

**JOURNAL OF THE SENATE****Sixty-fifth Legislative Assembly**

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**Bismarck, March 22, 2017**

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

The prayer was offered by Dr. Preston Van Loon, Director of Spiritual Care, Sanford Health, Bismarck.

The roll was called and all members were present.

A quorum was declared by the President.

**MOTION**

**SEN. KLEIN MOVED** that the Senate resolve itself into a Memorial Service, which motion prevailed.

**SENATE MEMORIAL SERVICE****Memorial Service Committee**

Senator Robert Erbele, Chairman  
Senator Carolyn Nelson  
Senator Dave Oehlke  
Senator Nicole Poolman

**Moderator**

Lieutenant Governor Brent Sanford

**Introduction of Guests**

Lieutenant Governor Brent Sanford

**Invocation**

John Warner, Pastor of Saron Lutheran Church

**Senate Chorus**

“It is Well With My Soul”

Directed by Senator Robert Erbele

Accompanied by Senator Carolyn Nelson and Arvy Smith

**First and Second Reading of Memorial Resolution**

Shanda Morgan, Secretary of the Senate

**Presentation of Resolutions and Memorials**

Senator Gary Lee, President Pro Tempore

Al Jaeger, Secretary of State

Shanda Morgan, Secretary of the Senate

**Senate Chorus**

“They Shall Soar Like Eagles”

Directed by Senator Robert Erbele

Accompanied by Senator Carolyn Nelson

**Memorial Address**

John Andrist, Former Senator from District 2

**Senate Chorus Benediction Hymn**

“Go Ye Now in Peace”

**Benediction**

Pastor John Warner

**DECEASED MEMBERS****Howard A. Freed**

40th through the 45th Legislative Assemblies, District 37  
Died March 8, 2017

**Perry Bernard Grotberg**

47th through the 48th Legislative Assemblies, District 24  
Died October 16, 2015

**E. Gene Hilken**

48th through the 51st Legislative Assemblies, District 31  
Died March 14, 2016

**Sebastian Fabian "Buckshot" Hoffner**

43rd through the 46th Legislative Assemblies, District 12  
Died December 17, 2015

**Shirley Williams Lee**

43rd through the 48th Legislative Assemblies, District 8  
Died February 8, 2016

**Charles E. "Chuck" Orange**

45th and 46th Legislative Assemblies, District 18  
Died April 2, 2016

**James "Jim" Pomeroy**

60th and 61st Legislative Assemblies, District 27  
Died April 8, 2016

**FIRST READING OF SENATE MEMORIAL RESOLUTION**

Memorial Resolutions Committee introduced:

**SMR 8001:** A memorial resolution for deceased members of the Senate of North Dakota.  
Was read the first time.

**MOTION**

**SEN. HOGUE MOVED** that the rules be suspended, that SMR 8001 not be printed, not be referred to committee, but be read in its entirety, be printed in the Journal, and placed on the calendar for immediate second reading and final passage, which motion prevailed.

Memorial Resolutions Committee introduced:

**SENATE MEMORIAL RESOLUTION NO. 8001**

A memorial resolution for deceased members of the Senate of North Dakota.

**WHEREAS**, God has welcomed to their eternal home our former colleagues:

Howard A. Freed, who served in the 40<sup>th</sup> through the 45<sup>th</sup> Legislative Assemblies, from District 37, died March 8, 2017.

Perry Bernard Grotberg, who served in the 47<sup>th</sup> and 48<sup>th</sup> Legislative Assemblies, from District 24, died October 16, 2015.

E. Gene Hilken, who served in the 48<sup>th</sup> through the 51<sup>st</sup> Legislative Assemblies, from District 31, died March 14, 2016.

Sebastian Fabian "Buckshot" Hoffner, who served in the 43<sup>rd</sup> through the 46<sup>th</sup> Legislative Assemblies, from District 12, died December 17, 2015.

Shirley Williams Lee, who served in the 43<sup>rd</sup> through the 48<sup>th</sup> Legislative Assemblies, from District 8, died February 8, 2016.

Charles E. "Chuck" Orange, who served in the 45<sup>th</sup> and 46<sup>th</sup> Legislative Assemblies, from District 18, died April 2, 2016.

James "Jim" Pomeroy, who served in the 60<sup>th</sup> and 61<sup>st</sup> Legislative Assemblies, from District 27, died April 8, 2016.

