

## JOURNAL OF THE SENATE

## Sixty-third Legislative Assembly

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Bismarck, January 31, 2013

The Senate convened at 1:30 p.m., with President Wrigley presiding.

The prayer was offered by Pastor Jared Lee, Bismarck Community Church, Bismarck.

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

A quorum was declared by the President.

## CORRECTION AND REVISION OF THE JOURNAL

**MR. PRESIDENT:** Your Committee on Correction and Revision of the Journal (Sen. Andrist, Chairman) has carefully examined the Journal of the Seventeenth Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 200, line 5, remove "HB 1156"

Page 200, after line 9, insert:

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

**MR. PRESIDENT:** The House has passed, the emergency clause failed, and your favorable consideration is requested on: HB 1156."

**SEN. ANDRIST MOVED** that the report be adopted, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2229: SEN. POOLMAN (Education 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 2282: SEN. FLAKOLL (Education Committee) MOVED** that the amendments be adopted and then be placed on the Eleventh order **WITHOUT RECOMMENDATION**, which motion prevailed on a voice vote.

## CONSIDERATION OF AMENDMENTS

**SB 2174: SEN. UNRUH (Industry, Business and Labor 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 2175: SEN. SORVAAG (Industry, Business and Labor 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 2113: SEN. BERRY (Judiciary 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 2009:** A BILL for an Act to provide an appropriation for defraying the expenses of the state fair association; 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 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; Miller; Murphy; Nelson; O'Connell; Oehlke; Poolman; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Robinson

Engrossed SB 2009 passed and the emergency clause was declared carried.

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

**SB 2162:** A BILL for an Act to amend and reenact subsection 5 of section 57-15-56 and section 57-39.2-26.2 of the North Dakota Century Code, relating to a matching grant from the senior citizen services and programs fund to counties; 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 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; Miller; Murphy; Nelson; O'Connell; Oehlke; Poolman; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Robinson

SB 2162 passed.

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

**SB 2208:** A BILL for an Act to create and enact a new section to chapter 15.1-21 of the North Dakota Century Code, relating to advanced placement credits; and to amend and reenact section 15.1-25-03 of the North Dakota Century Code, relating to dual-credit courses.

#### **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 8 YEAS, 38 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Axness; Dotzenrod; Mathern; Miller; Murphy; O'Connell; Oehlke; Sinner

**NAYS:** Anderson; Andrist; Armstrong; Berry; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Erbele; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Nelson; Poolman; Schaible; Schneider; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Robinson

SB 2208 failed.

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

**SB 2159:** A BILL for an Act to amend and reenact section 14-15-12 of the North Dakota Century Code, relating to the required residence of the minor before a final decree of

adoption.

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

**ABSENT AND NOT VOTING:** Robinson

SB 2159 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 2060, SB 2108, SB 2139, SB 2154, SB 2216, SB 2266.

#### 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 1118, HB 1137, HB 1177, HB 1191, HB 1193, HB 1217, HB 1227, HB 1230, HB 1267, HB 1276.

#### 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 1185.

#### 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 12:30 p.m., Friday, February 1, 2013, which motion prevailed.

#### REPORT OF STANDING COMMITTEE

**SB 2090, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (11 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2090 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2106: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2106 was placed on the Sixth order on the calendar.

Page 4, line 19, overstrike "must" and insert immediately thereafter "may"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2115: Judiciary Committee (Sen. Hogue, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2115 was placed on the Sixth order on the calendar.

Page 2, line 13, remove "formally"

Page 2, line 14, replace "declared by the submitting person upon submission" with "determined by the agency to which the records are submitted"

Page 4, remove lines 10 through 12

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2126: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2126 was placed on the Sixth order on the calendar.

Page 2, line 16, replace "and" with an underscored period

Page 2, line 17, replace "any" with "Any"

Page 2, line 17, remove "guilty of a"

Page 2, line 18, replace "class A felony" with "subject to a civil penalty of not more than one hundred thousand dollars"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2131: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2131 was placed on the Sixth order on the calendar.

Page 3, line 15, remove "and"

Page 3, line 18, replace the underscored period with "; and

f. An individual acting within the scope of religious ministerial duties."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2148: Education Committee (Sen. Flakoll, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2148 was placed on the Sixth order on the calendar.

Page 1, line 10, after "school" insert "in North Dakota"

Page 1, line 21, after "shall" insert "adopt rules to implement the program and "

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2151: Judiciary Committee (Sen. Hogue, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2151 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2184: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2184 was placed on the Sixth order on the calendar.

