

**JOURNAL OF THE SENATE - SPECIAL SESSION****Sixty-fourth Legislative Assembly**

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**Bismarck, August 2, 2016**

The Senate convened at 9:00 a.m., with President Pro Tempore Erbele presiding.

The prayer was offered by Pastor Keith Ritchie, Cornerstone Community Church, Bismarck.

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

A quorum was declared by the President Pro Tempore.

**COMMUNICATION FROM SECRETARY OF STATE ALVIN A. JAEGER**

I hereby certify that I have attached a true and correct copy of Executive Order 2016-03, executed by Governor Jack Dalrymple on July 13, 2016, in which he convenes the North Dakota Legislative Assembly into special session on Tuesday, August 2, 2016, at 9:00 a.m.

I hereby certify that I have attached a true and correct listing of Senators who were issued Certificates of Election by the State Canvassing Board prior to the beginning of their respective terms of office and who continue to serve, as of this date, in the legislative district to which they were elected.

IN TESTIMONY WHEREOF, I have set my hand and affixed the Great Seal of the State of North Dakota at the Capitol in the City of Bismarck on this date.

**EXECUTIVE ORDER 2016-03**

I, Jack Dalrymple, Governor of the State of North Dakota, by the authority vested in me, do hereby convene the North Dakota Legislative Assembly into special session on Tuesday, August 2, 2016, at 9:00 a.m., in the Legislative Chambers, at Bismarck, North Dakota.

This Executive Order is issued pursuant to the authority set forth below:

1. The Governor is vested with the executive power pursuant to Article V, Section 1 of the North Dakota Constitution;
2. The Governor is vested with the specific authority to call a special session of the Legislative Assembly pursuant to Article V, Section 7 of the North Dakota Constitution; and

This Executive Order, calling the Legislature into special session is issued for the following purposes:

To make needed adjustments to the state budget due to lower than forecasted tax revenue totals.

Executed at Bismarck, North Dakota, this 13th day of July, 2016.

**64th Legislative Assembly of the State of North Dakota  
Members of the Senate  
August 2, 2016**

| <b>Senator</b>       | <b>District Number</b> |
|----------------------|------------------------|
| Brad Bekkedahl       | 1                      |
| David S. Rust        | 2                      |
| Oley Larsen          | 3                      |
| John M. Warner       | 4                      |
| Randall A. Burckhard | 5                      |
| David O'Connell      | 6                      |
| Nicole Poolman       | 7                      |

|                         |    |
|-------------------------|----|
| Howard C. Anderson, Jr. | 8  |
| Richard Marcellais      | 9  |
| Joe Miller              | 10 |
| Tim Mathern             | 11 |
| John Grabinger          | 12 |
| Judy Lee                | 13 |
| Jerry Klein             | 14 |
| Dave Oehlke             | 15 |
| Tyler Axness            | 16 |
| Ray Holmberg            | 17 |
| Connie Triplett         | 18 |
| Tom Campbell            | 19 |
| Philip M. Murphy        | 20 |
| Carolyn C. Nelson       | 21 |
| Gary A. Lee             | 22 |
| Joan M. Heckaman        | 23 |
| Larry J. Robinson       | 24 |
| Larry Luick             | 25 |
| Jim Dotzenrod           | 26 |
| Jonathan Casper         | 27 |
| Robert S. Erbele        | 28 |
| Terry M. Wanzek         | 29 |
| Ron Carlisle            | 30 |
| Donald Schaible         | 31 |
| Dick Dever              | 32 |
| Jessica Unruh           | 33 |
| Dwight Cook             | 34 |
| Erin Oban               | 35 |
| Kelly M. Armstrong      | 36 |
| Rich Wardner            | 37 |
| David Hogue             | 38 |
| Bill L. Bowman          | 39 |
| Karen K. Krebsbach      | 40 |
| Kyle R. Davison         | 41 |
| Mac Schneider           | 42 |
| Lonnie Laffen           | 43 |
| Tim Flakoll             | 44 |
| Ronald Sorvaag          | 45 |
| George Sinner           | 46 |
| Ralph Kilzer            | 47 |

#### MOTION

**SEN. KLEIN MOVED** that the Senate stand in recess to attend the joint session at 9:30 a.m. in the House chamber and then reconvene at 11:15 a.m., which motion prevailed.

