

## JOURNAL OF THE SENATE

## Sixty-second Legislative Assembly

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Bismarck, February 15, 2011

The Senate convened at 12:30 p.m., with President Wrigley presiding.

The prayer was offered by Pastor Jacob DeBoer, Trinity and Dawson Lutheran Churches, Steele and Dawson.

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

A quorum was declared by the President.

## MOTION

**SEN. CHRISTMANN MOVED** that the Senate resolve itself into a Confirmation Session, which motion prevailed.

## REPORT OF SELECT COMMITTEE

**MR. PRESIDENT:** Your **Select Committee (Sen. J. Lee, Chairman)** appointed to consider the nomination to the North Dakota State Board of Higher Education, do advise and consent to the appointment of Duaine Espesgaard.

## ROLL CALL

The question being, "will the Senate advise and consent to the appointment of Duaine Espesgaard to the North Dakota State Board of Higher Education," the roll was called and there were 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Grindberg

The Senate advises and consents to the appointment of Duaine Espesgaard to the North Dakota State Board of Higher Education.

## REPORT OF SELECT COMMITTEE

**MR. PRESIDENT:** Your **Select Committee (Sen. Christmann, Chairman)** appointed to consider the nomination to the North Dakota State Board of Higher Education, do not advise and consent to the appointment of Kirsten Diederich.

## ROLL CALL

The question being, "will the Senate advise and consent to the appointment of Kirsten Diederich to the North Dakota State Board of Higher Education," the roll was called and there were 36 YEAS, 10 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Berry; Burckhard; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Mathern; Murphy; Nelson; Nething; O'Connell; Oehlke; Olafson; Robinson; Schneider; Sorvaag; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**NAYS:** Andrist; Bowman; Christmann; Freborg; Marcellais; Miller; Nodland; Schaible; Sitte; Stenehjerm

**ABSENT AND NOT VOTING:** Grindberg

The Senate advises and consents to the appointment of Kirsten Diederich to the North

Dakota State Board of Higher Education.

#### MOTION

**SEN. CHRISTMANN MOVED** that the Confirmation Session be dissolved, which motion prevailed.

#### CONSIDERATION OF AMENDMENTS

**SB 2124: SEN. SORVAAG (Judiciary Committee) MOVED** that the amendments on SJ pages 397-399 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

#### CONSIDERATION OF AMENDMENTS

**SB 2119: SEN. NELSON (Judiciary Committee) MOVED** that the amendments on SJ pages 394-397 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

#### CONSIDERATION OF AMENDMENTS

**SB 2003: SEN. KILZER (Appropriations Committee) MOVED** that the amendments on SJ pages 392-394 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

#### CONSIDERATION OF AMENDMENTS

**SB 2352: SEN. BURCKHARD (Natural Resources Committee) MOVED** that the amendments on SJ page 402 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

#### CONSIDERATION OF AMENDMENTS

**SB 2317: SEN. HECKAMAN (Education Committee) MOVED** that the amendments on SJ page 401 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

#### CONSIDERATION OF AMENDMENTS

**SB 2327: SEN. DEVER (Government and Veterans Affairs Committee) MOVED** that the amendments on SJ page 402 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

#### CONSIDERATION OF AMENDMENTS

**SB 2286: SEN. BERRY (Government and Veterans Affairs Committee) MOVED** that the amendments on SJ page 401 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

#### CONSIDERATION OF AMENDMENTS

**SB 2109: SEN. NELSON (Government and Veterans Affairs Committee) MOVED** that the amendments on SJ page 394 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

#### CONSIDERATION OF AMENDMENTS

**SB 2048: SEN. MILLER (Finance and Taxation Committee) MOVED** that the amendments on SJ page 394 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

#### CONSIDERATION OF AMENDMENTS

**SB 2206: SEN. HOGUE (Natural Resources Committee) MOVED** that the amendments on SJ pages 399-400 be adopted and then be placed on the Eleventh order with **DO PASS**.

#### REQUEST

**SEN. OLAFSON REQUESTED** that the Senate divide the amendments to SB 2206, which request was granted.

**DIVISION A:** Section 1

**DIVISION B:** Sections 2 and 3

#### REQUEST

**SEN. OLAFSON REQUESTED** a verification vote on Division A of the proposed

amendments to SB 2206, which request was granted.

The question being the adoption of Division A of the proposed amendments to SB 2206, the motion passed on a verification vote.

Division A of the proposed amendments to SB 2206 was adopted on a verification vote.

#### REQUEST

**SEN. OLAFSON REQUESTED** a verification vote on Division B of the proposed amendments to SB 2206, which request was granted.

The question being the adoption of Division B of the proposed amendments to SB 2206, the motion passed on a verification vote.

Division B of the proposed amendments to SB 2206 was adopted on a verification vote.

