

JOURNAL OF THE SENATE

Sixty-third Legislative Assembly

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Bismarck, January 29, 2013

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

The prayer was offered by Pastor Paul Gibson, First Baptist Church, Bismarck.

The roll was called and all members were present except Senators Burckhard, Campbell, and Krebsbach.

A quorum was declared by the President.

CONSIDERATION OF AMENDMENTS

SB 2029: SEN. LAFFEN (Natural Resources Committee) MOVED that the amendments be adopted and then be **REREFERRED** to the **Appropriations Committee** with **DO PASS**, which motion prevailed on a voice vote.

CONSIDERATION OF AMENDMENTS

SB 2116: SEN. HECKAMAN (Agriculture Committee) MOVED that the amendments be adopted and then be placed on the Eleventh order with **DO PASS**.

MOTION

SEN. KLEIN MOVED that SB 2116 be moved to the top of the Eleventh order, which motion prevailed on a voice vote.

The question being on the motion to adopt the amendments to SB 2116, the proposed amendments were adopted on a voice vote.

SECOND READING OF SENATE BILL

SB 2116: A BILL for an Act to amend and reenact section 43-29-02 of the North Dakota Century Code, relating to membership of the state board of veterinary medical examiners.

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 43 YEAS, 1 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

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

NAYS: Oehlke

ABSENT AND NOT VOTING: Burckhard; Campbell; Krebsbach

Engrossed SB 2116 passed.

CONSIDERATION OF AMENDMENTS

SB 2108: SEN. ANDERSON (Human Services 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 2139: SEN. MURPHY (Natural Resources 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 2158: A BILL for an Act to amend and reenact section 36-09-20 of the North Dakota Century Code or in the alternative to amend section 4.1-73-18 of the North Dakota Century Code, relating to bill of sale requirements in livestock transactions.

ROLL CALL

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

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

ABSENT AND NOT VOTING: Burckhard; Campbell; Krebsbach

SB 2158 passed.

SECOND READING OF SENATE BILL

SB 2135: A BILL for an Act to create and enact chapter 43-17.3 of the North Dakota Century Code, relating to a physician health program.

ROLL CALL

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

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

ABSENT AND NOT VOTING: Burckhard; Campbell; Krebsbach

SB 2135 passed.

SECOND READING OF SENATE BILL

SB 2150: A BILL for an Act to create and enact a new section to chapter 54-06 of the North Dakota Century Code, relating to restriction of per diem compensation for members of boards and commissions established by statute; 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 0 YEAS, 44 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Burckhard; Campbell; Krebsbach

SB 2150 failed.

SECOND READING OF SENATE BILL

SB 2149: A BILL for an Act to amend and reenact subsection 4 of section 54-10-01 of the North Dakota Century Code, relating to powers and duties of the state auditor.

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 12 YEAS, 32 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Bowman; Flakoll; Grindberg; Hogue; Holmberg; Klein; Larsen; Lee, J.; Mathern; O'Connell; Robinson; Sinner

NAYS: Anderson; Andrist; Armstrong; Axness; Berry; Carlisle; Cook; Dever; Dotzenrod; Erbele; Grabinger; Heckaman; Kilzer; Laffen; Lee, G.; Luick; Lyson; Marcellais; Miller; Murphy; Nelson; Oehlke; Poolman; Schaible; Schneider; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Burckhard; Campbell; Krebsbach

SB 2149 failed.

SECOND READING OF SENATE BILL

SB 2061: A BILL for an Act to create and enact a new section to chapter 15-39.1 of the North Dakota Century Code, relating to plan modifications to the teachers' fund for retirement required to maintain compliance with federal statutes or rules; and to amend and reenact section 15-39.1-04, subsection 4 of section 15-39.1-10, and sections 15-39.1-10.6 and 15-39.1-11 of the North Dakota Century Code, relating to the definition of normal retirement age and revising the definitions of actuarial equivalent and salary, incorporation of federal law changes, and modification of vesting of rights provisions under the teachers' fund for retirement.

ROLL CALL

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

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

ABSENT AND NOT VOTING: Burckhard; Campbell; Krebsbach

SB 2061 passed.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4001: A concurrent resolution authorizing the Budget Section of the Legislative Management to hold the required legislative hearings on state plans for the receipt and expenditure of new or revised block grants passed by Congress.

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

SCR 4001 was declared adopted on a voice vote.

SECOND READING OF SENATE BILL

SB 2177: A BILL for an Act to amend and reenact subdivision b of subsection 5 of section 53-06.1-11 of the North Dakota Century Code, relating to rent allowed for gaming machines.