**THE SENATE RECONVENED** pursuant to recess taken, with President Pro Tempore Erbele presiding.

#### REPORT OF PROCEDURAL COMMITTEE

**MR. PRESIDENT:** Your procedural **Rules Committee (Sen. Holmberg, Chairman)** recommends that the Senate and Joint Rules of the Sixty-fourth Legislative Assembly, as adopted on Wednesday, December 3, 2014, be amended as follows for the special session of the Sixty-fourth Legislative Assembly.

**SECTION 1. AMENDMENT.** Subsection 4 of Senate Rule 318 is amended as follows:

4. The following questions require a two-thirds vote of the members-elect of the Senate:
  - a. Initiated and referred measures amended or repealed within seven years after enactment or approval, as provided in Section 8, Article III, of the Constitution and Senate Rule 339.
  - b. Emergency clauses, as provided in Section 13, Article IV, of the Constitution.

- c. Vetoed measures, reconsideration, as provided in Section 9, Article V, of the Constitution.
- d. Adoption of propositions of a divided question if the division would require a two-thirds vote of the members-elect, as provided in Senate Rule 319.
- e. To recede before a conference in a case where two-thirds governs, as provided in Joint Rule 202.
- f. ~~Second reading same day as report, as provided in Senate Rule 337.~~
- g. Reconsideration after the next legislative day or after a previous motion to reconsider, as provided in Senate Rule 348.
- ~~h.g.~~ Reconsideration after a clincher motion, as provided in Senate Rule 349.
- ~~i.h.~~ Suspension of requirement that copies of amendments be distributed before acted on, as provided in Senate Rule 601.
- ~~j.i.~~ Amendment, reconsideration, or suspension of a joint rule, as provided in Joint Rule 105.

**SECTION 2. AMENDMENT.** Senate Rule 337 is amended as follows:

**337. Second reading.** No bill requiring the approval of the Governor, no resolution proposing a change in the Constitution of North Dakota, and no resolution ratifying an amendment to the Constitution of the United States may be referred, except in the case of a bill or resolution that is prefiled pursuant to Senate Rule 401, or amended until it has been read; nor may any such bill or resolution have its second reading and final passage until at least one day after it ~~has been reported to the Senate by the committee to which it was referred, provided that any such bill or resolution may have its second reading and final passage on the same day it is reported back when so ordered by two-thirds of the members-elect of the Senate~~ its first reading.

**SECTION 3. AMENDMENT.** Senate Rule 347 is amended as follows:

**347. Transmittal of measure to House - Notice of intention to reconsider.**

- 1. After the second reading of a bill or resolution, the Secretary of the Senate shall ~~retain the bill or resolution until the end of the next legislative day, unless the bill or resolution has previously been disposed of.~~
- 2. ~~On the thirty-eighth and thirty-ninth legislative days and after the fifty-ninth legislative day, the Secretary of the Senate shall transmit the bill or resolution to the House immediately upon adjournment of the last session on that day unless action on the bill or resolution is pending as the result of the Senate passing a motion to reconsider or unless the Majority or Minority Leader has given notice of intention to move the reconsideration of that bill or resolution.~~
- 3. ~~After the sixty-eighth legislative day, the Secretary of the Senate shall transmit the bill or resolution to the House immediately after the second reading of the bill or resolution unless the Majority or Minority Leader has given notice of intention to move the reconsideration of that bill or resolution.~~
- ~~4.2.~~ When a member in explaining the member's vote states to the Senate that the member's vote is for the purpose of reconsideration, that statement also is notice of such intention.
- 5. ~~If notice is given by a member other than the Majority or Minority Leader but the motion to reconsider is not made before the end of the next legislative day, the Secretary of the Senate shall transmit the bill or resolution to the House at the end of that next legislative day.~~
- 3. If notice of intention to move reconsideration is given, the Secretary of the Senate shall retain the bill or resolution until adjournment of that day's session.