**WHEREAS**, we now pause to mourn the passing of our former Senate colleagues and to honor their memories; and

**WHEREAS**, these legislators rendered outstanding service to the people of the state by their contributions to public service;

**NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA:**

That we express our sorrow on their passing and our appreciation, on behalf of the people of North Dakota, of the loyal and devoted service of our former colleagues; and

**BE IT FURTHER RESOLVED**, that for the perpetuation of their memory this token of respect and sympathy by their successors in trust be printed in the Journal of the Senate and that the Secretary of State present enrolled copies of this resolution to the surviving families of these deceased Senators.

#### **SECOND READING OF SENATE MEMORIAL RESOLUTION**

**SMR 8001:** A memorial resolution for deceased members of the Senate of North Dakota.

The question being on the final adoption of the resolution, which has been read.

SMR 8001 was declared adopted on a voice vote.

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#### **INVOCATION BY JOHN WARNER PASTOR OF SARON LUTHERAN CHURCH FORMER SENATOR**

Creator God, we gather on this day to honor the memory of our friends and colleagues who have served their communities and this state as members of the North Dakota State Senate. While their service in this Chamber and their lives here on earth have ended, we give thanks to you for the blessing that each of them was for their family and to those they served.

We, too, were privileged to have known them and we are grateful to you for their lives of faithful service. Thank you for their loved of our great state, for their desire to give their very best. Thank you for their willingness to speak wisdom to power and comfort to the powerless. Make us, the ones they left behind, ever mindful of the high standards of justice and equity that they established in their time and help us to pass on that legacy to those who follow.

We are gathered today in the presence of their families. We are so very grateful to them for sharing their loved ones in this great enterprise that is the governance of North Dakota. Envelope all of us in the reassurance of your love as we gather in mourning for those who have departed and grant a full measure of wisdom and honor to those who carry on the task.  
Amen

#### **MEMORIAL ADDRESS BY FORMER SENATOR JOHN ANDRIST**

Honorable Lt. Gov. Sanford, friends and family of the brothers and sister we honor today, and all of you who make me smile every time I see you:

It is good to be back in this chamber, albeit a bit intimidating from this vantage point. For 22 years this was my second home, and I like to think "my second neighborhood", to borrow a term from Mr. Rogers.

In my second session of being away I must admit quite honestly, I miss all of you dreadfully. The last time I filed for reelection I had decided I was going to keep doing this until I was recalled by God. Alas, I soon learned, my arms are too short to box with God.

My challenge in speaking today about our seven honorees, is that I really only knew one of them, and unless they served your own city or district you probably didn't personally know them either.

Yet, in a larger sense we are all bonded in a special brotherhood or sisterhood or whatever you call it. I like to use the term love. So I've chosen to share a few words about how important to our lives this thing is that we casually refer to as love. Love is the most powerful emotion in our lives. Indeed, love is what Jesus was all about.

The word love appears more than 500 times in newer versions of the Bible, a majority of them in the new testament. The Aramaic language in which Jesus spoke had at least 4 or 5 words for different forms of love, whereas our English word must share many connotations.

Love is that titillation you experienced on your honeymoon, but it is also the emotion you experience 30 years later when you were more grateful than amorous. Love is that inexplicable joy a new mother feels when she first touches her newborn child, and the sensation that grabs a new father the first time that baby smiles at him.

Love is not only what makes marriage work for different kinds of people and personalities. It is what creates civility wherever we interact with others. The stronger our feeling of love for another, the better we are able to deal with faults and differences. I once wistfully asked the love of my life if she really loved me. Her response was, "If I didn't love you I couldn't stand you!"

So it is with us. Love is the force which holds us together after every bitter debate, and brings us back tomorrow. It is the mother of respect and civility. Another form of love can make us run into burning buildings to save people we may not know, or to stop and give aid when we encounter an accident on the highway. It is what makes us smile when children sing, and weep in the death of people close to us.

At least twice in recent months I have felt crushed by anguish at the passing of an unrelated friend that I loved. It seemed just too difficult to emotionally handle.

Most of us understand the power of forgiveness, but forgiveness simply cannot happen apart from love. The two are inseparably linked.

Love is the force which binds us together in communities just like this one we share in this very room at this very time, as well as with all the others who have sat in these chairs before us, including the seven we honor today. This love and this community spans the ages, uniting us forever, with people like:

Perry Grotberg of Valley City, who served from 1981 to 1984, and was particularly devoted to education of the handicapped and disabled. True love has no man.

Like Gene Hilken of Wilton, who served from 1983 to 1990, who loved Vivian, farming, wildlife, and amateur baseball.

Like Buckshot Hoffner of Esmond, whom I am told was as easy to love as anyone who ever populated this place, and who filled so many leadership roles in his community and our state, including directing our State's Centennial Celebration in 1989. He served in five House sessions starting in 1963 and four Senate sessions ending in 1980.

