

## JOURNAL OF THE SENATE

### Sixty-third Legislative Assembly

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**Bismarck, January 30, 2013**

The Senate convened at 1:00 p.m., with President Wrigley presiding.

The prayer was offered by Chaplain Gary Heaton, Sanford Health, Bismarck.

The roll was called and all members were present except Senator Robinson.

A quorum was declared by the President.

#### ANNOUNCEMENT

**PRESIDENT WRIGLEY ANNOUNCED** that the reports received by the Senate under statutory requirements that reports be filed with the Legislative Assembly are filed with the Legislative Council.

#### CONSIDERATION OF AMENDMENTS

**SB 2009: SEN. KREBSBACH (Appropriations Committee) MOVED** that the amendments 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 2266:** A BILL for an Act to amend and reenact section 10-15-05, subsection 2 of section 10-15-12, subsection 1 of section 10-19.1-10, section 10-19.1-17, subsection 1 of section 10-32-07, section 10-32-14, subsection 1 of section 10-33-06, section 10-33-14, and subsection 3 of section 10-34-04 of the North Dakota Century Code, relating to cooperative association of articles of incorporation and address of the principal office, business corporation articles of incorporation and amendment of articles of incorporation, limited liability company articles of organization and amendment of the articles of organization, nonprofit corporation articles of incorporation and amendment of articles of incorporation, and contents of the registration a real estate investment trust.

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

**YEAS:** Anderson; Andrist; Armstrong; Axness; Berry; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Oehlke; Poolman; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Robinson

SB 2266 passed.

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#### SECOND READING OF SENATE BILL

**SB 2154:** A BILL for an Act to amend and reenact subsections 2, 3, and 4 of sections 23-37-17 of the North Dakota Century Code, relating to registration fees for above and underground tanks.

#### 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 45 YEAS, 1 NAYS,

0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Armstrong; Axness; Berry; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Oehlke; Poolman; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**NAYS:** Luick

**ABSENT AND NOT VOTING:** Robinson

SB 2154 passed.

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### SECOND READING OF SENATE BILL

**SB 2216:** A BILL for an Act to amend and reenact section 15.1-09-05 of the North Dakota Century Code, relating to causes of vacancy for school board positions.

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

**YEAS:** Anderson; Andrist; Armstrong; Axness; Berry; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Oehlke; Poolman; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Robinson

SB 2216 passed.

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### SECOND READING OF SENATE BILL

**SB 2139:** A BILL for an Act to amend and reenact section 49-22-04 of the North Dakota Century Code, relating to the submission of ten-year plans by a utility.

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

**YEAS:** Anderson; Andrist; Armstrong; Axness; Berry; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Oehlke; Poolman; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Robinson

Engrossed SB 2139 passed.

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### SECOND READING OF SENATE BILL

**SB 2108:** A BILL for an Act to amend and reenact sections 50-06-05.3, 50-06-05.4, and 50-06-05.5 of the North Dakota Century Code, relating to services provided at the regional human service centers and to human service councils.

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

**YEAS:** Anderson; Andrist; Armstrong; Axness; Berry; Burckhard; Campbell; Carlisle; Cook; Dever; Dotzenrod; Erbele; Flakoll; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Murphy; Oehlke; Poolman; Schaible; Sorvaag; Unruh; Wanzek; Wardner; Warner

**NAYS:** Bowman; Grabinger; Marcellais; Mathern; Miller; Nelson; O'Connell; Schneider; Sinner; Sitte; Triplett

**ABSENT AND NOT VOTING:** Robinson

Engrossed SB 2108 passed.

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**SECOND READING OF SENATE BILL**

**SB 2060:** A BILL for an Act to create and enact a new section to chapter 54-52.6 of the North Dakota Century Code, relating to plan modifications to the public employees retirement system defined contribution retirement plan required to maintain compliance with the Internal Revenue Code; to amend and reenact sections 39-03.1-11.2, 39-03.1-29, subsection 11 of section 54-52-04, sections 54-52-17, 54-52-23, 54-52-28, 54-52.3-03, and 54-52.6-13 of the North Dakota Century Code, relating to incorporation of Internal Revenue Code compliance under the highway patrolmen's retirement plan and public employees retirement system, updating appropriate committee designations for the savings clauses under the highway patrolmen's retirement plan and public employees retirement system, the board's authority to fund administrative expenses, normal retirement dates for a peace officer or correctional officer, normal retirement dates for a national guard security officer or firefighter, normal retirement dates for a peace officer employed by the bureau of criminal investigation, removal of the level social security retirement benefit option under the public employees retirement system, defrayal of expenses associated with the pretax benefits program, and distribution of a deceased participant's accumulated account balance under the defined contribution retirement plan; and to provide a continuing appropriation.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Armstrong; Axness; Berry; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Oehlke; Poolman; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Robinson

SB 2060 passed.

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

**MR. SPEAKER:** The Senate has passed, and your favorable consideration is requested on: SB 2061, SB 2116, SB 2120, SB 2135, SB 2158, SB 2177, SCR 4001.

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

**MR. SPEAKER:** The Senate has passed, the emergency clause carried, and your favorable consideration is requested on: SB 2134.

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

**MR. PRESIDENT:** The House has passed, and your favorable consideration is requested on: HB 1025, HB 1049, HB 1079, HB 1091, HB 1092, HB 1098, HB 1105, HB 1106, HB 1117, HB 1120, HB 1142, HB 1152, HB 1154, HB 1156, HB 1157, HB 1163, HB 1171, HB 1187, HB 1252.

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

**MR. PRESIDENT:** The House has passed, the emergency clause carried, and your favorable consideration is requested on: HB 1061, HB 1114.

