

JOURNAL OF THE SENATE

Sixty-second Legislative Assembly

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Bismarck, January 21, 2011

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

The prayer was offered by Pastor Kari Bitz, Cord of Three Ministries, Bismarck.

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

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 Eleventh and Twelfth Days and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 111, line 10, after "passed" insert "and the emergency clause was declared carried"

Page 129, line 44, remove "amended"

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

MOTION

SEN. CHRISTMANN MOVED that SB 2163 be rereferred to the **Education Committee**, which motion prevailed. Pursuant to Sen. Christmann's motion, SB 2163 was rereferred.

CONSIDERATION OF AMENDMENTS

SB 2121: SEN. BERRY (Human Services Committee) MOVED that the amendments on SJ page 131 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

CONSIDERATION OF AMENDMENTS

SB 2064: SEN. ANDRIST (Industry, Business and Labor Committee) MOVED that the amendments on SJ page 130 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

CONSIDERATION OF AMENDMENTS

SB 2077: SEN. MATHERN (Human Services Committee) MOVED that the amendments on SJ pages 130-131 be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

CONSIDERATION OF AMENDMENTS

SB 2205: SEN. SCHNEIDER (Industry, Business and Labor Committee) MOVED that the amendments on SJ page 132 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 2192: A BILL for an Act to create and enact section 27-20-30.1 of the North Dakota Century Code, relating to the disposition of a child needing continued foster care services after the age of eighteen and under the age of twenty-one; to amend and reenact sections 27-20-03, 27-20-11, 27-20-21, 27-20-22, 27-20-26, 27-20-32.2, and 27-20-36 of the North Dakota Century Code, relating to jurisdiction, venue, contents of petition, summons, right to counsel, reasonable efforts to prevent removal or to unify, and limitations of time on orders of disposition; 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 41 YEAS, 5 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

NAYS: Cook; Larsen; Lee, G.; Miller; Nodland

ABSENT AND NOT VOTING: Nothing

SB 2192 passed.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4002: A concurrent resolution urging Congress to provide a legal process to return to the riparian landowner land controlled by the Army Corps of Engineers which is not necessary for authorized purposes.

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

SCR 4002 was declared adopted on a voice vote.

SECOND READING OF SENATE CONCURRENT RESOLUTION

SCR 4006: A concurrent resolution for the repeal of section 6 of article X of the Constitution of North Dakota, relating to elimination of the authority for the legislative assembly to levy an annual poll tax.

ROLL CALL

The question being on the final adoption of the resolution, 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; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Nothing

SCR 4006 was declared adopted on a recorded roll call vote.

SECOND READING OF SENATE BILL

SB 2100: A BILL for an Act to amend and reenact sections 43-09-04 and 43-09-20 of the North Dakota Century Code, relating to electricians.

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; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nodland; Olafson; Robinson; Schaible; Schneider; Sitte;

Sorvaag; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

NAYS: O'Connell; Oehlke; Stenehjem

ABSENT AND NOT VOTING: Nothing

SB 2100 passed.

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 bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 35 YEAS, 11 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Berry; Burckhard; Cook; Dever; Dotzenrod; Fischer; Flakoll; Grindberg; Heckaman; Holmberg; Kilzer; Krebsbach; Laffen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nodland; O'Connell; Olafson; Robinson; Schneider; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wardner; Warner

NAYS: Andrist; Bowman; Christmann; Erbele; Freborg; Hogue; Klein; Larsen; Oehlke; Schaible; Wanzek

ABSENT AND NOT VOTING: Nothing

SB 2169 passed.

SECOND READING OF SENATE BILL

SB 2149: A BILL for an Act to create and enact chapter 47-33 of the North Dakota Century Code, relating to a prohibition on private transfer fee obligations.

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; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Nothing

SB 2149 passed.

SECOND READING OF SENATE BILL

SB 2168: A BILL for an Act to amend and reenact subsection 3 of section 11-18-05 of the North Dakota Century Code, relating to fees for electronic data extracted from recorded instruments.

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; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Nothing

SB 2168 passed.

SECOND READING OF SENATE BILL

SB 2131: A BILL for an Act to create and enact a new section to chapter 47-16 of the North Dakota Century Code, relating to a surface access fee for oil and gas exploration and production.

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 6 YEAS, 40 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Andrist; Dotzenrod; Luick; Mathern; Nodland; Warner

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

ABSENT AND NOT VOTING: Nothing

SB 2131 lost.

SECOND READING OF SENATE BILL

SB 2151: A BILL for an Act to amend and reenact subsection 3 of section 19-03.5-03 of the North Dakota Century Code, relating to access to the prescription drug monitoring 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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Nothing

SB 2151 passed.