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, 5 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

YEAS: Anderson; Andrist; Armstrong; Axness; Berry; Bowman; Carlisle; Cook; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Triplett; Unruh; Wanzek; Wardner; Warner

NAYS: Laffen; Larsen; Lee, G.; O'Connell; Sorvaag

ABSENT AND NOT VOTING: Burckhard; Campbell; Krebsbach

Engrossed SB 2177 passed.

SECOND READING OF SENATE BILL

SB 2120: A BILL for an Act to amend and reenact section 39-01-15 of the North Dakota Century Code, relating to parking privileges for a disabled veteran.

ROLL CALL

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

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

ABSENT AND NOT VOTING: Burckhard; Campbell; Krebsbach

Engrossed SB 2120 passed.

SECOND READING OF SENATE BILL

SB 2134: A BILL for an Act to amend and reenact subsection 4 of section 65-01-15.1 of the North Dakota Century Code, relating to definition of law enforcement officers for workforce safety and insurance purposes; to provide for application; to provide an effective date; and to declare an emergency.

ROLL CALL

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

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

ABSENT AND NOT VOTING: Burckhard; Campbell; Krebsbach

Engrossed SB 2134 passed and the emergency clause was declared carried.

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 2041, SB 2052, SB 2087, SB 2109, SB 2122, SB 2127, SB 2143, SB 2164, SB 2165.

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 2166, SB 2167, SB 2168, SB 2170, SB 2180, SB 2188, SB 2190, SB 2191, SB 2201.

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

MR. PRESIDENT: The House has passed, and your favorable consideration is requested on: HB 1024, HB 1026, HB 1027, HB 1028, HB 1030, HB 1031, HB 1034, HB 1036, HB 1042, HB 1043.

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

MR. PRESIDENT: The House has passed, the emergency clause carried, and your favorable consideration is requested on: HB 1029, HB 1054, HB 1083, HB 1107, HB 1125, HB 1127.

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

MR. PRESIDENT: The House has passed, and your favorable consideration is requested on: HB 1046, HB 1047, HB 1051, HB 1052, HB 1057, HB 1058, HB 1060, HB 1062, HB 1064, HB 1065.

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

MR. PRESIDENT: The House has passed, and your favorable consideration is requested on: HB 1066, HB 1069, HB 1072, HB 1073, HB 1074, HB 1075, HB 1077, HB 1078, HB 1080, HB 1081.

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

MR. PRESIDENT: The House has passed, and your favorable consideration is requested on: HB 1087, HB 1088, HB 1089, HB 1094, HB 1095, HB 1097, HB 1100, HB 1101, HB 1102, HB 1103.

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

MR. PRESIDENT: The House has passed, and your favorable consideration is requested on: HB 1104, HB 1108, HB 1109, HB 1110, HB 1111, HB 1112, HB 1113, HB 1115, HB 1119, HB 1121.

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

MR. PRESIDENT: The House has passed, and your favorable consideration is requested on: HB 1122, HB 1123, HB 1124, HB 1128, HB 1129, HB 1136, HB 1141, HB 1146, HB 1150, HB 1158.

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

MR. PRESIDENT: The House has passed, and your favorable consideration is requested on: HB 1164, HB 1168, HB 1173, HB 1194, HB 1196, HB 1201, HB 1229, HB 1241, HB 1243, HB 1258, HB 1260.

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

MR. PRESIDENT: The House has passed, and your favorable consideration is requested on: HCR 3001.

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

MR. PRESIDENT: The House has passed, and your favorable consideration is requested on: HCR 3015.

MOTION

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

MOTION

SEN. KLEIN MOVED that the Senate be on the Fourth, Fifth, Ninth, and Thirteenth orders of

business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Wednesday, January 30, 2013, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2009: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2009 was placed on the Sixth order on the calendar.

Page 1, line 2, after "association" insert "; and to declare an emergency"

Page 1, after line 24, insert:

"SECTION 3. EMERGENCY. The capital assets line item in section 1 of this Act is declared to be an emergency measure."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2009 - State Fair Association - Senate Action

The amendment makes the capital assets line item which includes funding for repairing flood damage an emergency measure.

REPORT OF STANDING COMMITTEE

SB 2060: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2060 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2144: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2144 was rereferred to the **Appropriations Committee**.

REPORT OF STANDING COMMITTEE

SB 2152: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2152 was rereferred to the **Appropriations Committee**.

FIRST READING OF SENATE CONCURRENT RESOLUTION

Sens. Hogue, Flakoll, Holmberg, Klein and Reps. Monson, Nathe introduced:

SCR 4010: A concurrent resolution to create and enact a new section to article X of the Constitution of North Dakota, relating to the foundation aid stabilization fund; and to amend and reenact section 24 of article X of the Constitution of North Dakota, relating to the foundation aid stabilization fund.

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

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

William R. Horton, Secretary