

## JOURNAL OF THE SENATE

## Sixty-third Legislative Assembly

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Bismarck, January 22, 2013

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

The prayer was offered by Pastor Marc P. Eidahl, New Life Church, Bismarck.

The roll was called and all members were present except Senators Miller and Triplett.

A quorum was declared by the President.

## MOTION

**SEN. KLEIN MOVED** that SB 2131 be returned to the Senate floor from the **Government and Veterans Affairs Committee** and be rereferred to the **Human Services Committee**, which motion prevailed on a voice vote.

Pursuant to Sen. Klein's motion, SB 2131 was rereferred.

## CONSIDERATION OF AMENDMENTS

**SB 2043: SEN. ARMSTRONG (Transportation 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.

## CONSIDERATION OF AMENDMENTS

**SB 2046: SEN. ARMSTRONG (Transportation 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 2032:** A BILL for an Act to amend and reenact section 15-10-14.2 of the North Dakota Century Code, relating to a performance and accountability report by the state board of higher education.

## 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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 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; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Miller; Triplett

Engrossed SB 2032 passed.

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## SECOND READING OF SENATE BILL

**SB 2064:** A BILL for an Act to amend and reenact section 6-09-44 of the North Dakota Century Code, relating to the Bank of North Dakota residential mortgage loan program.

## 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 45 YEAS,

0 NAYS, 0 EXCUSED, 2 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; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Miller; Triplett

Engrossed SB 2064 passed.

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#### SECOND READING OF SENATE BILL

**SB 2095:** A BILL for an Act to amend and reenact section 15-62.2-04 of the North Dakota Century Code, relating to state board of higher education deposits and expenditures.

#### 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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 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; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Miller; Triplett

Engrossed SB 2095 passed.

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#### SECOND READING OF SENATE BILL

**SB 2128:** A BILL for an Act to amend and reenact subdivision c of subsection 1 of section 11-18-05, section 24-01-25, and subsection 2 of section 35-24-13 of the North Dakota Century Code, relating to fees and notice requirements of the county recorder; to repeal section 35-22-19 of the North Dakota Century Code, relating to a failure to record in a foreclosure; and to provide for a legislative management study.

#### 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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 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; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Miller; Triplett

Engrossed SB 2128 passed.

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#### SECOND READING OF SENATE BILL

**SB 2033:** A BILL for an Act to amend and reenact section 54-35-15.2, subsection 8 of section 54-59-05, and section 54-59-23 of the North Dakota Century Code, relating

to the definition of a large information technology project.

#### 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, 0 NAYS, 0 EXCUSED, 2 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; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Miller; Triplett

SB 2033 passed.

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#### SECOND READING OF SENATE BILL

**SB 2034:** A BILL for an Act to create and enact a new section to chapter 54-59 of the North Dakota Century Code, relating to information technology projects and the creation of executive steering committees for information technology projects.

#### 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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 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; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Miller; Triplett

Engrossed SB 2034 passed.

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#### SECOND READING OF SENATE BILL

**SB 2133:** A BILL for an Act to amend and reenact sections 39-04-36 and 39-04-39.2 of the North Dakota Century Code, relating to refunds for registration fees; and to provide an effective date.

#### ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 2 YEAS, 42 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Mathern; O'Connell

**NAYS:** 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; Nelson; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Miller; Murphy; Triplett

SB 2133 failed.

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**REQUEST**

**SEN. MURPHY REQUESTED** that the record reflect he intended to vote NAY on SB 2133, which request was granted.

**SECOND READING OF SENATE BILL**

**SB 2042:** A BILL for an Act to amend and reenact section 39-05-20.3 of the North Dakota Century Code, relating to the refusal to issue a certificate of title for unsafe and unfit vehicles.

**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, 0 NAYS, 0 EXCUSED, 2 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; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Miller; Triplett

SB 2042 passed.

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**SECOND READING OF SENATE BILL**

**SB 2136:** A BILL for an Act to amend and reenact sections 47-14-05 and 47-14-07 of the North Dakota Century Code, relating to interest rates and late fees.

**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, 1 NAYS, 0 EXCUSED, 2 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; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Unruh; Wanzek; Wardner

**NAYS:** Warner

**ABSENT AND NOT VOTING:** Miller; Triplett

SB 2136 passed.

