06, 57-06-09, 57-06-11, 57-06-12, 57-06-15, 57-06-21, 57-13-02, and 57-15-13"

Page 1, line 5, after "hearings" insert ", the dates for general taxation of land by a city, notices of dates of assessments and reports for centrally assessed property, the annual meeting of the state board of equalization, and dates for school district tax levies; to repeal sections 11-23-03 and 57-15-02.1 of the North Dakota Century Code, relating to notice of levy increases and public hearings;"

Page 1, after line 6, insert:

**"SECTION 1. AMENDMENT.** Section 11-23-04 of the North Dakota Century Code is amended and reenacted as follows:

#### **11-23-04. Hearing on budget - Taxpayer may appear.**

The board of county commissioners shall meet at the time and place designated in the notice prescribed by section ~~11-23-03~~21 of this Act. Any taxpayer who may appear shall be heard in favor of or against any proposed expenditures or tax levies. When the hearing shall have been concluded, the board shall adopt such estimate as finally is determined upon. All taxes shall be levied in specific amounts and shall not exceed the amount specified in the published estimates.

**SECTION 2. AMENDMENT.** Section 40-40-04 of the North Dakota Century Code is amended and reenacted as follows:

#### **40-40-04. Municipality to prepare preliminary budget statement.**

The governing body of each municipality, annually on or before ~~September~~August tenth, shall make an itemized statement known as the preliminary budget statement showing the amounts of money which, in the opinion of the governing body, will be required for the proper maintenance, expansion, or improvement of the municipality during the year.

**SECTION 3. AMENDMENT.** Section 40-40-06 of the North Dakota Century Code is amended and reenacted as follows:

**40-40-06. Notice of preliminary budget statement - Contents - How given.**

After

1. ~~On or before August tenth of each year, after the governing body has prepared the preliminary budget statement, the auditor of the municipality shall give notice that:~~
1. ~~The preliminary budget is on file in the office of the auditor and may be examined by anyone upon request.~~
2. ~~The governing body shall meet~~
  - a. ~~Provide the county auditor with a copy of the preliminary budget statement.~~
  - b. ~~Set a public budget hearing date no earlier than September seventh and no later than October seventh at the time and place specified in the notice as prescribed by subsection 3 for the purpose of adopting the final budget and making the annual tax levy.~~
3. ~~The governing body shall hold a public session at the time and place designated in the notice of hearing at which any taxpayer may appear and discuss with the body any item of proposed expenditures or may object to any item or amount.~~

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- c. ~~Provide notice of the public budget hearing date to the county auditor.~~
2. ~~For municipalities anticipating levying less than one hundred thousand dollars in the current year, notice must contain:~~
  - a. ~~Contain a statement of the total proposed expenditures for each fund in the preliminary budget, but need not contain any detailed statement of the proposed expenditures. The notice must be:~~
  - b. ~~Be published at least once, not less than six days prior to the budget hearing, in a newspaper published in the municipality, if there is one, and if no newspaper is published in the municipality, the notice must be published not less than six days prior to the meeting in the official city newspaper as provided by section 40-01-09; and~~
  - c. ~~Provide that any taxpayer may appear and discuss with the governing body any item of proposed expenditures or may object to any item or amount.~~

**SECTION 4. AMENDMENT.** Section 40-40-08 of the North Dakota Century Code is amended and reenacted as follows:

**40-40-08. Hearing of protests and objections - Changes in preliminary budget - Preparation of final budget - Contents.**

The governing body shall meet at the time and place ~~specified in the noticeset pursuant to section 40-40-06~~ and shall hear any and all protests or objections to the items or amounts set forth in the preliminary budget statement. At the hearing, the governing body shall make any changes in the items or amounts shown on the preliminary budget statement as it may deem advisable except as limited in this chapter, and shall prepare the final budget, which must consist of the preliminary budget with the addition of columns showing:

1. The final appropriations for the various expenditure items specified in the preliminary budget statement. The final appropriation of any fund total may not exceed the total amount requested in the preliminary budget.
2. The estimated amount of unencumbered cash on hand at the end of the current year may not include cash or investments of the equipment replacement fund as provided in section 40-40-05.
3. The levy amount determined by subtracting the total resources from the total appropriations and cash reserve for each fund. The governing body may increase the levy an additional five percent for delinquent tax collections.
4. The certificate of levy which includes a summary of the amount levied for each fund and the total amount levied.

