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**STATE OF IOWA**

**Senate Journal**

**MONDAY, FEBRUARY 16, 2009**

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# JOURNAL OF THE SENATE

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THIRTY-SIXTH CALENDAR DAY  
TWENTY-FIRST SESSION DAY

Senate Chamber  
Des Moines, Iowa, Monday, February 16, 2009

The Senate met in regular session at 1:00 p.m., President Kibbie presiding.

Prayer was offered by Reverend Kevin Wilkening, pastor of the Cedar Heights Baptist Church in Cedar Falls, Iowa. He was the guest of Senator Danielson.

## PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Senate Page Michael Dickinson.

The Journal of Thursday, February 12, 2009, was approved.

## HOUSE MESSAGES RECEIVED AND CONSIDERED

The following messages were received from the Chief Clerk of the House:

MR. PRESIDENT: I am directed to inform your honorable body that the House has on February 12, 2009, **passed** the following bills in which the concurrence of the Senate is asked:

[House File 122](#), a bill for an act relating to requiring reports for certain precursor substances and extending an information program for drug prescribing and dispensing and providing an effective date.

Read first time and referred to committee on **Human Resources**.

[House File 214](#), a bill for an act establishing the interstate compact on educational opportunity for military children and providing an effective date.

Read first time and referred to committee on **Veterans Affairs**.

#### RECESS

On motion of Senator Gronstal, the Senate recessed at 1:13 p.m. until the completion of a meeting of the committee on Rules and Administration.

#### RECONVENED

The Senate reconvened at 1:15 p.m., President Kibbie presiding.

The Senate stood at ease at 1:16 p.m. until the fall of the gavel for the purpose of party caucuses.

The Senate resumed session at 1:18 p.m., President Kibbie presiding.

#### CONSIDERATION OF BILL (Regular Calendar)

Senator Gronstal asked and received unanimous consent to take up for consideration [Senate File 137](#).

#### [Senate File 137](#)

On motion of Senator Appel, [Senate File 137](#), a bill for an act providing that wage discrimination is an unfair employment practice under the Iowa civil rights Act and providing an enhanced remedy, was taken up for consideration.

Senator Gronstal asked and received unanimous consent that action on [Senate File 137](#) be **deferred**.

## LEAVE OF ABSENCE

Leave of absence was granted as follows:

Senator Houser, until he arrives, on request of Senator Behn.

## CONFIRMATION OF GOVERNOR'S APPOINTMENTS

In accordance with Senate Rule 59, Senator Gronstal called up the following eligible appointees on the En Bloc Confirmation Calendar:

Keith Gatrost, Iowa Autism Council  
 Charles Wadle, Iowa Autism Council  
 Patrick Westhoff, Iowa Autism Council  
 Cathy Young, Iowa Autism Council

Daniel Harkness, Board of Behavioral Science

Steven Hagemoser, Commission for the Blind

John Bickel, Iowa Economic Development Board

Darlys Baum, Iowa Finance Authority  
 Wilfred Johnson, Iowa Finance Authority

Sharman Wersen, Grape and Wine Development Commission

John Jewett, Commission on Native American Affairs  
 Larry Lasley, Commission on Native American Affairs  
 George Leduc, Commission on Native American Affairs

Senator Gronstal moved that the foregoing appointees be confirmed by the Senate.

On the question "Shall the appointees be confirmed?" the vote was:

Yeas, 49:

Appel	Feenstra	Kapucian	Schoenjahn
Bartz	Fraise	Kettering	Seng
Beall	Gronstal	Kibbie	Seymour
Behn	Hahn	Kreiman	Sodders
Black	Hamerlinck	McCoy	Stewart

Boettger	Hancock	McKinley	Ward
Bolkcom	Hartsuch	Noble	Warnstadt
Courtney	Hatch	Olive	Wieck
Dandekar	Heckroth	Quirnbach	Wilhelm
Danielson	Hogg	Ragan	Zaun
Dearden	Horn	Reynolds	
Dotzler	Jochum	Rielly	
Dvorsky	Johnson	Schmitz	
Nays, none.			