**SECTION 4. AMENDMENT.** Subsection 1 of Senate Rule 401 is amended as follows:

1. Any bill or resolution that conforms to statutory requirements and these rules, ~~within the number and time prescribed,~~ may be introduced by any member, standing committee, or the Legislative Management, by filing the bill or resolution with the Secretary, who shall number consecutively each bill or resolution.

**SECTION 5. AMENDMENT.** Senate Rule 402 is amended as follows:**402. When introduced.**

1. ~~No member other than the Majority and Minority Leaders may introduce more than three bills as prime sponsor after the tenth legislative day. A bill containing an appropriation clause may not be introduced after the tenth legislative day. No bill may be introduced after the fifteenth legislative day, and no resolution, except those resolutions described in subsection 3, may be introduced after the eighteenth legislative day, except upon approval of a majority of the Delayed Bills Committee or upon two-thirds vote of the members of the Senate present and voting.~~
2. No bill introduced at the request of an executive agency or the Supreme Court may be introduced ~~after the close of business on the day after the adjournment of the organizational session;~~ except upon approval of a majority of the Delayed Bills Committee.
3. Resolutions that propose amendments to the Constitution of North Dakota and resolutions directing the Legislative Management to carry out a study may not be introduced after the thirty-sixth legislative day.

**SECTION 6. AMENDMENT.** Senate Rule 403 is amended as follows:

**403. Delayed bills and resolutions.** The Delayed Bills Committee shall receive from the Secretary every bill and resolution offered for introduction ~~after the time for introduction as limited by Senate Rule 402,~~ and, on the same or the next legislative day after receiving the measure, shall inform the Senate whether the introduction of the measure has been approved. If a majority of the committee favors introduction, the sponsor may introduce the measure. Each measure approved for introduction must bear the name or names of the sponsor or sponsors and must note the approval of the Delayed Bills Committee.

**SECTION 7. AMENDMENT.** Senate Rule 504 is amended as follows:**504. Committee meetings.**

1. ~~The Appropriations Committee meets on Monday, Tuesday, Wednesday, Thursday, and Friday of each week.~~
2. ~~The three-day committees meet on Monday, Tuesday, and Wednesday of each week.~~
3. ~~The two-day committees meet on Thursday and Friday of each week.~~
4. The chairman of any committee, or a majority of that committee, may call meetings at times and on other days as deemed necessary.

**SECTION 8. AMENDMENT.** Senate Rule 601 is amended as follows:**601. Report of committees.**

1. The report of a committee must provide for one or more of the following recommendations with respect to the bill or resolution: do pass, do not pass, be amended, be rereferred to another committee, or be placed on the calendar without recommendation.
2. During the fifth order of business, the Secretary shall announce that committee reports have been received, if such is the case, and shall list the bill or resolution number, or other identifier, and state the accompanying committee

recommendation. If the committee report is divided pursuant to Senate Rule 602, the Secretary shall announce the majority and minority report, or reports, as well.