Like Shirley Lee of Turtle Lake and Bismarck, who fell in love with this work as a Senate staffer for a number of years before getting the opportunity to serve six sessions of her own between 1974 and 1984.

Like Chuck Orange of Grand Forks, who served in the House from 1973 to 1976 and the Senate from 1977 to 1980. He is the only honoree who never had a wife to love, yet he had a magnetic personality and charming sense of humor in a lifetime of community involvement.

Jim Pomeroy of Fargo, like me, he served later in his life. 2007 to 2010 after a long career of service as a church pastor and advocate for education, worker, and women's rights. I knew him as quiet, unassuming, and yes, loving.

Finally, Howard Freed, an accomplished attorney and Dickinson community leader during a long life in Dickinson that just ended two weeks ago, 6 days short of his 91st birthday. He was an Eagle Scout and Boy Scout leader, and was serving in the U.S. Navy when WWII ended. His time in the Senate was from 1967 to 1978.

We may not have physically known these seven, but we are connected through the power of love. It truly is the tie that binds.

A few weeks ago the past of my church closed his service with a benediction including these words credited to Carlo Carretto, an Italian Catholic Brother, who died in 1988. It was really quite profound for me: "Live love, let love invade you, it will never fail to teach you what you must do."

I would be honored if a few of you would write this down and place it on your desk, as I did on my refrigerator, pondering it a few times before it is lost in your clutter and your memory. "Live love, let love invade you, it will never fail to teach you what you must do."

I am so honored to be among you, to have been given the opportunity to serve here and work with you. And yes, I really do love you.

**BENEDICTION BY JOHN WARNER  
PASTOR OF SARON LUTHERAN CHURCH  
FORMER SENATOR**

Gracious and eternal God, as we conclude this service of remembrance, we ask for your blessings as we seek to become citizens of a beloved community, loving you and loving our neighbors as ourselves.

We pray that you will bless us with your continued presence because without it, hatred and arrogance will infect our hearts. But with the blessing of your presence, we know that we can renew the ties of mutual regard which can best form our civic life. We pray that we will always see each other as created in your image, a singular unit of God's grace, unprecedented, unrepeatable and irreplaceable.

Endow us with a spirit of gratitude and humility that we may become a blessing to those we serve. Help us always to remember the words of the prophet Micah, "What does the Lord require of you but to do justice, to love kindness and walk humbly with God?". Amen

**MOTION**

**SEN. KLEIN MOVED** that the Invocation and Benediction by John Warner, Pastor of Saron Lutheran Church and Former Senator, and the Memorial Address by John Andrist, Former Senator, be printed in the journal, which motion prevailed.

**MOTION**

**SEN. KLEIN MOVED** that the Senate Memorial Service be dissolved, which motion prevailed.

**MOTION**

**SEN. KLEIN MOVED** that the Senate stand in recess until 2:15 p.m., which motion prevailed.

**THE SENATE RECONVENED** pursuant to recess taken, with President Sanford presiding.

**CONSIDERATION OF AMENDMENTS**

**HB 1365, as engrossed: SEN. ANDERSON (Human Services Committee) MOVED** that the amendments on SJ pages 834-835 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

**CONSIDERATION OF AMENDMENTS**

**HB 1236, as engrossed: SEN. ARMSTRONG (Judiciary Committee) MOVED** that the amendments on SJ page 834 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

**CONSIDERATION OF AMENDMENTS**

**HB 1222, as engrossed: SEN. MYRDAL (Judiciary Committee) MOVED** that the amendments on SJ pages 832-833 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

**CONSIDERATION OF AMENDMENTS**

**HB 1235, as engrossed: SEN. NELSON (Judiciary Committee) MOVED** that the amendments on SJ pages 833-834 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

**CONSIDERATION OF AMENDMENTS**

**HB 1395, as engrossed: SEN. D. LARSON (Judiciary Committee) MOVED** that the amendments on SJ pages 835-836 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

**CONSIDERATION OF AMENDMENTS**

**HB 1415: SEN. ARMSTRONG (Judiciary Committee) MOVED** that the amendments on SJ page 836 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

**CONSIDERATION OF AMENDMENTS**

**HB 1183, as engrossed: SEN. LUICK (Judiciary Committee) MOVED** that the

amendments on SJ pages 831-832 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

### SECOND READING OF HOUSE BILL

**HB 1322:** A BILL for an Act to create and enact section 58-18-08 of the North Dakota Century Code, relating to township bonding authority.

### 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Armstrong; Bekkedahl; Bowman; Burckhard; Campbell; Casper; Clemens; Cook; Davison; 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; Wanzek; Wardner

Engrossed HB 1322 passed.