**SECTION 5. AMENDMENT.** Section 40-51.2-06 of the North Dakota Century Code is amended and reenacted as follows:

**40-51.2-06. Petition of owners and electors - Annexation or exclusion - Classification of annexed agricultural lands for tax purposes.**

If the governing body annexes the area, it shall do so by ordinance. When a copy of the ordinance and an accurate map of the annexed area, certified by the executive officer of the city, are filed and recorded with the county recorder, the annexation becomes effective. An annexation is effective for the purpose of general taxation on and after the first day of the next ~~February~~ January. However, the city shall continue to classify as agricultural lands for tax purposes all lands in the annexed area which were classified as agricultural lands immediately before the annexation proceedings until those lands are put to another use. If the governing body determines to exclude the area petitioned for, it may do so by ordinance adopted and recorded as in the case of annexation.

**SECTION 6. AMENDMENT.** Subdivision c of subsection 1 of section 40-51.2-07 of the North Dakota Century Code is amended and reenacted as follows:

- c. In the absence of protests filed by the owners of more than one-fourth of the territory proposed to be annexed as of the date of the adoption of the resolution, the territory described in the resolution becomes a part of the city. When a copy of the resolution and an accurate map of the annexed area, certified by the executive officer of the city, are filed and recorded with the county recorder, the annexation becomes effective. Annexation is effective for the purpose of general taxation on and after the first day of the next ~~February~~ January. However, the city shall continue to classify as agricultural lands for tax purposes all lands in the annexed area which were classified as agricultural lands immediately before the annexation proceedings until those lands are put to another use.

**SECTION 7. AMENDMENT.** Section 40-51.2-16 of the North Dakota Century Code is amended and reenacted as follows:

**40-51.2-16. Effective date of annexation by administrative law judge - Classification of annexed agricultural lands for tax purposes.**

Territory annexed to a city pursuant to petition to the director of the office of administrative hearings is annexed as of the date of the order of the administrative law judge, except for tax purposes, and a copy of the resolution with an accurate map of the annexed area, certified by the executive officer of the city, must be filed and recorded with the county recorder. Annexation is effective for the purpose of general taxation on and after the first day of the next ~~February~~ January. However, the city shall continue to classify as agricultural lands for tax purposes all lands in the annexed area which were classified as agricultural lands immediately before the annexation proceedings until those lands are put to another use."

Page 2, line 26, remove the overstrike over "The notice may not contain an"

Page 2, remove the overstrike over line 27

Page 3, after line 5, insert:

**"SECTION 9. AMENDMENT.** Section 57-05-01 of the North Dakota Century Code is amended and reenacted as follows:

**57-05-01. Railroad property to be assessed by state board of equalization.**

The state board of equalization, at its annual meeting in ~~August~~July in each year, shall assess, at its actual value on the first day of January of that year, the operating property, including franchises, of each railroad operated in this state, including any electric or other street or interurban railway. If any railroad allows any portion of its railway to be used for any purpose other than the operation of a railroad, the portion of its railway while so used must be assessed in a manner provided for the assessment of other real property. To enable the board to make a correct valuation of property, it shall have access to all reports, estimates, and surveys of a line of railroad on file in the office of the public service commission and has power to summon and compel the attendance of witnesses, and to examine witnesses under oath in any matter relating to the value of the property. In fixing the value of any railroad, and of branch lines and sidetracks, the board must be governed by the rules prescribed for county and township assessors in valuing other property in this state. The board shall make a record of the value placed by it upon the property of the railroad, including the valuation per mile [1.61 kilometers] of main line and of branch lines and sidetracks. Railroad property held in trust by the public service commission for purposes of reorganization or reopening of the railway line is exempt from assessment as provided in this section.