Absent, 1:

Houser

The appointees, having received a two-thirds vote, were declared to have been confirmed by the Senate.

### BUSINESS PENDING

#### [Senate File 137](#)

The Senate resumed consideration of [Senate File 137](#), a bill for an act providing that wage discrimination is an unfair employment practice under the Iowa civil rights Act and providing an enhanced remedy, previously deferred.

Senator Ward offered amendment [S-3021](#), filed by her from the floor to page 3 of the bill, and moved its adoption.

A record roll call was requested.

On the question “Shall amendment [S-3021](#) be adopted?” ([S.F. 137](#)), the vote was:

Yeas, 18:

Bartz	Hamerlinck	McKinley	Ward
Behn	Hartsuch	Noble	Wieck
Boettger	Johnson	Olive	Zaun
Feenstra	Kapucian	Reynolds	
Hahn	Kettering	Seymour	

Nays, 31:

Appel	Dotzler	Horn	Schmitz
Beall	Dvorsky	Jochum	Schoenjahn
Black	Fraise	Kibbie	Seng

Bolkcom	Gronstal	Kreiman	Sodders
Courtney	Hancock	McCoy	Stewart
Dandekar	Hatch	Quirnbach	Warnstadt
Danielson	Heckroth	Ragan	Wilhelm
Dearden	Hogg	Rielly	

Absent, 1:

Houser

Amendment [S-3021](#) lost.

Senator Appel moved that the bill be read the last time now and placed upon its passage, which motion prevailed by a voice vote, and the bill was read the last time.

On the question “Shall the bill pass?” ([S.F. 137](#)), the vote was:

Yeas, 32:

Appel	Dotzler	Horn	Rielly
Beall	Dvorsky	Jochum	Schmitz
Black	Fraise	Kibbie	Schoenjahn
Bolkcom	Gronstal	Kreiman	Seng
Courtney	Hancock	McCoy	Sodders
Dandekar	Hatch	Olive	Stewart
Danielson	Heckroth	Quirnbach	Warnstadt
Dearden	Hogg	Ragan	Wilhelm

Nays, 18:

Bartz	Hamerlinck	Kettering	Ward
Behn	Hartsuch	McKinley	Wieck
Boettger	Houser	Noble	Zaun
Feenstra	Johnson	Reynolds	
Hahn	Kapucian	Seymour	

Absent, none.

The bill, having received a constitutional majority, was declared to have passed the Senate and the title was agreed to.

#### IMMEDIATELY MESSAGED

Senator Gronstal asked and received unanimous consent that [Senate File 137](#) be **immediately messaged** to the House.

## ADJOURNMENT

On motion of Senator Gronstal, the Senate adjourned at 2:33 p.m. until 8:45 a.m., Tuesday, February 17, 2009.

## APPENDIX

### COMMUNICATIONS RECEIVED

The following communications were received in the office of the Secretary of the Senate and placed on file in the Legislative Services Agency:

#### DEPARTMENT OF HUMAN SERVICES

IowaCare Evaluation Report, pursuant to 2008 Iowa Acts, [SF 2425](#), Section 47. Report received on February 16, 2009.

Combined Annual and Biennial Report of the Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission, pursuant to Iowa Code section 225C.6(1)(h) and (i). Report received on February 16, 2009.

### PRESENTATION OF VISITORS

The Chair welcomed the following visitors who were present in the Senate gallery:

High school students from Central High School and West High School, Davenport, Iowa, accompanied by Ken Krumwiede. Senator Hamerlinck.

### CERTIFICATES OF RECOGNITION

The Secretary of the Senate issued the following certificates of recognition:

Dorothy Baker, West Burlington—For celebrating her 85<sup>th</sup> birthday. Senator Courtney (2/16/09).