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### SECOND READING OF HOUSE CONCURRENT RESOLUTION

**HCR 3027:** A concurrent resolution directing the Legislative Management to consider studying the estimated fiscal impact to the state of refracturing existing oil wells.

The question being on the final adoption of the amended resolution, which has been read, and has committee recommendation of DO PASS.

HCR 3027, as amended, was declared adopted on a voice vote.

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### SECOND READING OF HOUSE CONCURRENT RESOLUTION

**HCR 3011:** A concurrent resolution extending appreciation to the President of the United States for expediting the approval of the easement required for the completion of the Dakota Access Pipeline, and requesting the federal government reimburse the state of North Dakota for all expenses incurred as a result of the Dakota Access Pipeline protests and permitting delays.

The question being on the final adoption of the amended resolution, which has been read, and has committee recommendation of DO PASS.

Engrossed HCR 3011, as amended, was declared adopted on a voice vote.

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### SECOND READING OF HOUSE BILL

**HB 1387:** A BILL for an Act to create and enact section 31-04-04.2 of the North Dakota Century Code, relating to use of audiovisual equipment for the testimony of a minor or disabled adult witness.

### 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Armstrong; Bekkedahl; Bowman; Burckhard; Campbell; Casper; Clemens; Cook; Davison; 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; Wanzek; Wardner

Engrossed HB 1387, as amended, passed.

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### SECOND READING OF HOUSE BILL

**HB 1398:** A BILL for an Act to amend and reenact section 49-02-01.1 of the North Dakota Century Code, relating to the jurisdiction of the public service commission.

### 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 39 YEAS, 8 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

**NAYS:** Armstrong; Bowman; Casper; Cook; Dever; Lee, G.; Meyer; Unruh

HB 1398, as amended, passed.

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### SECOND READING OF HOUSE BILL

**HB 1144:** A BILL for an Act to create and enact section 49-22-08.2 and chapter 49-22.1 of the North Dakota Century Code, relating to gas and liquid energy conversion, gas and liquid transmission facility siting, and combining application; to amend and reenact sections 11-09.1-04, 17-05-09, and 32-15-21, subsection 18 of section 38-08-02, sections 49-07-01.1, 49-22-03, 49-22-04, 49-22-05.1, 49-22-07, and 49-22-07.2, subsection 1 of section 49-22-08, sections 49-22-08.1, 49-22-09, 49-22-09.1, 49-22-14, 49-22-16, 49-22-17, 49-22-19, 49-22-20, and 49-22-21, subdivision e of subsection 1 of section 49-22-22, subsection 2 of section 49-22-22, subsection 1 of section 54-17.7-08, and section 61-24.3-03 of the North Dakota Century Code, relating to energy conversion and transmission facility siting; to repeal sections 49-22-01 and 49-22-16.3 of the North Dakota Century Code, relating to energy conversion short title and route adjustment before or during construction for gas or liquid transmission line; to provide a continuing appropriation; and to provide a penalty.

### 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Armstrong; Bekkedahl; Bowman; Burckhard; Campbell; Casper; Clemens; Cook; Davison; 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; Wanzek; Wardner

Engrossed HB 1144, as amended, passed.

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### SECOND READING OF HOUSE BILL

**HB 1288:** A BILL for an Act to amend and reenact section 39-12-02 of the North Dakota Century Code, relating to an annual permit for oversized vehicles.

### 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Armstrong; Bekkedahl; Bowman; Burckhard; Campbell; Casper; Clemens; Cook; Davison; 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; Wanzek; Wardner

HB 1288, as amended, passed.

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### SECOND READING OF HOUSE BILL

**HB 1273:** A BILL for an Act to amend and reenact section 62.1-02-05 of the North Dakota Century Code, relating to possession of a firearm or dangerous weapon at a public gathering.

### 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 40 YEAS, 7 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

**NAYS:** Anderson; Dever; Lee, J.; Marcellais; Mathern; Oehlke; Piepkorn

Engrossed HB 1273 passed.

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### SECOND READING OF HOUSE BILL

**HB 1190:** A BILL for an Act to create and enact a new subdivision to subsection 2 of section 62.1-02-05 of the North Dakota Century Code, relating to carrying concealed weapons at public gatherings.

### 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 5 YEAS, 42 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Casper; Kannianen; Larsen, O.; Vedaa

**NAYS:** Armstrong; Bekkedahl; Bowman; Burckhard; Campbell; Clemens; Cook; Davison; Dever; Dotzenrod; Erbele; Grabinger; Heckaman; Hogue; Holmberg; 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; Wanzek; Wardner

Engrossed HB 1190 failed.