**SECTION 10. AMENDMENT.** Section 57-05-01.1 of the North Dakota Century Code is amended and reenacted as follows:

**57-05-01.1. Tentative assessment - Notice of hearing.**

1. The tax commissioner, on or before ~~July~~June fifteenth of each year, shall ascertain and determine the value of, and a tentative assessment of, all operative property of any company required to be assessed under the provisions of this chapter. ~~Such~~The determination of value must be made for the guidance of the state board of equalization in assessing ~~such~~the property at its annual meeting in ~~August~~July. In making ~~such~~this determination of value, the tax commissioner must be governed by the rules ~~laid down by~~provided in this chapter.
2. The tax commissioner shall give ten days' notice by mail to each company, or its representative in North Dakota, of the amount of its tentative assessment; and ~~shall appoint a time and place between the meeting of the state board of equalization on the first~~second Tuesday of ~~August and the first day of September~~July, at which meeting each company is entitled to present evidence before the state board of equalization relating to the value of the property of the company.

**SECTION 11. AMENDMENT.** Section 57-05-06 of the North Dakota Century Code is amended and reenacted as follows:

**57-05-06. County auditor to send maps to railroad corporation.**

The county auditor of each county in the state shall ~~mail~~provide to each railroad corporation doing business in that county, on or before the first day of ~~March~~February of each year, an accurate map of the county showing the boundaries of each assessment district.

**SECTION 12. AMENDMENT.** Section 57-05-07 of the North Dakota Century Code is amended and reenacted as follows:

**57-05-07. Railroad shall file information with county auditor.**

Every railroad corporation, on or before the fifteenth day of ~~February~~January in each year, shall file in the office of the county auditor of each county in the state in which ~~said~~the company's lines are located:

1. The name of the corporation.
2. The principal place of doing business.
3. The names and post-office addresses of the president, secretary, and treasurer of the corporation.

**SECTION 13. AMENDMENT.** Section 57-05-08 of the North Dakota Century Code is amended and reenacted as follows:

**57-05-08. Report by railroad corporation to state tax commissioner.**

Each railroad corporation required to be assessed under the provisions of this chapter annually shall, on or before ~~May~~April first of each year, under oath of the presiding or other chief executive officer, make and file ~~in such~~on the form and in the manner as the tax commissioner may prescribe a report containing the following information:

1. The name of the company;
2. The laws of what state or country organized, the date of original organization, the date of reorganization, consolidation, or merger, with specific reference to laws authorizing the same;
3. Location of its principal office;
4. The name of the place where its books, papers, and accounts are kept;
5. The name and post-office address of the president, secretary, treasurer, auditor, superintendent, general manager, and all other general officers;
6. The name and post-office address of the chief officer or managing agent of the company in North Dakota and of all other general officers residing in this state;
7. The total number of shares of capital stock;
8. The par value of the shares of the capital stock for the whole system, showing separately the amount authorized, amount issued, amount outstanding, and dividends paid thereon;
9. If such capital stock has no market value, the actual value on the dates and for the periods designated by the tax commissioner of this state;
10. The funded debt of the company for the whole system and a detailed statement of all series of bonds, debentures, or other securities, forming a part of the funded debt, at par value, with the date of issue, maturity, rate of interest, and amount of interest for the preceding year;
11. The market value of each series of funded debt securities for the whole system on the dates and for the periods designated by the tax commissioner, and if the whole or a part of ~~such~~the funded debt has no market value, then the actual value thereof for ~~such~~the dates and periods as the tax commissioner may specify;
12. Such general description of the operative and nonoperative real estate of the company in North Dakota as would be sufficient in a conveyance thereof, under a judicial decree, to vest in the grantee all title and interest in and to the said property;