**MOTION**

**SEN. KLEIN MOVED** that the absent member 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 1:30 p.m., Thursday, January 31, 2013, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**SB 2025: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2025 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2113: Judiciary Committee (Sen. Hogue, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2113 was placed on the Sixth order on the calendar.

Page 2, line 11, replace "Records and privileged information" with "Information"

Page 2, line 11, after "relating" insert "directly"

Page 2, line 11, replace "a" with "an organized"

Page 2, line 15, replace "process" with "counseling or public safety peer debriefing event"

Page 2, line 21, replace "a" with "an organized"

Page 2, line 29, after "agency" insert "in writing. This subsection does not preclude use of information obtained from another source"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2142: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2142 was rereferred to the **Appropriations Committee**.

**REPORT OF STANDING COMMITTEE**

**SB 2159: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2159 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2162: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2162 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2163: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2163 was rereferred to the **Appropriations Committee**.

**REPORT OF STANDING COMMITTEE**

**SB 2169: Judiciary Committee (Sen. Hogue, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2169 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2174: 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 2174 was placed on the Sixth order on the calendar.

Page 1, line 3, replace "disconnection or termination" with "discontinuance"

Page 1, replace lines 8 through 12 with:

**"Notification before discontinuance of utility service.**

1. A public utility shall provide notice to a customer of the utility's intention to discontinue utility service for payment delinquency in accordance with commission rules.
2. A public utility shall provide notice to a third party designated by a customer of the utility's intention to discontinue electric or natural gas service to the customer for payment delinquency. The customer shall designate the third party on a form provided by or approved by the public utility. The public utility may elect to provide notice to a designated third party by mail or electronic means. Notice by mail must be made not less than five days before discontinuance and notice by electronic means must be made not less than three days before discontinuance. A public utility is immune from civil liability for failing to provide notice or providing incorrect notice to a third party of its intention to discontinue utility service to a customer."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2175: 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 2175 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "sections 14-07-07 and" with "section"

Page 1, remove lines 4 through 11

Page 1, line 14, overstrike "**Separate and mutual rights**" and insert immediately thereafter "**Rights**"

Page 1, line 15, overstrike "separate and mutual"

Page 1, line 17, overstrike "The earnings of one spouse are not liable for the debts of the other spouse, and the"

Page 1, overstrike line 18

Page 1, line 19, overstrike "either spouse or in one spouse's custody, while the husband and wife are"

Page 1, line 20, remove "legally separated"

Page 1, line 20, overstrike "from each other, are the separate property of each spouse"

Page 1, line 20, remove the underscored comma

Page 1, line 21, remove "except as to third parties as provided in section 14-07-07"

Page 1, line 21, overstrike the period

Page 1, line 22, overstrike "3."

Page 1, line 23, overstrike the first comma

Page 1, line 23, remove "unless legally separated"

Page 1, line 23, overstrike the second comma

Page 2, line 2, remove ", except as provided in section 14-07-07"

Page 2, line 3, overstrike "4." and insert immediately thereafter "3."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2192: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2192 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2200: Education Committee (Sen. Flakoll, Chairman)** recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2200 was rereferred to the **Appropriations Committee**.

#### REPORT OF STANDING COMMITTEE

**SB 2203: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2203 was rereferred to the **Appropriations Committee**.

#### REPORT OF STANDING COMMITTEE

**SB 2208: Education Committee (Sen. Flakoll, Chairman)** recommends **DO NOT PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2208 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2229: Education Committee (Sen. Flakoll, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2229 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "amend and reenact section 15.1-09-58 of the North Dakota Century Code, relating to early childhood education; and to"

Page 1, after line 2, insert:

**"SECTION 1. AMENDMENT.** Section 15.1-09-58 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-58. ~~Prekindergarten program~~Early childhood education - Authorization - Support.**

The board of a school district may establish a ~~prekindergarten~~an early childhood education program and may ~~receive and expend any state~~support that program with:

1. Local tax revenues, other than those necessary to support the district's kindergarten program and the provision of elementary and high school educational services;
2. State moneys specifically appropriated for the program,~~any federal;~~

3. Federal funds specifically appropriated or approved for the program, and any gifts; and
4. Gifts, grants, and donations specifically given for the program."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2239: Judiciary Committee (Sen. Hogue, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2239 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2257: Judiciary Committee (Sen. Hogue, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2257 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2265: Judiciary Committee (Sen. Hogue, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2265 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2282: Education Committee (Sen. Flakoll, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2282 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "a" with "two"

Page 1, line 1, replace "section" with "sections"

Page 1, line 2, after "districts" insert "and to the closure of a school"

Page 1, line 7, replace "2014" with "2015"

Page 1, line 11, replace "2014" with "2015"

Page 1, line 12, replace "2014" with "2015"

Page 1, line 13, replace "2014" with "2015"

Page 1, after line 15, insert:

**"SECTION 2.** A new section to chapter 15.1-07 of the North Dakota Century Code is created and enacted as follows:

**Closure of school - Required vote.**

Before the board of a school district may close a school located within the boundary of a district that was required to undergo reorganization or dissolution under section 1 of this Act, the board shall place the question of closing the school on the ballot. The question may be voted upon only by those qualified electors who reside within the boundary of the district that was required to undergo reorganization or dissolution under section 1 of this Act. The board may not close the school unless a majority of the qualified electors voting on the question approve the closure."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SCR 4005: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4005 was placed on the Eleventh order on the calendar.

**FIRST READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3015:** A concurrent resolution declaring Monday, February 11, 2013, "North Dakota Close-Up Day".

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

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

**William R. Horton, Secretary**