The question being on the motion to adopt the amendments to SB 2206 which includes Division A and Division B, the motion prevailed on a voice vote.

#### MOTION

**SEN. CHRISTMANN MOVED** that SB 2318, SB 2125, and SB 2280 be placed at the top of the Eleventh order immediately following Sixth order action, which motion prevailed.

#### CONSIDERATION OF AMENDMENTS

**SB 2318: SEN. SCHNEIDER (Natural Resources Committee) MOVED** that the amendments on SJ pages 401-402 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 2318:** A BILL for an Act to provide for a legislative management study relating to carbon dioxide storage easements and to the duration of carbon dioxide storage easements.

#### 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:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Grindberg

Engrossed SB 2318 passed.

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#### CONSIDERATION OF AMENDMENTS

**SB 2125: SEN. NETHING (Judiciary Committee) MOVED** that the amendments on SJ page 399 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 2125:** A BILL for an Act to provide for a legislative management study of the feasibility and desirability of adopting the Uniform Electronic Recording of Custodial Interrogations Act.

#### 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:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Grindberg

Engrossed SB 2125 passed.

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#### **CONSIDERATION OF AMENDMENTS**

**SB 2280: SEN. LUICK (Agriculture Committee) MOVED** that the amendments on SJ pages 400-401 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 2280:** A BILL for an Act to create and enact a new subsection to section 61-21-02 and a new section to chapter 61-32 of the North Dakota Century Code, relating to subsurface drainage of water; to provide a penalty; 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 39 YEAS, 7 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Hogue; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Uglem; Wanzek; Wardner

**NAYS:** Heckaman; Holmberg; Marcellais; Mathern; Robinson; Triplett; Warner

**ABSENT AND NOT VOTING:** Grindberg

Engrossed SB 2280 passed and the emergency clause was declared carried.

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

**SB 2256:** A BILL for an Act to create and enact a new section to chapter 16.1-05 of the North Dakota Century Code, relating to election observers.

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

**YEAS:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; Oehlke; Olafson; Robinson; Schaible; Schneider; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**NAYS:** Erbele; O'Connell; Sitte

**ABSENT AND NOT VOTING:** Grindberg

SB 2256 passed.

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**SECOND READING OF SENATE BILL**

**SB 2273:** A BILL for an Act to create and enact a new section to chapter 16.1-10 of the North Dakota Century Code, relating to election campaign practices; and to provide a penalty.

**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 11 YEAS, 35 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Dotzenrod; Heckaman; Laffen; Luick; Marcellais; Mathern; Nelson; O'Connell; Robinson; Taylor; Warner

**NAYS:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Erbele; Fischer; Flakoll; Freborg; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Larsen; Lee, G.; Lee, J.; Lyson; Miller; Murphy; Nething; Nodland; Oehlke; Olafson; Schaible; Schneider; Sitte; Sorvaag; Stenehjem; Triplett; Uglem; Wanzek; Wardner

**ABSENT AND NOT VOTING:** Grindberg

SB 2273 lost.

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**SECOND READING OF SENATE BILL**

**SB 2262:** A BILL for an Act to amend and reenact section 16.1-09-03 of the North Dakota Century Code, relating to the contents of personal disclosure statements.

**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, 34 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Dotzenrod; Heckaman; Marcellais; Mathern; Miller; Murphy; Nelson; Robinson; Schneider; Taylor; Triplett; Warner

**NAYS:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Erbele; Fischer; Flakoll; Freborg; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Nething; Nodland; O'Connell; Oehlke; Olafson; Schaible; Sitte; Sorvaag; Stenehjem; Uglem; Wanzek; Wardner

**ABSENT AND NOT VOTING:** Grindberg

SB 2262 lost.

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**SECOND READING OF SENATE BILL**

**SB 2253:** A BILL for an Act to create and enact a new subsection to section 57-39.2-26.1 of the North Dakota Century Code, relating to the allocation of revenues among political subdivisions through the state aid distribution fund; to provide an expiration date; and to declare an emergency.

**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:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek; Wardner;

Warner

**ABSENT AND NOT VOTING:** Grindberg

SB 2253 passed and the emergency clause was declared carried.

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

**SB 2213:** A BILL for an Act to amend and reenact section 54-52.4-03 of the North Dakota Century Code, relating to family medical leave for state employees.

### **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 45 YEAS, 1 NAY, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**NAYS:** Andrist

**ABSENT AND NOT VOTING:** Grindberg

SB 2213 passed.

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### **SECOND READING OF SENATE CONCURRENT RESOLUTION**

**SCR 4011:** A concurrent resolution directing the Legislative Management to study the feasibility and desirability of creating a 25-year sustainability vision plan for state facilities with the intent to lower our energy usage, energy costs, and improve the environment.

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

SCR 4011 was declared adopted on a voice vote.