13. A description of the personal property of the company;
14. The number of miles [kilometers] of each main line of railroad, the number of miles [kilometers] of each branch line and sidetracks thereof within the state of North Dakota;
15. The entire gross earnings of the company from operation, expenses of operation, net earnings and income from operation, and the income from other sources, for the whole system, and in North Dakota, for the years or period the tax commissioner may request or specify, not exceeding five years;
16. The location of the property of the company within this state by counties, municipalities, and districts, in ~~such~~the manner and ~~in such~~ detail as the tax commissioner shall prescribe; and
17. ~~Such other~~Other facts and information as the tax commissioner may require in the form of returns prescribed by the tax commissioner or which the company may deem material upon the question of taxation of its property in this state.

**SECTION 14. AMENDMENT.** Section 57-06-06 of the North Dakota Century Code is amended and reenacted as follows:

**57-06-06. Reports of companies.**

Each company required to be assessed under the provisions of this chapter annually, on or before the ~~first~~fifteenth day of ~~May~~April, under oath of the president or other chief executive officer, and the secretary or treasurer or auditor or superintendent of such company, shall make and file with the tax commissioner, in ~~such~~the form as the tax commissioner may prescribe, a report containing the following information, so far as applicable to the company making ~~such~~the report, as of January first of the year in which the report is furnished:

1. The name of the company.
2. The nature of the company, whether a person, association, corporation, or limited liability company, and under the laws of what state or country organized, the date of original organization, the date of reorganization, consolidation, or merger, with specific reference to laws authorizing the same.
3. Location of its principal office.
4. The name of the place where its books, papers, and accounts are kept.
5. The name and post-office address of the president, secretary, treasurer, auditor, superintendent, general manager, and all other general officers.
6. The name and post-office address of the chief officer or managing agent of the company in North Dakota and of all other general officers residing in this state.
7. The total number of shares of capital stock.
8. The par value of the shares of the capital stock for the whole system, showing separately the amount authorized, amount issued, amount outstanding, and dividends paid thereon.
9. If ~~such~~the capital stock has no market value, the actual value on the dates and for the periods designated by the tax commissioner of this state.
10. The funded debt of the company for the whole system and a detailed statement of all series of bonds, debentures, or other securities, forming

a part of the funded debt, at par value, with the date of issue, maturity, rate of interest, and amount of interest for the preceding year.

11. The market value of each series of funded debt securities for the whole system on the dates and for the periods designated by the tax commissioner, and if the whole or a part of ~~such~~the funded debt has no market value, then the actual value thereof for ~~such~~the dates and periods as the tax commissioner may specify.
12. ~~Such~~The general description of the operative and nonoperative real estate of the company in North Dakota as would be sufficient in a conveyance thereof, under a judicial decree, to vest in the grantee all title and interest in and to the said property.
13. A description of the personal property, including moneys and credits, held by the company as a whole system, and the part thereof apportioned to the line in North Dakota.
14. The whole length of the lines of the system operated by the company and the length of the lines in North Dakota, whether operated as owner, lessee, or otherwise. The length of the line operated for the whole system and in North Dakota shall be separately reported.
15. The entire gross earnings of the company from operation, expenses of operation, net earnings and income from operation, and the income from other sources, for the whole system, and in North Dakota, for the years or period the tax commissioner may request or specify, not exceeding five years.
16. The location of the property of the company within this state by counties, municipalities, and districts, in ~~such~~the manner and in ~~such~~ detail as the tax commissioner shall prescribe.
17. Other facts and information as the tax commissioner may require or which the company may deem material relating to the taxation of its property in this state.