Timothy G. Burwitz, LeMars—For achieving the rank of Eagle Scout, Troop 184. Senator Feenstra (2/16/09).

Lowell Carlson of the Bellevue Herald-Leader—For receiving the Master Editor-Publisher Award from the Iowa Newspaper Association. Senator Stewart (2/16/09).

Mitchel L. Christoffel, LeMars—For achieving the rank of Eagle Scout, Troop 184. Senator Feenstra (2/16/09).

Alice Glasgow, Danville—For celebrating her 100<sup>th</sup> birthday. Senator Courtney (2/16/09).

Francille Kilbride, Mediapolis—For celebrating her 90<sup>th</sup> birthday. Senator Courtney (2/16/09).

Matt J. Klein, LeMars—For achieving the rank of Eagle Scout, Troop 184. Senator Feenstra (2/16/09).

Zachary M. Nemmers, LeMars—For achieving the rank of Eagle Scout, Troop 184. Senator Feenstra (2/16/09).

Dorothy Savage, Danville—For celebrating her 90<sup>th</sup> birthday. Senator Courtney (2/16/09).

Nadia Torkzadeh, Waukee—For being named Distinguished Finalist in the 14<sup>th</sup> Annual Prudential Spirit of Community Awards. Senator Behn (2/16/09).

Allen and Cathy Waterman, Burlington—For celebrating their 50<sup>th</sup> wedding anniversary. Senator Courtney (2/16/09).

Clarence and Alice Weinzetl, Mallard—For celebrating their 60<sup>th</sup> wedding anniversary. Senator Kibbie (2/16/09).

## REPORTS OF COMMITTEE MEETINGS

### ENVIRONMENT AND ENERGY INDEPENDENCE

**Convened:** Thursday, February 12, 2009, 4:05 p.m.

**Members Present:** Hogg, Vice Chair; Behn, Ranking Member; Bolkcom, Hartsuch, Reynolds, Rielly, Stewart, and Wilhelm.

**Members Absent:** Black, Chair; Hancock and Ward (all excused).

**Committee Business:** Floodplain management presentation by the Department of Natural Resources.

**Adjourned:** 5:00 p.m.

### ALSO:

**Convened:** Monday, February 16, 2009, 2:35 p.m.

**Members Present:** Black, Chair; Hogg, Vice Chair; Behn, Ranking Member; Bolkcom, Hancock, Rielly, Stewart, Ward, and Wilhelm.

**Members Absent:** Hartsuch and Reynolds (both excused).

**Committee Business:** Presentation by the Department of Civil and Environmental Engineering and the Chair of the Climate Change Advisory Council.

**Adjourned:** 3:35 p.m.

#### **RULES AND ADMINISTRATION**

**Convened:** Monday, February 16, 2009, 1:10 p.m.

**Members Present:** Gronstal, Chair; Kibbie, Vice Chair; McKinley, Ranking Member; Boettger, Courtney, Danielson, Dearden, Dvorsky, Kettering, Ragan, and Zaun.

**Members Absent:** None.

**Committee Business:** Passed [HCR 3](#).

**Adjourned:** 1:15 p.m.

#### **INTRODUCTION OF RESOLUTION**

[Senate Joint Resolution 2](#), by Kettering, McKinley, Behn, Noble, Boettger, Wieck, Bartz, Hartsuch, Reynolds, Seymour, Hahn, Kapucian, Hamerlinck, Feenstra, Johnson, Zaun, Houser, and Ward, a joint resolution proposing an amendment to the Constitution of the State of Iowa establishing a state general fund expenditure limitation.

Read first time under Rule 28 and referred to committee on **State Government**.

#### **INTRODUCTION OF BILLS**

[Senate File 152](#), by committee on Human Resources, a bill for an act relating to administrative and planning requirements involving children for whom the department of human services has responsibility under state or federal law.