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

**SB 2169:** A BILL for an Act to create and enact a new section to chapter 54-03 of the North Dakota Century Code, relating to audio recording of floor sessions of the legislative assembly.

### **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 45 YEAS, 1 NAY, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**NAYS:** Larsen

**ABSENT AND NOT VOTING:** Grindberg

Engrossed SB 2169 passed.

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**SECOND READING OF SENATE BILL**

**SB 2010:** A BILL for an Act to provide an appropriation for defraying the expenses of the insurance commissioner; to provide for making payments of insurance premiums tax collections to fire departments; and to amend and reenact section 26.1-01-09 of the North Dakota Century Code, relating to the commissioner's salary.

**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:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Grindberg

Engrossed SB 2010 passed.

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**SECOND READING OF SENATE BILL**

**SB 2346:** A BILL for an Act to amend and reenact subsection 3 of section 39-06-17 of the North Dakota Century Code, relating to restricted licenses for minors.

**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, 3 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Miller; Murphy; Nething; Nodland; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**NAYS:** Mathern; Nelson; O'Connell

**ABSENT AND NOT VOTING:** Grindberg

Engrossed SB 2346 passed.

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**SECOND READING OF SENATE BILL**

**SB 2259:** A BILL for an Act to create and enact a new subsection to section 19-03.4-08 of the North Dakota Century Code, relating to records of the sale of methamphetamine precursors; and to amend and reenact subsection 4 of section 19-03.4-08 of the North Dakota Century Code, relating to records of the sale of methamphetamine precursors.

**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 45 YEAS, 1 NAY, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible;

Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Uglem; Wanzek; Wardner; Warner

**NAYS:** Triplett

**ABSENT AND NOT VOTING:** Grindberg

SB 2259 passed.

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

**SB 2251:** A BILL for an Act to amend and reenact subsection 1 of section 19-03.1-23 and subsection 1 of section 19-03.1-23.1 of the North Dakota Century Code, relating to manufacture, delivery, or possession with intent to manufacture or deliver controlled substances.

#### **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:** Andrist; Berry; Bowman; Burckhard; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjerm; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Grindberg

SB 2251 passed.

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#### **SECOND READING OF SENATE CONCURRENT RESOLUTION**

**SCR 4001:** A concurrent resolution directing the Legislative Management to study the imposition of fees by courts at sentencing and other fees that are imposed upon offenders.

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.

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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 2002, SB 2331, SCR 4003.

#### **MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**

**MR. SPEAKER:** The Senate has passed, the emergency clause carried, and your favorable consideration is requested on: SB 2001, SB 2022, SB 2308.

#### **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 1057, HB 1123, HB 1320, HB 1334, HB 1338, HB 1365, HB 1433, HB 1456, HCR 3029.

#### **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 1423.

#### **MOTION**

**SEN. CHRISTMANN MOVED** that the absent member be excused, which motion prevailed.



**MOTION**

**SEN. CHRISTMANN 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 1:00 p.m., Wednesday, February 16, 2011, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**SB 2070: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (12 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2070 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2106: Judiciary Committee (Sen. Nething, Chairman)** recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2106 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2195: Judiciary Committee (Sen. Nething, Chairman)** recommends **DO PASS** (3 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). SB 2195 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2199: Judiciary Committee (Sen. Nething, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2199 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2232: Judiciary Committee (Sen. Nething, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2232 was placed on the Sixth order on the calendar.

Page 1, line 1, after "44-04" insert ", a new subsection to section 44-04-18.7,"

Page 1, line 3, after "record" insert ", the exemption of crime scene images,"

Page 1, line 12, after "entity" insert "; and to declare an emergency"

Page 6, line 13, replace "of" with "of"

Page 6, line 19, remove "that"

Page 6, line 20, remove "are"

Page 6, line 25, remove "that is"

Page 6, line 26, replace "that" with "which"

Page 8, line 2, overstrike "that"

Page 8, line 5, replace "that" with "which"

Page 8, after line 6, insert:

**"SECTION 8.** A new subsection to section 44-04-18.7 of the North Dakota Century Code is created and enacted as follows:

Crime scene images of a victim of a homicide or sex crime or any image of a minor victim of any crime is an exempt record as defined in subsection 5 of section 44-04-17.1."