**SECTION 15. AMENDMENT.** Section 57-06-09 of the North Dakota Century Code is amended and reenacted as follows:

**57-06-09. Penalty for failure to furnish report.**

If any company refuses or neglects to make the report required by this chapter or refuses or neglects to furnish any information requested, the tax commissioner shall obtain the best information available on the facts necessary to be known in order to discharge the tax commissioner's duties with respect to the valuation and assessment of the property of the company. If any company fails to make the report required under this chapter on or before the ~~first~~first~~fifteenth~~ day of ~~May~~April of any year, the state board of equalization shall add ~~ten~~twenty percent to the assessed value of the property of the company for that year, but the tax commissioner, upon written application received on or before the ~~first~~first~~fifteenth~~ day of ~~May~~April, may grant an extension of time through the first day of ~~June~~May to file the required report. If any company fails to make the report required under this chapter on or before the first day of ~~July~~June of any year, the state board of equalization shall add an additional ten percent to the assessed value of the property of the company for that year. On or before the ~~fifteenth~~first day of ~~July~~June, for good cause shown, the tax commissioner may waive all or any part of the penalty that attached under this section.

**SECTION 16. AMENDMENT.** Section 57-06-11 of the North Dakota Century Code is amended and reenacted as follows:

**57-06-11. Tentative valuation by tax commissioner.**

The tax commissioner, on or before ~~July~~June fifteenth of each year, shall ascertain and determine the value of all operative property of any company required to be assessed under the provisions of this chapter. ~~Such~~This determination of value must be made for the guidance of the state board of equalization in assessing ~~such~~the property at its annual meeting in ~~August~~July. In making ~~such~~the determination of value, the tax commissioner must be governed by the rules ~~laid-down by~~provided in this chapter and by ~~such directions as may be~~direction given to the tax commissioner by the state board of equalization.

**SECTION 17. AMENDMENT.** Section 57-06-12 of the North Dakota Century Code is amended and reenacted as follows:

**57-06-12. Tentative assessment to be made and notice of hearing.**

The tax commissioner shall give ten days' notice by mail to each company, or its representative in North Dakota, of the amount of its tentative assessment and ~~shall appoint a time and place, between the meeting of the state board of equalization on the first~~second Tuesday of ~~August and the first day of September~~July, at which meeting each company is entitled to present evidence before the state board of equalization relating to the value of the property of the company.

**SECTION 18. AMENDMENT.** Section 57-06-15 of the North Dakota Century Code is amended and reenacted as follows:

**57-06-15. Assessment by state board of equalization - Notice of increase.**

The state board of equalization may adopt the tentative assessment of the tax commissioner in whole or in part. The valuation and tentative assessments made by the tax commissioner must be considered merely findings of fact of the executive officer of the board. The state board of equalization shall review ~~such~~the valuation and tentative assessment at the time of its annual meeting in ~~August~~July of each year and then shall make a final assessment of ~~such~~the property. It may increase or lower the entire assessment, or any assessment contained therein, on any item contained within the assessment of any company. Before the state board of equalization may make an increase in the assessed valuation of the property of ~~any~~such the company over the valuation contained in the tentative assessment, notice must be given to the company of ~~any~~such the proposed increase and a hearing granted thereon. A ten-day written notice of the proposed increase and hearing must be given to the company ~~in such instance~~, either by mail addressed to the company, or personally served on a duly authorized agent of the company.

**SECTION 19. AMENDMENT.** Section 57-06-21 of the North Dakota Century Code is amended and reenacted as follows:

**57-06-21. Reports to county auditors.**

On or before the fifteenth day of ~~March~~February of each year, each company required to be assessed under this chapter shall file with the county auditor of each county within which any part of its operative property is located a report giving a general description of all its property located within the county, with operative and nonoperative property listed separately. The report must give the length of the line or lines within the county and the length in each taxing district of each line constituting part of a single and continuous line or property. The company also shall file with the county auditor and the tax commissioner a map of all of its lines within the county showing clearly the length of its lines within each taxing district as of January first of that year. To facilitate the making of the maps, the county auditor, on or before the first day of ~~February~~January of each year, shall provide to each company a current map of the county showing the boundaries of each taxing district in the county.