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

**MR. SPEAKER:** The Senate has passed, unchanged: HB 1029, HB 1030, HB 1055, HB 1057, HB 1169, HB 1336.

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

**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1137, HB 1339.

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

**MR. SPEAKER:** The Senate has amended and subsequently failed to pass: HB 1434.

**MESSAGE TO THE HOUSE FROM THE SENATE (SHANDA MORGAN, SECRETARY)**  
**MR. SPEAKER:** The Senate has failed to pass, unchanged: HB 1303.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has passed, unchanged: SB 2147.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has amended and subsequently passed: SB 2223, SB 2270, SB 2295, SB 2313.

#### HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2223

Page 1, line 1, after "10-32.1-30.1" insert "and a new subsection to section 10-32.1-39 of the North Dakota Century Code, relating to limited liability company distributions and management and partnership transferable interests"

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

Page 1, line 2, remove "subsection 1 of"

Page 1, line 2, after the third comma insert "and"

Page 1, remove lines 17 through 24

Page 2, replace lines 1 and 2 with:

**"SECTION 2. AMENDMENT.** Section 10-32.1-30 of the North Dakota Century Code is amended and reenacted as follows:

#### **10-32.1-30. Sharing of and right to distributions before dissolution.**

1. ~~Subject~~Except as provided in subsection 5 and subject to paragraphs 1 through 4 of subdivision c of subsection 4 of section 10-32.1-05, any distributions made by a limited liability company before its dissolution and winding up must be in equal shares among members and dissociated members, except to the extent necessary to comply with any transfer effective under section 10-32.1-44 and any charging order in effect under section 10-32.1-45.
2. A person has a right to a distribution before the dissolution and winding up of a limited liability company only if the company decides to make an interim distribution. The dissociation of a person does not entitle the person to a distribution.
3. A person does not have a right to demand or receive a distribution from a limited liability company in any form other than money. Except as otherwise provided in ~~subsection 3 of~~ section 10-32.1-54, a limited liability company may distribute an asset in kind if each part of the asset is fungible with each other part and each person receives a percentage of the asset equal in value to the share of distributions of the person.
4. If a member or transferee becomes entitled to receive a distribution, then the member or transferee has the status of, and is entitled to all remedies available to, a creditor of the limited liability company with respect to the distribution.
5. Notwithstanding subsection 1, subject to paragraphs 1 through 4 of subdivision c of subsection 4 of section 10-32.1-05 and unless otherwise provided in the articles of organization or in an operating agreement, for a limited liability company created after July 31, 2017, any distributions among members and dissociated members made by a limited liability company before its dissolution and winding up must be in proportion to the value of the contributions of the members, except to the extent necessary to comply with any transfer effective under section 10-32.1-44 and any charging order in effect under section 10-32.1-45."

Page 2, line 7, after "company" insert "created after July 31, 2017."

Page 2, line 12, overstrike "In" and insert immediately thereafter "Except as provided in section 5 of this Act, in"

Page 2, line 14, remove the overstrike over "~~Each member has equal rights in the management and conduct of the activities~~"

Page 2, line 15, remove the overstrike over "~~of the company~~"

Page 2, line 15, remove "Unless otherwise provided in the articles of organization or in an"

Page 2, remove lines 16 through 18

Page 2, line 19, remove "winding up"

Page 2, line 21, remove "voting power of the"

Page 2, line 22, remove "transferable interest of the"

Page 2, after line 25, insert:

**"SECTION 5.** A new subsection to section 10-32.1-39 of the North Dakota Century Code is created and enacted as follows:

Notwithstanding subsection 1, in a member-managed limited liability company created after July 31, 2017, the following rules apply:

- a. The management and conduct of the company are vested in the members.
- b. Unless otherwise provided in the articles of organization or in an operating agreement, each member possesses voting power in the management and conduct of the activities of the company in proportion to the interest of the member in distributions of the limited liability company before dissolution and winding up.
- c. A difference arising among members as to a matter in the ordinary course of the activities of the company may be decided by a majority of the voting power of the transferable interest of the members.
- d. An act outside the ordinary course of the activities of the company may be undertaken only with the consent of all members.
- e. The operating agreement may be amended only with the consent of all members."