Page 9, line 19, replace "that" with "which"

Page 9, after line 26, insert:

"**SECTION 11. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2237, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2237 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 7 of section 26.1-04-03 of the North Dakota Century Code, relating to prohibited practices in the insurance business.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Subsection 7 of section 26.1-04-03 of the North Dakota Century Code is amended and reenacted as follows:

7. Unfair discrimination.
  - a. Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.
  - b. Making or permitting any unfair discrimination, including consideration of an individual's history or status as a subject of domestic abuse, between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatsoever.
  - c. Refusing to insure, or refusing to continue to insure, or limiting the amount, extent, or kind of life insurance, accident and sickness insurance, health services, or health care protection insurance available to an individual, or charging an individual a different rate for the same coverage solely because of blindness or partial blindness. Refusal to insure includes denial by an insurer of disability insurance coverage on the grounds that the policy defines "disability" as being presumed in the event that the insured loses the insured's eyesight; however, an insurer may exclude from coverage disabilities consisting solely of blindness or partial blindness when such condition existed at the time the policy was issued. With respect to all other conditions, including the underlying cause of the blindness or partial blindness, persons who are blind or partially blind shall be subject to the same standards of sound actuarial principles or actual or reasonably anticipated experience as are sighted persons.
  - d. Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazard by refusing to insure, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk solely because of the geographic location of the risk, unless the action is the result of the application of sound underwriting and actuarial principles related to actual or reasonably anticipated loss experience."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2241: Judiciary Committee (Sen. Nething, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2241 was placed on the

Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2247: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2247 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2249: Judiciary Committee (Sen. Nething, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2249 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2257: Judiciary Committee (Sen. Nething, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2257 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2265: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2265 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "a" with "two"

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

Page 1, line 2, after the first "to" insert "a statement of purpose and"

Page 1, line 2, after "reenact" insert "sections 25-16.2-01 and 25-16.2-03, subsection 1 of section 54-44.4-05, and"

Page 1, line 4, after "to" insert "work activity centers and"

Page 1, after line 5, insert:

**"SECTION 1.** A new section to chapter 25-16.2 of the North Dakota Century Code is created and enacted as follows:

**Purpose.**

It is in the public interest to advance employment opportunities to individuals with disabilities so that those individuals may acquire job skills and training and gain greater independence and quality of life. This state is committed to promoting self-sufficiency, integrating individuals with disabilities into our communities, and maximizing the earning potential of individuals with disabilities.

**SECTION 2. AMENDMENT.** Section 25-16.2-01 of the North Dakota Century Code is amended and reenacted as follows:

**25-16.2-01. Work activity center - Definition.**

As used in this chapter "work activity center" means a facility, licensed by the department of human services, which is located in the state and operated by a nonprofit corporation organized for the primary purpose of employing and providing rehabilitative activities for physically handicapped, developmentally disabled, and chronically mentally ill persons individuals with physical disabilities, developmental disabilities, or chronic mental illnesses.

**SECTION 3. AMENDMENT.** Section 25-16.2-03 of the North Dakota Century Code is amended and reenacted as follows:

**25-16.2-03. Contract requirement.**

Any contract awarded pursuant to this chapter must be in writing and must be made available by the purchasing party to any person upon request. The contract must include the purchase price, the quantity of ~~product~~commodity or service purchased, and the time period for which the ~~product~~commodity or service will be provided."

Page 1, after line 11, insert:

**"SECTION 5. AMENDMENT.** Subsection 1 of section 54-44.4-05 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as otherwise provided in ~~sections~~section 44-08-01 and ~~25-16.2-02,~~ chapter 25-16.2, and in this chapter, purchasing contracts must be awarded through a competitive bidding process to the lowest responsible bidder considering conformity with specifications, terms of delivery, and quality and serviceability, unless it is determined to be advantageous to the state to select a contractor through a competitive proposal process using other or additional criteria. The procurement officer may reject any or all bids or negotiate for a lower price with a successful bidder. Each bid received, with the name of the bidder, must be recorded. The office of management and budget may enter into term contracts for the acquisition of commodities or services and may make multiple awards for term commodity or service contracts when it deems a multiple award to be in the best interests of the state. All bids received under this chapter pursuant to a competitive sealed bid are exempt records under subsection 5 of section 44-04-17.1 until the date and time the bids are opened."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2266: Judiciary Committee (Sen. Nething, Chairman)** recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2266 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2268, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2268 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2285: Judiciary Committee (Sen. Nething, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2285 was placed on the Sixth order on the calendar.

Page 1, line 19, after the underscored period insert "An individual arrested under this subsection may not be released on bail or on the individual's personal recognizance unless the individual has made a personal appearance before a magistrate."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2295: Judiciary Committee (Sen. Nething, Chairman)** recommends **DO PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2295 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2367: Judiciary Committee (Sen. Nething, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2367 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "to provide for a legislative management study relating to divorce reform and education.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - DIVORCE REFORM AND EDUCATION.** During the 2011-12 interim, the legislative management shall consider studying the physical, emotional, and financial effects associated with divorce involving dependent children. The legislative management shall offer legislative policy solutions, including divorce reform legislation and marriage and relational education, which will lead to increasing the number of dependent children living in intact families. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SCR 4016: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4016 was placed on the Eleventh order on the calendar.

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

**William R. Horton, Secretary**