**SECTION 20. AMENDMENT.** Section 57-13-02 of the North Dakota Century Code is amended and reenacted as follows:

**57-13-02. Annual meeting to assess taxable property.**

The state board of equalization shall meet annually on the ~~first~~second Tuesday in ~~August~~July at the office of the state tax commissioner and shall assess all of the taxable property which such board is required to assess pursuant to and in accordance with the provisions of section 4 of article X of the Constitution of North Dakota, as amended, and the statutes of this state."

Page 3, line 9, replace "first" with "tenth"

Page 3, line 10, replace "treasurer" with "auditor"

Page 3, line 11, after "property" insert "a preliminary budget statement and"

Page 3, line 12, remove ". For purposes of this section, a taxing district means a city, county."

Page 3, remove lines 13 through 15

Page 3, line 16, replace "hundred thousand dollars" with ", which may be no earlier than September seventh. A taxing district that fails to provide the information required under this subsection on or before August tenth may not impose a property tax levy in a greater amount of dollars than was imposed by the taxing district in the prior year"

Page 3, line 17, replace "twenty-fifth" with "thirty-first"

Page 3, line 17, replace "treasurer" with "auditor"

Page 3, line 18, after "property" insert "with a total estimated property tax of at least one hundred dollars"

Page 3, line 20, after "located" insert ", which anticipate levying in excess of one hundred thousand dollars in the current year, and the location at which the taxing district's budget is available for review"

Page 3, line 21, remove "The number of mills against the taxing district's current year taxable valuation."

Page 3, remove lines 22 and 23

Page 3, line 24, replace "revenue as the property tax levy in the prior year" with "The true and full value of the property based on the best information available"

Page 3, line 25, remove "A statement regarding whether the taxing district anticipates increasing the"

Page 3, line 26, replace "property tax levy" with "A column showing the actual property tax levy in dollars against the parcel by the taxing district that levied taxes against the parcel in the immediately preceding taxable year and a column showing the estimated property tax levy in dollars against the parcel by the taxing district levying tax in the taxable year for which the notice applies based on the preliminary budget statements of all taxing jurisdictions"

Page 3, line 27, remove "The additional number of mills the taxing district may require, calculated as the"

Page 3, remove line 28

Page 3, line 29, replace "district anticipates increasing its property tax levy" with "A column indicating the difference between the taxing district's total levy from the previous year and the taxing district's estimated levy with the word "INCREASE" printed in boldface type if the proposed tax levy is larger in dollars than the levy in dollars in the previous year."

- e. Information identifying the estimated property tax savings that will be provided pursuant to section 57-20-07.1 based on the best information available"

Page 3, line 30, replace "e." with "f."

Page 4, line 5, after the underscored period insert "If a parcel of taxable property is owned by more than one owner, notice must be sent to only one owner of the property. Failure of an owner to receive a notice under this section will not relieve the owner of property tax liability or modify the qualifying date under section 57-20-09 for which an owner may receive a discount for early payment of tax."

Page 4, after line 7, insert:

- "5. The direct cost of providing taxpayer notices under this section may be allocated in a manner proportionate to the number of notices mailed on behalf of each taxing district that intends to levy in excess of one hundred thousand dollars in property taxes in the current year."

Page 4, remove lines 8 through 31

Page 5, replace lines 1 through 30 with:

**SECTION 22. AMENDMENT.** Section 57-15-13 of the North Dakota Century Code is amended and reenacted as follows:

**57-15-13. School district tax levies.**

School district taxes must be levied by the governing body of each school district on or before the ~~fifteenth~~<sup>tenth</sup> day of August of each year. The governing body of the school district may amend its tax levy and budget for the current fiscal year on or before the tenth day of October of each year but the certification must be filed with the county auditor within the time limitations under section 57-15-31.1. Taxes for school district purposes must be based upon an itemized budget statement which must show the complete expenditure program of the district for the current fiscal year and the sources of the revenue from which it is to be financed. The school board of each public school district, in levying taxes, is limited by the amount necessary to be raised for the purpose of meeting the appropriations included in the school budget of the current fiscal year, and the sum necessary to be provided as an interim fund, together with a tax sufficient in amount to pay the interest on the bonded debt of the district and to provide a sinking fund to pay and discharge the principal thereof at maturity.