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**SECOND READING OF SENATE BILL**

**SB 2102:** A BILL for an Act to amend and reenact section 15.1-21-08 of the North Dakota Century Code, relating to the annual administration of state academic achievement tests.

**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, 1 NAYS, 0 EXCUSED, 2 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; Mathern; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Unruh; Wanzek; Wardner; Warner

**NAYS:** Marcellais

**ABSENT AND NOT VOTING:** Miller; Triplett

SB 2102 passed.

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#### **SECOND READING OF SENATE BILL**

**SB 2161:** A BILL for an Act to amend and reenact sections 50-25.1-04.3 and 50-25.1-04.5 of the North Dakota Century Code, relating to the child fatality review panel.

#### **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, 0 NAYS, 0 EXCUSED, 2 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; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Miller; Triplett

SB 2161 passed.

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#### **SECOND READING OF SENATE BILL**

**SB 2157:** A BILL for an Act to amend and reenact subsection 3 of section 25-03.1-21, and subsection 1 of section 25-03.1-25 of the North Dakota Century Code, relating to the emergency commitment of mentally ill individuals.

#### **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, 0 NAYS, 0 EXCUSED, 2 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; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Miller; Triplett

SB 2157 passed.

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#### **SECOND READING OF SENATE BILL**

**SB 2114:** A BILL for an Act to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to sanctions against a provider who provides services under a provider agreement with medical assistance.

#### **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; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Miller

SB 2114 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 2047, SB 2119.

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

**MR. PRESIDENT:** The House has passed, unchanged: SCR 4003.

**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 1:00 p.m., Wednesday, January 23, 2013, which motion prevailed on a voice vote.

**REPORT OF STANDING COMMITTEE**

**SB 2092: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2092 was placed on the Sixth order on the calendar.

Page 1, line 21, remove "within sixty days of application for registration and"

Page 1, line 22, remove "payment of the tax due under this chapter"

Page 1, line 23, replace "section 57-40.4-02" with "chapter 57-40.4"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2141: Judiciary Committee (Sen. Hogue, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2141 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2145: Judiciary Committee (Sen. Hogue, Chairman)** recommends **DO PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2145 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2207: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2207 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2222: 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 2222 was rereferred to the **Appropriations Committee**.

**FIRST READING OF SENATE BILLS**

Sens. Luick, Klein, Wanzek and Reps. Brandenburg, Wall, Williams introduced:

**SB 2295:** A BILL for an Act to create and enact a new section to chapter 57-38 and

subsection 10 to section 57-38.6-03 of the North Dakota Century Code, relating to the passthrough of the new and expanding business exemption and the agricultural business investment tax credit to patrons of farmers' cooperatives; to amend and reenact subdivision c of subsection 7 of section 57-38-30.3 and section 57-38.6-01 of the North Dakota Century Code, relating to the passthrough of the agricultural business investment tax credit to patrons of farmers' cooperatives; and to provide an effective date.

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

Sens. Unruh, Dever, Luick and Reps. Heller, K. Koppelman, Maragos introduced:

**SB 2296:** A BILL for an Act to amend and reenact subsection 1 of section 57-02-08.8 of the North Dakota Century Code, relating to an increase in the amount of valuation covered by the disabled veterans credit; and to provide an effective date.

Was read the first time and referred to the **Government and Veterans Affairs Committee**.

Sens. Kilzer, Carlisle and Reps. Hawken, Karls introduced:

**SB 2297:** A BILL for an Act to provide for a legislative management study of the state's workers' compensation system's treatment of preexisting medical conditions.

Was read the first time and referred to the **Industry, Business and Labor Committee**.

Sens. Kilzer, Carlisle and Reps. Hawken, Karls introduced:

**SB 2298:** A BILL for an Act to create and enact subdivision c of subsection 3 of section 65-05-28 of the North Dakota Century Code, relating to workers' compensation independent medical examinations; to amend and reenact section 65-05-08.3 of the North Dakota Century Code, relating to workers' compensation consideration of treating doctor's opinions; and to provide for application.

Was read the first time and referred to the **Industry, Business and Labor Committee**.

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

**William R. Horton, Secretary**