3.
  - a. If the committee report is for amendment, the proposed amendment must be placed on the calendar ~~for the next legislative day on the sixth order of business. After the fifty-fifth legislative day, the proposed amendment must be placed on the calendar~~ on the sixth order of business immediately after the report of the committee is received.
  - b. No action may be taken on an amendment until a verbatim copy of the amendment has been distributed to each member; provided, that on a two-thirds vote of the members-elect, this may be suspended, and the amendment acted on immediately after the report of the committee.
  - c. If the amendment is adopted by a majority vote of the members present, the amended measure must then be placed on the calendar ~~for the next legislative day~~ under the applicable order of business for second reading and final passage except as provided in subdivision e ~~or g~~.
  - d. If the amendment is rejected, the measure without amendment must be placed on the calendar ~~for the next legislative day~~ under the applicable order of business for second reading and final passage except as provided in subdivision e ~~or g~~.
  - e. If the committee report is for amendment and then rereferral to another committee, the measure must be rereferred to the appropriate committee after adoption or rejection of the amendment. If, after adoption or rejection of the amendment, a measure is subject to rereferral under Senate Rule 329, the measure must be rereferred to the Appropriations Committee, regardless of whether the report provides for rereferral.
  - f. If the committee report does not recommend rereferral to another committee but recommends that the measure pass, do not pass, or makes no recommendation, the measure must be placed on the calendar ~~for the next legislative day~~ under the applicable order of business for second reading and final passage ~~except as provided in subdivision g~~.
  - g. ~~On motion~~ Except as provided in subdivision e, a measure must be placed on the calendar for second reading and final passage immediately after action is taken on the amendment. ~~If the committee report recommends that the measure be placed on the calendar for second reading and final passage immediately after action is taken on the amendment, the measure must be placed on the calendar for second reading and final passage immediately after the amendment is adopted. After the thirty-second legislative day all Senate bills, and after the fifty-fifth legislative day all measures, must be placed on the calendar for second reading and final passage immediately after action is taken on the amendment. Without objection a measure placed on the calendar under this subdivision must be acted on immediately after placement on the calendar.~~
  - h. A report for amendment must be approved as to form and style by the Legislative Council staff. When a report for amendment is received by the Secretary without a notation that the report was approved as to form and style by the Legislative Council staff, the Secretary immediately shall cause that report to be delivered to the Legislative Council office with a request that the report be examined and receive a notation approving its form and style.
4. If the committee report is divided as provided in Senate Rule 602, the reports must be placed on the calendar ~~for the next legislative day~~ on the seventh order of business. The presiding officer shall receive and announce a motion that the report of the minority be substituted for the majority committee report. If the minority report is adopted, that report is substituted for the majority report and must be placed on the calendar on the eleventh or fourteenth order of business. If the minority report is not adopted, the majority report is deemed adopted and must be placed on the calendar on the eleventh or fourteenth order of business. If a "do not pass" report is

adopted under this subsection, the measure must be placed on the calendar on the eleventh or fourteenth order of business. If no report is adopted under this subsection, the measure must be placed on the calendar on the eleventh or fourteenth order of business unless the measure is subject to rereferral under Senate Rule 329.

5. ~~The~~ If practicable, the Secretary shall ensure that the daily calendar contains appropriate notation of committee reports.

**SECTION 9. AMENDMENT.** Joint Rule 202 is amended as follows:

**202. Receding before conference.** Either house may recede from any subject matter of difference existing between the two houses at any time before a conference whether the papers on which difference has arisen are before the house receding formally or informally, and a majority of the members-elect governs, except in a case where two-thirds of the members-elect is required by the Constitution, and the question having been put and lost, may not be again put the same day, and the consideration thereof in other respects is regulated by the rules of the respective houses.

**SECTION 10. AMENDMENT.** Joint Rule 207 is amended as follows:

**207. Consideration of items on consent calendar.**

1. ~~No item on the consent calendar may be considered for adoption on the same legislative day it is placed on the consent calendar.~~
2. Bills or resolutions on the consent calendar are not debatable, except that the presiding officer shall allow a reasonable time for questions from the floor and shall permit the proponents of the bills or resolutions to answer the questions.
- 3-2. The question of the final passage of more than one item contained on the consent calendar may be voted on in a single vote if the vote is on either bills or resolutions and not on any combination thereof in the same vote.
- 4-3. Immediately before voting on the first consent calendar bills or resolutions, the presiding officer shall call to the attention of the members the fact that the next vote will be the vote on the bills or resolutions on the consent calendar. A recorded roll call vote is necessary on items on the consent calendar only if a recorded roll call vote is required under Senate or House Rule 341.