Page 4, line 14, overstrike "In" and insert immediately thereafter "Except as provided in subsection 5, in"

Page 4, line 14, overstrike "must" and insert immediately thereafter "shall"

Page 4, line 18, remove "and unless otherwise provided in the articles of organization or an"

Page 4, line 19, remove "operating agreement"

Page 4, line 23, remove the overstrike over "~~equal shares among~~"

Page 4, line 23, remove "proportion to the value of the contributions of"

Page 5, line 1, remove "unless"

Page 5, remove line 2

Page 5, line 3, remove "unanimous consent of the voting members"

Page 5, after line 3, insert:

- "5. a. Notwithstanding subsections 1 through 4, in winding up its activities a limited liability company created after July 31, 2017, shall apply its assets to discharge its obligations to creditors, including members that are creditors.
- b. After a limited liability company complies with subdivision a, any surplus must be distributed in the following order, subject to any charging order in effect under section 10-32.1-45 and unless otherwise provided in the articles of organization or an operating agreement:
- (1) To each person owning a transferable interest that reflects contributions made by a member and not previously returned, an amount equal to the value of the unreturned contributions; and
- (2) In proportion to the value of the contributions of members and dissociated members, except to the extent necessary to comply with any transfer effective under section 10-32.1-44.
- c. If a limited liability company does not have sufficient surplus to comply with paragraph 1 of subdivision b, any surplus must be distributed among the owners of transferable interests in proportion to the value of their respective unreturned contributions.
- d. All distributions made under subdivisions a and b must be paid in money unless otherwise provided in the articles of organization in an operating agreement, or by the unanimous consent of the voting members."

Renumber accordingly

#### HOUSE AMENDMENTS TO SENATE BILL NO. 2270

Page 1, line 2, remove "61-24.8-13,"

Page 2, remove lines 23 through 31

Page 3, remove lines 1 through 29

Page 4, line 2, replace "or" with "and"

Page 4, line 21, remove "No publication is required if"

Page 4, remove line 22

Page 4, line 23, remove "to each affected landowner."

Page 5, line 22, replace "or" with "and"

Page 5, line 29, after "assessments" insert "and publishes notice that the hearing is unnecessary due to the receipt of written consent in the official county newspaper of each county in which the benefited lands are located and in local newspapers of general circulation in the area of the affected lands"

Renumber accordingly

#### HOUSE AMENDMENTS TO SENATE BILL NO. 2295

Page 5, line 14, after "education" insert "which contains personally identifiable information about a party to the complaint"

Page 5, line 14, after the underscored period insert "For purposes of this section, "personally identifiable information" means information that directly identifies an individual, and information that, alone or in combination with other information, is linked or linkable to an individual and would allow a reasonable person who lacks knowledge of the relevant circumstances to identify the individual."

Renumber accordingly

#### HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2313

Page 1, line 3, remove "17-04-03,"

Page 1, line 3, remove the second comma

Page 1, line 4, remove "the creation and duration of wind energy easements,"

Page 1, line 5, remove the comma

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

Page 1, remove lines 22 and 23

Page 2, remove lines 1 through 12

Page 3, line 12, remove "any"

Page 3, line 13, remove "quarter section of property containing"

Page 3, line 13, replace "occupied" with "inhabited rural"

Page 3, line 21, after the underscored period insert "A local zoning authority may require setback distances greater than those required under this subsection. For purposes of this subsection, "height of the turbine" means the distance from the base of the wind turbine to the turbine blade tip when it is in its highest position."

**SECTION 4. LEGISLATIVE INTENT - WIND ENERGY RESTORATION AND RECLAMATION OVERSIGHT PROGRAM.** It is the intent of the sixty-fifth legislative assembly that the agriculture commissioner establish the wind property restoration and reclamation oversight program, created in section 1 of this Act, using existing operating funds."

Page 3, line 22, replace "4" with "3"

Renumber accordingly

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

**MR. PRESIDENT:** The House has failed to pass, unchanged: SB 2046, SB 2235.

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

**MR. SPEAKER:** Your signature is respectfully requested on: SB 2146, SB 2236, SB 2242, SB 2296.

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

**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1257, HB 1311, HB 1430, HCR 3009.

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

**MR. PRESIDENT:** The Speaker has signed: SB 2146, SB 2236, SB 2242, SB 2296.

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

**MR. SPEAKER:** The President has signed: SB 2146, SB 2236, SB 2242, SB 2296.

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

**MR. SPEAKER:** The President has signed: HB 1257, HB 1311, HB 1430, HCR 3009.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The Speaker has signed: HB 1289, HB 1373.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bills were delivered to the Governor for approval on March 22, 2017: SB 2132, SB 2142, SB 2240, SB 2251, SB 2320.

**COMMUNICATION FROM GOVERNOR DOUG BURGUM**

This is to inform you that on March 22, 2017, I have signed the following: SB 2131, SB 2148, SB 2157, SB 2165, SB 2171, SB 2205, SB 2238, and SB 2277.

**COMMUNICATION FROM GOVERNOR DOUG BURGUM**

This is to inform you that on March 21, 2017, I have signed the following: SB 2024, SB 2044, SB 2172, and SB 2178.