Page 1, line 8, after "practice" insert "under the same standards as other health practitioners"

Page 1, line 9, remove "Under this"

Page 1, remove lines 10 and 11

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2196: Judiciary Committee (Sen. Hogue, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2196 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, after "39-20-01" insert "and 39-20-14"

Page 1, line 2, after "consent" insert "and screening tests"

Page 2, line 3, after "restricted" insert "operator's"

Page 2, after line 16, insert:

**"SECTION 2. AMENDMENT.** Section 39-20-14 of the North Dakota Century Code is amended and reenacted as follows:

#### **39-20-14. Screening tests.**

Any individual who operates a motor vehicle upon the public highways of this state is deemed to have given consent to submit to an onsite screening test or tests of the individual's breath for the purpose of estimating the alcohol concentration in the individual's breath upon the request of a law enforcement officer who has reason to believe that the individual committed a moving traffic violation or was involved in a traffic accident as a driver, and in conjunction with the violation or the accident the officer has, through the officer's observations, formulated an opinion that the individual's body contains alcohol. An individual may not be required to submit to a screening test or tests of breath while at a hospital as a patient if the medical practitioner in immediate charge of the individual's case is not first notified of the proposal to make the requirement, or objects to the test or tests on the ground that such would be prejudicial to the proper care or treatment of the patient. The screening test or tests must be performed by an enforcement officer certified as a chemical test operator by the director of the state crime laboratory or the director's designee and according to methods and with devices approved by the director of the state crime laboratory or the director's designee. The results of such screening test must be used only for determining whether or not a further test shall be given under the provisions of section 39-20-01. The officer shall inform the individual that refusal of the individual to submit to a screening test will result in a revocation for at least one year and up to four years of that individual's driving privileges. The officer shall inform the individual that refusal of the screening test will result in the individual being ineligible for a North Dakota temporary restricted operator's license. If such individual refuses to submit to such screening test or tests, none may be given, but such refusal is sufficient cause to revoke such individual's license or permit to drive in the same manner as provided in section 39-20-04, and a hearing as provided in section 39-20-05 and a judicial review as provided in section 39-20-06 must be available. However, the director must not revoke an individual's driving privileges for refusing to submit to a screening test requested under this section if the individual provides a sufficient breath, blood, or urine sample for a chemical test requested under section 39-20-01 for the same incident. No provisions of this section may supersede any provisions of chapter 39-20, nor may any provision of chapter 39-20 be construed to supersede this section except as provided herein. For the purposes of this section, "chemical test operator" means an individual certified by the director of the state crime laboratory or the director's designee as qualified to perform analysis for alcohol in an individual's blood, breath, or urine."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2202: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO NOT**

**PASS** (4 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2202 was placed on the Eleventh order on the calendar.

#### **REPORT OF STANDING COMMITTEE**

**SB 2220: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **DO NOT PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2220 was placed on the Eleventh order on the calendar.

#### **FIRST READING OF SENATE CONCURRENT RESOLUTIONS**

Sens. Erbele, Hogue, Mathern and Reps. Kretschmar, Schmidt, Silbernagel introduced:

**SCR 4011:** A concurrent resolution urging the National Park Service to recognize the historical value of the Nokota horse and provide for its appropriate management in Theodore Roosevelt National Park.

Was read the first time and referred to the **Natural Resources Committee**.

Sens. Anderson, Carlisle, Kilzer, Sitte and Reps. Laning, Rust introduced:

**SCR 4012:** A concurrent resolution directing the Legislative Management to study state alternatives to the statutory and regulatory requirements placed on North Dakota schools and school districts by the United States Department of Education, determine whether there are viable options to achieve the federal government's goals without having the federal government's oversight and involvement, and determine whether the federal fiscal impact is a significant and necessary factor in assenting to the continuance of federal government involvement in this state's educational process.

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

Sens. Flakoll, Carlisle, Wardner and Reps. Carlson, Gruchalla, D. Johnson introduced:

**SCR 4013:** A concurrent resolution supporting the second United States Navy ship to carry the name of our Great State - USS NORTH DAKOTA (SSN-784).

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

Sens. Mathern, Sitte and Reps. Mock, Becker, Toman introduced:

**SCR 4014:** A concurrent resolution urging Congress to reexamine Section 1021 of the National Defense Authorization Act which allows the military to detain United States citizens.

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

Sens. Grindberg, Holmberg, O'Connell and Reps. Delmore, Hawken, Meier introduced:

**SCR 4015:** A concurrent resolution urging the Department of Career and Technical Education to identify programs and initiatives in the fields of science, technology, engineering, and mathematics, and identify opportunities for coordinated public and private sector participation.

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

#### **FIRST READING OF HOUSE BILL**

**HB 1168:** A BILL for an Act to create and enact a new section to chapter 26.1-36 of the North Dakota Century Code, relating to health insurance enrollment periods in the individual market.

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**