**SECTION 11. AMENDMENT.** Joint Rule 208 is amended as follows:

**208. Introduction of executive agency and Supreme Court bills.** Each executive agency and the Supreme Court shall file with the Legislative Council those bills they wish to have introduced ~~no later than the close of business on the day after the adjournment of the organizational session. Each. Upon approval of the Delayed Bills Committee, each~~ bill is deemed introduced by the standing committee of the House or Senate with general jurisdiction over the subject matter of the bill; but if the filing entity receives the approval of a legislator to sponsor the bill, that bill is to be introduced by the legislator rather than by the standing committee. A bill sponsored by a legislator may not have more sponsors than the number allowed under Senate and House Rules 401. The director of the budget shall file with the Legislative Council those bills making appropriations to implement the budget recommended by the Governor no later than the close of business on the seventh day after the adjournment of the organizational session, as required by North Dakota Century Code Section 54-44.1-07, and those bills are deemed introduced by the Appropriations Committee of the Senate or House at the request of the Governor. The bill implementing the budget request of the judicial branch is deemed introduced by the Appropriations Committee of the Senate or House at the request of the Supreme Court, and the bill implementing the budget request of the legislative branch is deemed introduced by the Appropriations Committee of the Senate or House at the request of the Legislative Council. The Legislative Council shall number and deliver bills filed under this rule to the appropriate house for recording. Each bill introduced under this rule must be identified by noting the name of the agency or the court under the name of the sponsoring committee or legislator. The identification of a bill introduced by a standing committee may include the names of not more than five entities authorized to file bills under this rule.

**SECTION 12. AMENDMENT.** Subsection 4 of Joint Rule 501 is amended as follows:

4. a. The agency or department preparing the fiscal note for a bill or resolution as introduced shall complete and return the fiscal note to the Legislative Council not later than ~~five days~~one day from the date of the request. The agency or department preparing the fiscal note for an amended bill or resolution shall complete and return the fiscal note to the Legislative Council not later than one day from the date of the request.
- b. The Legislative Council shall provide an electronic copy of the fiscal note to the Office of Management and Budget and the Governor. The Legislative Council shall deliver a paper copy to the Secretary of the Senate or the Chief Clerk of the House. The Secretary of the Senate or the Chief Clerk of the House shall attach a paper copy to the original bill or resolution.

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

**REPORT OF PROCEDURAL COMMITTEE**

**MR. PRESIDENT:** Your procedural **Committee on Employment (Sen. Dever, Chairman)** recommends the following Senate employees for the special session of the Sixty-fourth Legislative Assembly:

|               |                                                 |
|---------------|-------------------------------------------------|
| Shanda Morgan | Secretary of the Senate                         |
| Jack Eiseman  | Sergeant-at-Arms                                |
| Julie McBride | Deputy Sergeant-at-Arms                         |
| Renae Doan    | Administrative Assistant to the Majority Leader |
| Kathy Wachter | Administrative Assistant to the Minority Leader |
| Rose Laning   | Appropriations Committee Clerk                  |

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

**REPORT OF DELAYED BILLS COMMITTEE**

**MR. PRESIDENT:** Your **Delayed Bills Committee (Sen. Klein, Chairman)** has unanimously approved the introduction of a bill for an Act to provide for the reduction of general fund appropriation authority; to authorize transfers from the budget stabilization fund and the Bank of North Dakota; to provide appropriations for the department of human services and the department of corrections and rehabilitation; to provide for reports; to provide legislative intent; and to provide an effective date.

The bill will be SB 2379.

**REPORT OF DELAYED BILLS COMMITTEE**

**MR. PRESIDENT:** Your **Delayed Bills Committee (Sen. Klein, Chairman)** has cast a vote of 3 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING in favor of rejecting the introduction of a bill for an Act to provide appropriations to the department of human services for restored program funding; to provide appropriations to the state treasurer for restored program funding; to provide an appropriation to the department of corrections and rehabilitation for restored program funding; to provide for various transfers; and to provide an effective date.

**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, and Ninth orders of business and at the conclusion of those orders, the Senate stand adjourned until 9:00 a.m., Wednesday, August 3, 2016, which motion prevailed.

**FIRST READING OF SENATE BILL**

Sens. Wardner, Holmberg and Reps. Carlson, Delzer introduced:  
(Approved by the Delayed Bills Committee)

**SB 2379:** A BILL for an Act to provide for the reduction of general fund appropriation authority; to authorize transfers from the budget stabilization fund and the Bank of North Dakota; to provide appropriations for the department of human services and the department of corrections and rehabilitation; to provide for reports; to provide

legislative intent; and to provide an effective date.  
Was read the first time and referred to the **Appropriations Committee**.

**REPORT OF STANDING COMMITTEE**

**SB 2379: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS**  
(9 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). SB 2379 was placed on the  
Eleventh order on the calendar.

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

**Shanda Morgan, Secretary**