SECOND READING OF SENATE BILL

SB 2045: A BILL for an Act to create and enact a new section to chapter 57-62 of the North Dakota Century Code, relating to oil impact-related infrastructure development grants; to amend and reenact section 57-62-03.1 of the North Dakota Century Code, relating to the oil and gas impact grant fund; to provide a statement of legislative

intent; to provide an appropriation; to provide a continuing appropriation; and to provide a transfer.

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 was 1 YEA, 45 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: O'Connell

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

ABSENT AND NOT VOTING: Nothing

SB 2045 lost.

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 2040, SB 2085, SB 2113, SB 2114, SB 2116, SB 2136, SB 2141, SB 2154, SB 2156, SB 2166, SB 2173, SB 2176, SB 2179, SB 2181, SB 2183.

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 2069, SB 2072, SB 2094, SB 2117.

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 1071, HB 1073, HB 1082, HB 1088, HB 1098, HB 1099, HB 1103.

MOTION

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

MOTION

SEN. CHRISTMANN MOVED that the Senate be on the Fifth and Ninth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Monday, January 24, 2011, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2024: 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 2024 was placed on the Sixth order on the calendar.

Page 1, line 23, after "facility" insert ", and establish an administrative procedure for an inmate to appeal the withdrawal of the funds"

Page 3, line 23, remove "that develops while incarcerated"

Page 3, line 24, remove "and"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2036: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2036 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2037: 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 2037 was placed on the Sixth order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2049, as amended: 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 2049, as amended, was placed on the Sixth order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2053: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2053 was placed on the Sixth order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2107: Transportation Committee (Sen. G. Lee, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2107 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2142: 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 2142 was placed on the Sixth order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2164: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2164 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2165: Transportation Committee (Sen. G. Lee, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2165 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2197: Transportation Committee (Sen. G. Lee, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2197 was placed on the Eleventh order on the calendar.

FIRST READING OF SENATE BILLS

Sens. Sorvaag, Miller and Rep. Boehning introduced:

SB 2286: A BILL for an Act to amend and reenact sections 53-01-02, 53-01-07, and 53-01-09 of the North Dakota Century Code, relating to the duties of the state combative sports commissioner.

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

Sens. O'Connell, Berry, Lyson and Reps. Hunskor, Monson, Porter introduced:

SB 2293: A BILL for an Act to amend and reenact sections 23-02.1-19 and 23-02.1-20 of the North Dakota Century Code, relating to signature requirements for death certificates.

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

Sens. Cook, Stenehjem, Wardner and Reps. Carlson, Belter, Froseth introduced:

SB 2294: A BILL for an Act to create and enact section 57-02-50 of the North Dakota Century Code, relating to joint powers agreements among political subdivisions; and

to amend and reenact subsection 7 of section 57-01-02, sections 57-01-05 and 57-02-11, subsection 3 of section 57-12-06, and 57-13-04, 57-13-05, 57-13-07, 57-13-08, and 57-14-08 of the North Dakota Century Code, relating to assessments of property, powers and duties of the state supervisor of assessments, listing of individual property records, inspection of property, the duties of the state board of equalization, and the duties of county assessors.

Was read the first time and referred to the **Finance and Taxation Committee**.

Sens. Olafson, Cook and Reps. Frantsvog, Keiser, Porter introduced:

SB 2295: A BILL for an Act to amend and reenact section 53-08-02 and subsection 2 of section 53-08-03 of the North Dakota Century Code, relating to recreational immunity.

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

Sens. Laffen, Dever, Schneider and Reps. Louser, Sanford introduced:

SB 2296: A BILL for an Act to create and enact a new section to chapter 54-44.5 of the North Dakota Century Code, relating to an energy usage database for public buildings.

Was read the first time and referred to the **Political Subdivisions Committee**.

Sen. Heckaman and Reps. Devlin, Vigesaa introduced:

SB 2297: A BILL for an Act to provide an appropriation to the department of transportation for a county road project grant.

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

Sens. Heckaman, Marcellais, Mathern and Reps. Delmore, Kilichowski, Metcalf introduced:

SB 2298: A BILL for an Act to create and enact a new section to chapter 50-11.1 of the North Dakota Century Code, relating to the establishment of a grant program for licensed early childhood services providers who care for children with special needs; and to provide an appropriation.

Was read the first time and referred to the **Human Services Committee**.

Sens. Larsen, Grindberg, Triplett and Reps. Brabandt, Heilman, Kreun introduced:

SB 2299: A BILL for an Act to create and enact a new section to chapter 54-44.5 of the North Dakota Century Code, relating to an energy improvement revolving loan fund; to provide an appropriation; and to provide a continuing appropriation.

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

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

William R. Horton, Secretary

