

## JOURNAL OF THE SENATE

## Sixty-third Legislative Assembly

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Bismarck, February 1, 2013

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

The prayer was offered by Pastor Rich Wyatt, Living Hope Nazarene, Bismarck.

The roll was called and all members were present except Senators Marcellais and 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 Eighteenth Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 212, after line 38, insert:

Sens. Sitte, Bowman, Robinson and Reps. Dosch, Trottier, Belter introduced:

**SCR 4016:** A concurrent resolution to rescind an application made by the Sixty-second Legislative Assembly to the Congress of the United States to call a convention pursuant to the terms of Article V of the United States Constitution for proposing an amendment to the Constitution.

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

Sens. Sitte, Armstrong, Schaible and Reps. Heller, Porter, Streyle introduced:

**SCR 4017:** 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.

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

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

## CONSIDERATION OF AMENDMENTS

**SB 2148: SEN. LUICK (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 2106: SEN. CAMPBELL (Finance and Taxation 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 2126: SEN. MILLER (Finance and Taxation 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 2115: 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.

## CONSIDERATION OF AMENDMENTS

**SB 2196: SEN. ARMSTRONG (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.

**CONSIDERATION OF AMENDMENTS**

**SB 2184: SEN. LARSEN (Human Services 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 2131: SEN. DEVER (Human Services 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 2265:** A BILL for an Act to amend and reenact section 12.1-27.2-05 of the North Dakota Century Code, relating to sexual performance by a minor.

**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, 0 NAYS, 0 EXCUSED, 2 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; Mathern; Miller; Murphy; Nelson; O'Connell; Oehlke; Poolman; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Marcellais; Robinson

SB 2265 passed.

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**SECOND READING OF SENATE BILL**

**SB 2192:** A BILL for an Act to create and enact a new subsection to section 26.1-36-12 of the of the North Dakota Century Code, relating to assignment of dental insurance benefits.

**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 4 YEAS, 41 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Campbell; Erbele; O'Connell; Wanzek

**NAYS:** Anderson; Andrist; Armstrong; Axness; Berry; Bowman; Burckhard; Carlisle; Cook; Dever; Dotzenrod; Flakoll; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Mathern; Miller; Murphy; Nelson; Oehlke; Poolman; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wardner; Warner

**ABSENT AND NOT VOTING:** Marcellais; Robinson

SB 2192 failed.

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**SECOND READING OF SENATE BILL**

**SB 2169:** A BILL for an Act to amend and reenact sections 47-19.1-01, 47-19.1-02, 47-19.1-03, and 47-19.1-07 of the North Dakota Century Code, relating to what constitutes marketable title.

**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, 0 NAYS, 0 EXCUSED, 2 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; Mathern; Miller; Murphy; Nelson; O'Connell; Oehlke; Poolman; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Marcellais; Robinson

SB 2169 passed.

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

**SB 2025:** A BILL for an Act to amend and reenact sections 39-12-14.1 and 39-12-20 of the North Dakota Century Code, relating to extraordinary road use fees; to provide a continuing appropriation; and to provide an expiration 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 45 YEAS, 0 NAYS, 0 EXCUSED, 2 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; Mathern; Miller; Murphy; Nelson; O'Connell; Oehlke; Poolman; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Marcellais; Robinson

SB 2025 passed.

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

**SB 2257:** A BILL for an Act to amend and reenact section 25-03.3-17 and 25-03.3-18 of the North Dakota Century Code, relating to postcommitment procedures in cases of civil commitment of sexually dangerous individuals.

#### **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 38 YEAS, 7 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Armstrong; Berry; Bowman; Burckhard; Campbell; Carlisle; Cook; Dever; Erbele; Flakoll; Grabinger; Grindberg; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Miller; Nelson; O'Connell; Oehlke; Poolman; Schaible; Schneider; Sinner; Sitte; Sorvaag; Unruh; Wanzek; Wardner

**NAYS:** Axness; Dotzenrod; Heckaman; Mathern; Murphy; Triplett; Warner

**ABSENT AND NOT VOTING:** Marcellais; Robinson

SB 2257 passed.

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#### **MOTION**

**SEN. KLEIN MOVED** that SB 2113, which is on the Eleventh order, be laid over one legislative day, which motion prevailed.

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

**SB 2239:** A BILL for an Act to amend and reenact section 62.1-04-02 of the North Dakota Century Code, relating to dangerous weapons.

**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 44 YEAS, 1 NAYS, 0 EXCUSED, 2 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; Mathern; Miller; Murphy; Nelson; O'Connell; Oehlke; Poolman; Schaible; Schneider; Sinner; Sitte; Sorvaag; Unruh; Wanzek; Wardner; Warner

**NAYS:** Triplett

**ABSENT AND NOT VOTING:** Marcellais; Robinson

SB 2239 passed.

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**SECOND READING OF SENATE CONCURRENT RESOLUTION**

**SCR 4005:** A concurrent resolution congratulating the establishment of the first North Dakota chapter of Pilots for Christ, International, and honoring Mr. John Timothy Rice for whom the chapter is named.

