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Sixty-third
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT

ENGROSSED SENATE CONCURRENT RESOLUTION NO. 4017

Introduced by

Senators Sitte, Armstrong, Schaible

Representatives Heller, Porter, Streyle

A concurrent resolution relating to the Obama Administration's proposal that the Senate of the United States consider adoption of a United Nations Arms Trade Treaty.

WHEREAS, the "First Law of Nature" has long been held to be the natural and fundamental right of all persons to "self-preservation", "self-defense", and a "right of revolution" against any and all dangers to life, liberty, and property; and

WHEREAS, this first law of nature is ensconced in both a collective and an individual right to keep and bear arms, a right that has been recognized in English law since the adoption of the English Bill of Rights of 1689; and

WHEREAS, the Founding Fathers of the United States of America codified that individual and collective right by adoption and ratification of the Second Amendment to the United States Constitution; and

WHEREAS, the Second Amendment to the United States Constitution reads as follows: "A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed."; and

WHEREAS, such codification of the individual right to keep and bear arms is derivative of the natural right and not the creation of a new right, a fact which has been recognized by the United States Supreme Court; and

WHEREAS, the existence and recognition of such an individual right is necessary to resist invasion, to dissuade a tyrannical government, and to empower citizens in maintaining the natural right of self-defense, and is as essential as the collective right; and

WHEREAS, our nation's Founding Fathers expressed a deep belief in the individual right to keep and bear arms, expressed by Patrick Henry in Virginia's constitutional ratification convention on June 5, 1788, with the words: "Guard with jealous attention to the public liberty. Suspect everyone who approaches that jewel. Unfortunately, nothing will preserve it but downright force. Whenever you give up that force, you are inevitably ruined . . . "; and

WHEREAS, the individual right to keep and bear arms has been upheld by court opinions over the 225 years since the original 13 states ratified the United States Constitution, most recently in District of Columbia v. Heller and in McDonald v. Chicago; and

WHEREAS, the state of North Dakota further codifies the individual right to keep and bear arms in the North Dakota Constitution's Declaration of Rights, wherein Article I, Section 1, states "All individuals are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation; pursuing and obtaining safety and happiness; and to keep and bear arms for the defense of their person, family, property, and the state, and for lawful hunting, recreational, and other lawful purposes, which shall not be infringed."; and

WHEREAS, the United States Mission to the United Nations voted in November 2012 to move the Draft Paper for the United Nations Arms Trade Treaty (hereinafter the "Treaty") out of General Disarmament Committee to the full body of the United Nations for a vote on finalization of the Treaty in March 2013; and

WHEREAS, the current form of the Treaty covers both traditional military munitions as well as "small arms and light weapons" and does not distinguish between arms, such as rockets, and from vastly and distinctly different arms, such as handguns, rifles, or shotguns; and

WHEREAS, the Treaty would allow for an expansion of federal firearms controls on the transportation of arms across national territory, require maintaining records of all arms within the territory of a country which would include the identity of individual users, and create an obligation that would require the United States to take measures that would infringe on the individual right to keep and bear arms; and

WHEREAS, passages of the Treaty as currently drafted are written so broadly as to not only possibly impair or render our military unable to assert the national right of self-defense against other nations, but to also subject citizens of the United States to violation of international laws within the borders of the United States; and

WHEREAS, ratification of the Treaty would erroneously encourage politicians and courts to view the treaty power as a separate source of federal authority for the regulation of purely intrastate matters expressly delegated to the states, including the criminal law of self-defense and the individual right to keep and bear arms; and

WHEREAS, the harmful potential of the Treaty led a bipartisan coalition of 51 United States senators to express the strongest expression of concern and opposition on the potentially devastating consequences of the Treaty to President Barack Obama and Secretary of State Hillary Clinton in a letter dated July 26, 2012; and

WHEREAS, the adoption of the Treaty, or any document with as broad a scope as the Treaty as to imperil the individual and collective right to keep and bear arms, would constitute an absolute abandonment of the oath of office upon which every federal elected official, federal civilian employee, and military servicemember swears to upon entering office, namely the oath to either "preserve, protect, and defend the Constitution of the United States" or to "support and defend the Constitution of the United States against all enemies, foreign and domestic";

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Sixty-third Legislative Assembly hereby expresses its opposition to the current form of the United Nations Arms Trade Treaty, as well as to any treaty that infringes on the individual or collective right to keep and bear arms, in the strongest and most unequivocal terms; and

BE IT FURTHER RESOLVED, as duly elected representatives of the will of the people of North Dakota, strongly urge the President of the United States, the United States Secretary of State, the Ambassador of the United States to the United Nations, and all members of the United States Senate to soundly reject the current form of the United Nations Arms Trade Treaty or any other treaty which would endanger the individual or collective right to keep and bear arms; and

BE IT FURTHER RESOLVED, that the Secretary of State of North Dakota forward properly inscribed copies of this resolution to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the United States Secretary of State, the Ambassador of the United States to the United Nations, each member of the United States Senate, the Governor of each state, the Speaker of the House and President of the Senate of each state's legislature, and each member of the North Dakota Congressional Delegation.