Read first time under Rule 28 and **placed on calendar**.

[Senate File 153](#), by committee on Human Resources, a bill for an act to allow medical or osteopathic physicians, physician assistants, and nurse practitioners to form limited liability companies or professional corporations.

Read first time under Rule 28 and **placed on calendar**.

[Senate File 154](#), by committee on Judiciary, a bill for an act relating to the authorized uses of local exchange service information by specified individuals and entities.

Read first time under Rule 28 and **placed on calendar**.

[Senate File 155](#), by committee on Labor and Business Relations, a bill for an act relating to the choice of doctor to treat an injured employee under workers' compensation laws and providing an effective and applicability date.

Read first time under Rule 28 and **placed on calendar**.

[Senate File 156](#), by Danielson, a bill for an act relating to the erection, maintenance, and removal of partition fences by adjoining landowners.

Read first time under Rule 28 and referred to committee on **Local Government**.

[Senate File 157](#), by Bolkcom, Dotzler, McCoy, Quirnbach, Dvorsky, Dearden, Fraise, Appel, Courtney, Gronstal, Kibbie, Jochum, Danielson, Soddors, and Kreiman, a bill for an act relating to wage payment collection issues arising between employers and individuals who provide services to employers, providing penalties, and including an effective date.

Read first time under Rule 28 and referred to committee on **Labor and Business Relations**.

[Senate File 158](#), by Zaun, Hamerlinck, McKinley, Behn, and Dotzler, a bill for an act relating to exemptions from the prohibitions of the smokefree air Act for some bars.

Read first time under Rule 28 and referred to committee on **State Government**.

[Senate File 159](#), by committee on State Government, a bill for an act relating to electrician licensure by modifying existing provisions and specifying new classifications.

Read first time under Rule 28 and **placed on calendar**.

[Senate File 160](#), by Boettger, a bill for an act relating to premises that may be used as a serving site by a mobile food unit.

Read first time under Rule 28 and referred to committee on **State Government**.

[Senate File 161](#), by Jochum, a bill for an act relating to open records and public meetings, including the creation of the Iowa public information board, and providing an effective date and making an appropriation.

Read first time under Rule 28 and referred to committee on **State Government**.

[Senate File 162](#), by Appel, a bill for an act modifying the time period after which certain school district proposals defeated at election may be resubmitted to the voters and providing an effective date.

Read first time under Rule 28 and referred to committee on **Education**.

[Senate File 163](#), by Jochum, a bill for an act exempting the instructional support property tax levy of a school district from being collected as part of the incremental taxes paid to a municipality for an urban renewal area and providing for the Act's applicability.

Read first time under Rule 28 and referred to committee on **Education**.

[Senate File 164](#), by Zaun, Seymour, Behn, McKinley, Johnson, Kettering, Reynolds, Boettger, Feenstra, Hahn, Kapucian, Hamerlinck, and Bartz, a bill for an act providing for the placement of a right-to-work notice on certain state property and publications.

Read first time under Rule 28 and referred to committee on **Labor and Business Relations**.

[Senate File 165](#), by Bartz, a bill for an act providing an exemption from the state individual income tax for retirement pay received from the federal government for military service and including a retroactive applicability date provision.

Read first time under Rule 28 and referred to committee on **Ways and Means**.

[Senate File 166](#), by Bartz, a bill for an act exempting from the income tax a portion of the retirement pay of certain military retirees and including a retroactive applicability date provision.

Read first time under Rule 28 and referred to committee on **Ways and Means**.

[Senate File 167](#), by Noble, a bill for an act relating to a property assessment adjustment for certain elderly persons, providing a penalty, and including retroactive applicability date provisions.

Read first time under Rule 28 and referred to committee on **Ways and Means**.

#### STUDY BILLS RECEIVED

[SSB 1204](#)      **Rebuild Iowa**

Providing for the waiver of wage and benefits requirements in certain economic development programs and including effective and retroactive applicability date provisions.