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

SCR 4005 was declared adopted on a voice vote.

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**SECOND READING OF SENATE BILL**

**SB 2175:** A BILL for an Act to amend and reenact section 14-07-08 of the North Dakota Century Code, relating to the liabilities of husband and wife.

**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 28 YEAS, 17 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Axness; Berry; Bowman; Campbell; Carlisle; Cook; Dotzenrod; Flakoll; Grabinger; Grindberg; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Murphy; Schaible; Schneider; Sinner; Sorvaag; Unruh; Wardner

**NAYS:** Armstrong; Burckhard; Dever; Erbele; Heckaman; Luick; Lyson; Mathern; Miller; Nelson; O'Connell; Oehlke; Poolman; Sitte; Triplett; Wanzek; Warner

**ABSENT AND NOT VOTING:** Marcellais; Robinson

Engrossed SB 2175 passed.

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**SECOND READING OF SENATE BILL**

**SB 2174:** A BILL for an Act to create and enact a new section to chapter 49-04 of the North Dakota Century Code, relating to the requirement that a public utility regulated by the public service commission provide advance notification of discontinuance of electric or gas service.

**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, 0 NAYS, 0 EXCUSED, 2 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; Mathern; Miller; Murphy; Nelson; O'Connell; Oehlke; Poolman; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Marcellais; Robinson

Engrossed SB 2174 passed.

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

**SB 2282:** A BILL for an Act to create and enact two new sections to chapter 15.1 07 of the North Dakota Century Code, relating to the provisions of educational services by school districts and to the closure of a school.

#### **ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and is PLACED ON THE CALENDAR WITHOUT RECOMMENDATION, the roll was called and there were 14 YEAS, 31 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Burckhard; Cook; Flakoll; Grindberg; Holmberg; Krebsbach; Laffen; Larsen; Lee, J.; Lyson; Nelson; Poolman; Schaible; Wardner

**NAYS:** Anderson; Andrist; Armstrong; Axness; Berry; Bowman; Campbell; Carlisle; Dever; Dotzenrod; Erbele; Grabinger; Heckaman; Hogue; Kilzer; Klein; Lee, G.; Luick; Mathern; Miller; Murphy; O'Connell; Oehlke; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Warner

**ABSENT AND NOT VOTING:** Marcellais; Robinson

Engrossed SB 2282 failed.

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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 2159, SB 2162.

#### **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 2009.

#### **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 1155, HB 1282, HB 1294, HB 1340, HB 1357.

#### **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 1056, HB 1269.

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

**MR. PRESIDENT:** The House has passed, unchanged: SB 2176.

#### **MOTION**

**SEN. KLEIN MOVED** that the absent members 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 1:00 p.m., Monday, February 4, 2013, which motion prevailed.

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

**SB 2026: Agriculture Committee (Sen. Miller, Chairman) recommends AMENDMENTS**

**AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2026 was placed on the Sixth order on the calendar.

Page 4, line 8, replace "biennial" with "annual"

Page 4, remove lines 10 and 11

Page 4, line 12, replace "11." with "10."

Page 4, line 14, replace "12." with "11."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2117: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2117 was placed on the Sixth order on the calendar.

Page 1, line 2, after "vehicles" insert "; and to declare an emergency"

Page 1, line 17, after "requirements" insert "and the requirements for no smoking signs"

Page 1, line 17, overstrike "the attorney"

Page 1, line 18, overstrike "general's office, the highway patrol,"

Page 1, line 18, remove "the insurance commissioner's office."

Page 1, line 18, overstrike "or vehicles used"

Page 1, line 19, overstrike "principally in juvenile, parole, and placement services" and insert immediately thereafter "a state entity that engages in investigatory activities"

Page 1, after line 21, insert:

**"SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2199: Political Subdivisions Committee (Sen. Andrist, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2199 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2213: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2213 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2254: Political Subdivisions Committee (Sen. Andrist, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2254 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2255: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2255 was placed on the Eleventh order on the calendar.

#### REPORT OF STANDING COMMITTEE

**SB 2270: Political Subdivisions Committee (Sen. Andrist, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2270 was placed on

the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2278: Political Subdivisions Committee (Sen. Andrist, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2278 was placed on the Sixth order on the calendar.

Page 1, line 11, replace "deposited to the commission's" with "from the state"

Page 1, line 12, remove "for this purpose"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2283: Political Subdivisions Committee (Sen. Andrist, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2283 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2292: Political Subdivisions Committee (Sen. Andrist, Chairman)** recommends **DO PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2292 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2294: Agriculture Committee (Sen. Miller, Chairman)** recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (4 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2294 was rereferred to the **Appropriations Committee**.

**REPORT OF STANDING COMMITTEE**

**SB 2301: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2301 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SCR 4008: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SCR 4008 was placed on the Eleventh order on the calendar.

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

**William R. Horton, Secretary**