**SECTION 23. REPEAL.** Sections 11-23-03 and 57-15-02.1 of the North Dakota Century Code are repealed."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2310: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2310 was placed on the Sixth order on the calendar.

Page 1, line 9, overstrike "The inspectors shall"

Page 1, line 10, overstrike "inspect, within fifteen days after" and insert immediately thereafter "Upon receipt of"

Page 1, line 11, replace "eight" with "five"

Page 1, line 11, overstrike "in municipalities having ordinances requiring such"

Page 1, line 12, overstrike "inspection"

Page 1, line 12, after the comma insert "the inspectors shall inspect"

Page 1, line 12, overstrike "the same" and insert immediately thereafter "that installation"

Re-number accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2328: Judiciary Committee (Sen. Armstrong, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2328 was placed on the Sixth order on the calendar.

Page 1, line 1, after the comma insert "subsection 9 of section 12.1-31-03,"

Page 1, line 8, remove "for any person to"

Page 1, after line 20, insert:

**"SECTION 2. AMENDMENT.** Subsection 9 of section 12.1-31-03 of the North Dakota Century Code is amended and reenacted as follows:

9. As used in this section:
  - a. "Alternative nicotine product" means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. The term does not include any cigarette, cigar, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, any electronic smoking device, or any product regulated as a drug or device by the United States Food and Drug Administration under chapter V of the federal Food, Drug, and Cosmetic Act [21 U.S.C 501 et seq.].
  - b. "Electronic smoking device" means any electronic product that delivers nicotine or other substances to the individual inhaling from the device, including, an electronic cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of such a product, whether or not sold separately. Electronic smoking device does not include drugs, devices, or combination products approved for sale by the United States food and drug administration, as those terms are defined in the federal Food, Drug and Cosmetic Act [52 Stat. 1040; 21 U.S.C. 301 et seq.].
  - c. "Proprietor" means the owner of a retail establishment or an individual to whom the owner has delegated the responsibility for day-to-day management of operations of the retail establishment.
  - d. "Self-service display" means a display that contains cigarettes, cigarette papers, cigars, snuff, tobacco in any other form which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products and is located in an area that is openly accessible to the retailer's customers, and from which customers can readily access those products without the assistance of a salesperson. A display case that holds those products behind locked doors does not constitute a self-service display.
  - ~~d.e.~~ "Tobacco specialty store" means a retail store that:
    - (1) Derives at least seventy-five percent of its revenue from the sale of cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products; and

- (2) Does not permit minors to enter the premises unless accompanied by a parent or legal guardian.

e.f. "Vending machine" means a machine, appliance, or other mechanical device operated by currency, token, debit card, credit card, or other means of payment that is designed or used for vending purposes, including machines or devices that use remote control locking mechanisms."

Page 1, line 23, replace the "person" with "proprietor"

Page 3, line 21, after "15." insert "Proprietor" means the owner of a retail establishment or an individual to whom the owner has delegated the responsibility for day-to-day management of operations of the retail establishment.

16."

Page 3, line 22, replace "16." with "17."

Page 3, line 24, replace "17." with "18."

Page 3, line 27, replace "18." with "19."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SCR 4005: Transportation Committee (Sen. Laffen, Chairman)** recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SCR 4005 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SCR 4009: Government and Veterans Affairs Committee (Sen. Poolman, Chairman)** recommends **DO NOT PASS** (4 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). SCR 4009 was placed on the Eleventh order on the calendar.

The Senate stood adjourned pursuant to Senator Klein's motion.

**Shanda Morgan, Secretary**