[SSB 1205](#)      **Human Resources**

Relating to runaway assessment centers.

**SSB 1206      Judiciary**

Relating to actions injurious to dependent adults and residents of health care facilities and providing penalties.

**SSB 1207      Education**

Transferring the authority to register postsecondary schools from the secretary of state to the college student aid commission and providing for related matters.

**SSB 1208      Commerce**

Relating to disclosures required to be made by a prospective transferor of real property.

**SSB 1209      Ways and Means**

Providing a sales tax exemption for purchases made by a nonprofit blood bank licensed by the federal food and drug administration.

**SSB 1210      Ways and Means**

Providing a sales tax exemption from the sale of certain automotive paints and materials to retailers to be used for motor vehicle collision repairs.

**SSB 1211      Ways and Means**

Repealing the authorization to use local sales and services tax revenue to fund urban renewal projects and including an effective date provision.

**SUBCOMMITTEE ASSIGNMENTS****Senate File 144**

HUMAN RESOURCES: Hatch, Chair; Bolkcom and Johnson

**Senate File 149**

APPROPRIATIONS: Dvorsky, Chair; and Kettering

[Senate File 157](#)

LABOR AND BUSINESS RELATIONS: Dotzler, Chair; Hatch and Zaun

[House File 122](#)

HUMAN RESOURCES: Kreiman, Chair; Hartsuch and Schmitz

[House File 214](#)

VETERANS AFFAIRS: Kibbie, Chair; Danielson and Seymour

[SSB 1204](#)

REBUILD IOWA: Stewart, Chair; Appel and Feenstra

[SSB 1205](#)

HUMAN RESOURCES: Kreiman, Chair; Bartz and Wilhelm

[SSB 1206](#)

JUDICIARY: Jochum, Chair; Boettger and Kreiman

[SSB 1207](#)

EDUCATION: Quirnbach, Chair; Beall and Feenstra

[SSB 1208](#)

COMMERCE: Olive, Chair; Dandekar and Hartsuch

[SSB 1209](#)

WAYS AND MEANS: Stewart, Chair; Bartz and Wilhelm

[SSB 1210](#)

WAYS AND MEANS: McCoy, Chair; Dandekar and Houser

[SSB 1211](#)

WAYS AND MEANS: Bolkcom, Chair; Feenstra and Stewart

## FINAL COMMITTEE REPORTS OF BILL ACTION

### HUMAN RESOURCES

**Bill Title:** \*[SENATE FILE 152 \(SSB 1104\)](#), a bill for an act relating to administrative and planning requirements involving children for whom the department of human services has responsibility under state or federal law.

**Recommendation:** APPROVED COMMITTEE BILL.

**Final Vote:** Ayes, 12: Ragan, Schmitz, Hartsuch, Bartz, Boettger, Bolkcom, Dotzler, Johnson, Kreiman, Quirnbach, Seymour, and Wilhelm. Nays, none. Absent, 1: Hatch.

**Fiscal Note:** NOT REQUIRED UNDER JOINT RULE 17.

\*Pursuant to Senate Rule 40, the Legislative Services Agency reported nonsubstantive changes to the members of the Human Resources Committee on [Senate File 152](#), and they were attached to the committee report.

**ALSO:**

**Bill Title:** [SENATE FILE 153 \(SSB 1092\)](#), a bill for an act to allow medical or osteopathic physicians, physician assistants, and nurse practitioners to form limited liability companies or professional corporations.

**Recommendation:** APPROVED COMMITTEE BILL.

**Final Vote:** Ayes, 11: Ragan, Schmitz, Bartz, Boettger, Bolkcom, Dotzler, Johnson, Kreiman, Quirnbach, Seymour, and Wilhelm. Nays, 1: Hartsuch. Absent, 1: Hatch.