**MOTION**

**SEN. KLEIN MOVED** that the Senate be on the Fourth, Fifth, Thirteenth, and Sixteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Thursday, March 23, 2017, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**HB 1037: Education Committee (Sen. Schaible, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1037 was placed on the Sixth order on the calendar.

Page 1, line 2, after "reenact" insert "subsection 1 of section 15.1-06-06 and"

Page 1, line 3, after the second "the" insert "approval of public schools and the"

Page 1, after line 5, insert:

**"SECTION 1. AMENDMENT.** Subsection 1 of section 15.1-06-06 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~In order to~~To obtain certification that a public school is approved, the superintendent of the district in which the school is located shall submit to the superintendent of public instruction a compliance report verifying that:
  - a. Each classroom teacher is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board;
  - b. Each classroom teacher is teaching only in those course areas or fields for which the teacher is licensed or for which the teacher has received an exception under section 15.1-09-57;
  - c. The school meets all curricular requirements set forth in chapter 15.1-21;
  - d. The school participates in and meets the requirements of a review process that is:
    - (1) Designed to improve student achievement through a continuous cycle of improvement; and
    - (2) Approved by the superintendent of public instruction;
  - e. The school has been inspected by the state fire marshal or the state fire marshal's designee in accordance with section 15.1-06-09 and:
    - (1) Has no unremedied deficiency; or

- (2) Has deficiencies that have been addressed in a plan of correction which was submitted to and approved by the state fire marshal or the state fire marshal's designee; ~~and~~
- f. All individuals hired after June 30, 2011, and having unsupervised contact with students at the school, have:
  - (1) Undergone a criminal history background check requested by the employing school district; or
  - (2) Undergone a criminal history background check in order to be licensed by the education standards and practices board or by any other state licensing board; and
- g. The school uses North Dakota eTranscripts, or an alternative information system designated by the information technology department in collaboration with the superintendent of public instruction, to generate official transcripts."

Page 1, line 23, after "department" insert "in collaboration with the department of public instruction"

Page 1, line 23, replace "applications" with "official transcripts"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1040, as reengrossed: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1040 was placed on the Sixth order on the calendar.

Page 1, line 5, after "report" insert "to the legislative management"

Page 1, line 5, remove "and"

Page 1, line 5, remove "to the department of"

Page 1, line 6, replace "human services" with "; and to provide a contingent appropriation"

Page 1, line 24, replace "\$200,000" with "\$400,000"

Page 2, after line 6, insert:

**"SECTION 4. CONTINGENT GENERAL FUND APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - CHILDRENS' PREVENTION AND EARLY INTERVENTION BEHAVIORAL HEALTH SERVICES.** If actual general fund revenues for the period July 1, 2017, through June 30, 2018, exceed estimated general fund revenue projections for the same period by at least \$5,000,000 as determined by the office of management and budget, there is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,556,000, or so much of the sum as may be necessary, to the department of human services for the purpose of establishing prevention and early intervention behavioral health services for children, including services for children suffering from the effects of behavioral health issues, for the biennium beginning July 1, 2017, and ending June 30, 2019. For purposes of this section, "estimated general fund revenues" excludes transfers to the general fund from the strategic investment and improvements fund, bank of North Dakota profits, property tax relief fund, the lottery, the mill and elevator, and gas tax administration.

**SECTION 5. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - BEHAVIORAL HEALTH DATABASE.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$70,000, or so much of the sum as may be necessary, to the department of human

services for the purpose of providing a grant to an organization administering statewide 2-1-1 services to create a behavioral health provider database of profit and nonprofit organizations, for the biennium beginning July 1, 2017, and ending June 30, 2019.

**SECTION 6. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - PEER-TO-PEER SUPPORT SERVICES.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$75,000, or so much of the sum as may be necessary, to the department of human services for the purpose of providing a grant to a statewide peer-to-peer support organization, for the biennium beginning July 1, 2017, and ending June 30, 2019. Funds awarded must be used for providing recovery and peer support services to individuals with emotional, behavioral, or mental health needs.

**SECTION 7. CONTINGENT GENERAL FUND APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - PEER-TO-PEER SUPPORT SERVICES.** If actual general fund revenues for the period July 1, 2017, through June 30, 2018, exceed estimated general fund revenue projections for the same period by at least \$5,000,000 as determined by the office of management and budget, there is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$125,000, or so much of the sum as may be necessary, to the department of human services for the purpose of providing a grant to a statewide peer-to-peer support organization, for the biennium beginning July 1, 2017, and ending June 30, 2019. Funds awarded must be used for providing recovery and peer support services to individuals with emotional, behavioral, or mental health needs. For purposes of this section, "estimated general fund revenues" excludes transfers to the general fund from the strategic investment and improvements fund, bank of North Dakota profits, property tax relief fund, the lottery, the mill and elevator, and gas tax administration.