**Fiscal Note:** NOT REQUIRED UNDER JOINT RULE 17.

#### JUDICIARY

**Bill Title:** \*[SENATE FILE 154 \(SSB 1141\)](#), a bill for an act relating to the authorized uses of local exchange service information by specified individuals and entities.

**Recommendation:** APPROVED COMMITTEE BILL.

**Final Vote:** Ayes, 15: Kreiman, Hogg, Kettering, Boettger, Fraise, Hancock, Horn, Jochum, Noble, Quirnbach, Schoenjahn, Sodders, Ward, Warnstadt, and Zaun. Nays, none. Absent, none.

**Fiscal Note:** NOT REQUIRED UNDER JOINT RULE 17.

\*Pursuant to Senate Rule 40, the Legislative Services Agency reported nonsubstantive changes to the members of the Judiciary Committee on [Senate File 154](#), and they were attached to the committee report.

#### LABOR AND BUSINESS RELATIONS

**Bill Title:** [SENATE FILE 155 \(SSB 1119\)](#), a bill for an act relating to the choice of doctor to treat an injured employee under workers' compensation laws and providing an effective and applicability date.

**Recommendation:** APPROVED COMMITTEE BILL.

**Final Vote:** Ayes, 6: Courtney, Jochum, Dearden, Dotzler, Gronstal, and Horn. Nays, 4: Ward, Houser, Wieck, and Zaun. Absent, 1: Hatch.

**Fiscal Note:** NOT REQUIRED UNDER JOINT RULE 17.

#### **RULES AND ADMINISTRATION**

**Bill Title:** [HOUSE CONCURRENT RESOLUTION 3](#), a concurrent resolution relating to joint rules of the Senate and House of Representatives for the Eighty-third General Assembly.

**Recommendation:** DO PASS.

**Final Vote:** Ayes, 11: Gronstal, Kibbie, McKinley, Boettger, Courtney, Danielson, Dearden, Dvorsky, Kettering, Ragan, and Zaun. Nays, none. Absent, none.

**Fiscal Note:** NOT REQUIRED UNDER JOINT RULE 17.

#### **STATE GOVERNMENT**

**Bill Title:** \*[SENATE FILE 159 \(SSB 1090\)](#), a bill for an act relating to electrician licensure by modifying existing provisions and specifying new classifications.

**Recommendation:** APPROVED COMMITTEE BILL.

**Final Vote:** Ayes, 13: Appel, Feenstra, Behn, Black, Courtney, Danielson, Dearden, Hartsuch, Horn, Jochum, Seymour, Soddors, and Wieck. Nays, none. Absent, 2: Kibbie and Hatch.

**Fiscal Note:** NOT REQUIRED UNDER JOINT RULE 17.

\*Pursuant to Senate Rule 40, the Legislative Services Agency reported nonsubstantive changes to the members of the State Government Committee on [Senate File 159](#), and they were attached to the committee report.

### **BILL ENROLLED, SIGNED, AND SENT TO GOVERNOR**

The Secretary of the Senate submitted the following report:

MR. PRESIDENT: The Secretary of the Senate respectfully reports that the following bill has been enrolled, signed by the President of the Senate and the Speaker of the House, and presented to the Governor for his approval on this 13th day of February, 2009:

[Senate File 45](#).

MICHAEL E. MARSHALL  
Secretary of the Senate

## BILL SIGNED BY THE GOVERNOR

A communication was received announcing that on February 16, 2009, the Governor approved and transmitted to the Secretary of State the following bill:

[Senate File 45](#) – Relating to issuance of certain county general obligation bonds by requiring published notice and modifying the ballot proposition, and including effective date, validation, and retroactive applicability provisions.

## AMENDMENTS FILED

<a href="#">S-3021</a>	<a href="#">S.F. 137</a>	Pat Ward
<a href="#">S-3022</a>	<a href="#">S.F. 81</a>	Bill Heckroth