**SECTION 8. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - FAMILY-TO-FAMILY SUPPORT SERVICES.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$75,000, or so much of the sum as may be necessary, to the department of human services for the purpose of providing a grant to a statewide family-to-family support organization, for the biennium beginning July 1, 2017, and ending June 30, 2019. Funds awarded must be used for providing recovery and peer support services to individuals with emotional, behavioral, or mental health needs.

**SECTION 9. CONTINGENT GENERAL FUND APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - FAMILY-TO-FAMILY SUPPORT SERVICES.** If actual general fund revenues for the period July 1, 2017, through June 30, 2018, exceed estimated general fund revenue projections for the same period by at least \$5,000,000 as determined by the office of management and budget, there is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$125,000, or so much of the sum as may be necessary, to the department of human services for the purpose of providing a grant to a statewide family-to-family support organization, for the biennium beginning July 1, 2017, and ending June 30, 2019. Funds awarded must be used for providing recovery and peer support services to individuals with emotional, behavioral, or mental health needs. For purposes of this section, "estimated general fund revenues" excludes transfers to the general fund from the strategic investment and improvements fund, bank of North Dakota profits, property tax relief fund, the lottery, the mill and elevator, and gas tax administration.

**SECTION 10. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - TARGETED CASE MANAGEMENT SERVICES.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$7,037,998, or so much of the sum as may be necessary, and from special funds derived from federal funds and other income, the sum of \$7,037,998, or so much of the sum as may be necessary, to the department of human services for the purpose of expanding target case management services beginning October 1, 2017, to allow designated behavioral health providers to provide targeted case management services for individuals with severe mental illness and individuals with severe

emotional disturbance, for the biennium beginning July 1, 2017, and ending June 20, 2019."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1056, as engrossed: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **DO NOT PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1056 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1247, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1247 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "create and enact a new section to chapter 26.1-40 of the North Dakota"

Page 1, line 2, remove "Century Code, relating to duplicate motor vehicle insurance coverage; and to"

Page 1, line 3, remove "and"

Page 1, line 4, after "26.1-40-01" insert ", and section 26.1-40-09"

Page 1, line 20, after "**coverage**" insert "**Termination of coverage when another policy in force - Notice**"

Page 1, line 21, overstrike "If" and insert immediately thereafter "Notwithstanding the failure of an insurer to comply with sections 26.1-39-13 through 26.1-39-16, if"

Page 2, line 2, after "premium" insert "and written notice must be mailed or delivered to the named insured"

Page 2, replace lines 11 through 18 with:

**"SECTION 4. AMENDMENT.** Section 26.1-40-09 of the North Dakota Century Code is amended and reenacted as follows:

**26.1-40-09. Duplicate coverage - Termination of coverage when another policy in force - Notice.**

Notwithstanding the failure of an insurer to comply with sections 26.1-40-01 through 26.1-40-12, termination of any coverage under the policy either by cancellation or nonrenewal is effective on the effective date of any other policy providing similar coverage on the same motor vehicle or any replacement of the motor vehicle if an insured obtains a replacement policy providing equal or more extensive coverage for a motor vehicle covered in both policies, the first insurer's coverage of that motor vehicle may be terminated either by cancellation or nonrenewal. The termination is effective on the effective date of the second policy providing duplicate replacement coverage. Upon termination, the insured is entitled to a refund of the premium and written notice must be mailed or delivered to the named insured."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1423: Education Committee (Sen. Schaible, Chairman)** recommends **DO PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1423 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1435, as engrossed: Education Committee (Sen. Schaible, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT**

**PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1435 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 16.1-01-11 of the North Dakota Century Code, relating to school bond issue elections.

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

**SECTION 1. AMENDMENT.** Section 16.1-01-11 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-01-11. Certain questions not to be voted upon for threefive months.**

1. Whenever at any election a bond issue or mill levy question has failed to receive the required number of votes for approval by the electors, the matter may not again be submitted to a vote until a period of at least threefive months or one hundred fifty days has expired.
2. a. More than two elections on the same general matter may not be held within twelve consecutive calendar months.  
b. If the matter to be placed before the electors for a third or subsequent time involves authorization for a school construction bond issuance in accordance with chapter 21-03, the board of the school district shall resubmit its school construction proposal to the superintendent of public instruction for the purpose of obtaining the superintendent's approval, in the same manner as required for an initial approval in accordance with section 15.1-36-01."

Renumber accordingly

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

**Shanda Morgan, Secretary**

