

## JOURNAL OF THE SENATE

## Sixty-third Legislative Assembly

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Bismarck, February 5, 2013

The Senate convened at 1:00 p.m., with President Wrigley presiding.

The prayer was offered by Pastor Adrian Timmons, Johnson Corners Wesleyan Church, Watford City.

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

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 Twentieth Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 225, line 31, after "SB 2346" insert "be returned to the Senate floor from the Government and Veterans Affairs Committee and"

Page 230, line 26, remove "HB 1406,"

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

## CONSIDERATION OF AMENDMENTS

**SB 2117: SEN. BERRY (Government and Veterans Affairs 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 2211: SEN. LUICK (Agriculture Committee) MOVED** that the amendments be adopted and then be placed on the Eleventh order with **DO PASS**.

## REQUEST

**SEN. O'CONNELL REQUESTED** a verification vote, which request was granted.

The proposed amendments to SB 2211 were adopted on a verification vote.

## CONSIDERATION OF AMENDMENTS

**SB 2118: SEN. SCHAIBLE (Government and Veterans Affairs 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 2292:** A BILL for an Act to create and enact a new subsection to section 37-17.1-04 and a new section to chapter 37-17.1 of the North Dakota Century Code, relating to search and rescue operations; and to amend and reenact section 37-17.1-27 of the North Dakota Century Code, relating to reimbursement of costs under the state disaster relief fund.

## 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, 2 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** 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; Robinson; Schaible; Schneider; Sinner; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**NAYS:** Anderson; Sitte

SB 2292 passed.

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

**SB 2283:** A BILL for an Act to establish an infrastructure audit task force.

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

**YEAS:** Larsen; Lee, G.; Miller; Robinson

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

SB 2283 failed.

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#### **REQUEST**

**SEN. ROBINSON REQUESTED** that the record reflect he intended to vote NAY on SB 2283, which request was granted.

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

**SB 2115:** A BILL for an Act to amend and reenact section 44-04-18.4 of the North Dakota Century Code, relating to exemption of technical, financial, or marketing records.

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

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

**NAYS:** Grabinger; Nelson

Engrossed SB 2115 passed.

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

**SB 2255:** A BILL for an Act to amend and reenact section 16.1-08.1-01 and subsection 2 of section 16.1-08.1-03.3 of the North Dakota Century Code, relating to campaign contributions.

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

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

**NAYS:** Grabinger

SB 2255 passed.

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

**SB 2278:** A BILL for an Act to amend and reenact section 2-05-06.5 of the North Dakota Century Code, relating to state assistance for airports.

#### **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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

Engrossed SB 2278 passed.

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

**SB 2113:** A BILL for an Act to amend and reenact section 44-04-18.1 of the North Dakota Century Code, relating to confidentiality of emergency responder peer or group counseling session records relating to critical incident stress management.

#### **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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

Engrossed SB 2113 passed.

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#### **MOTION**

**SEN. KLEIN MOVED** that SB 2209, which is on the Eleventh order, be laid over one legislative day, which motion prevailed.

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

**SB 2026:** A BILL for an Act to create and enact chapters 4.1-52, 4.1-55, and 4.1-56 and section 4.1-57-18.1 of the North Dakota Century Code, relating to the North Dakota seed department, seed potatoes, and seed potato control areas; to repeal chapters 4-10 and 4-26 and sections 4.1-53-02, 4.1-53-03, 4.1-53-04, 4.1-53-05, 4.1-53-06, 4.1-53-07, 4.1-53-08, 4.1-53-09, 4.1-53-10, 4.1-53-11, 4.1-53-62, 4.1-57-20, and 4.1-57-21 of the North Dakota Century Code, relating to seed potatoes, seed potato

control areas, and general provisions regarding the North Dakota seed department; to provide a penalty; and to provide a continuing appropriation.

#### 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

Engrossed SB 2026 passed.

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#### SECOND READING OF SENATE BILL

**SB 2206:** A BILL for an Act to amend and reenact section 38-08-05 of the North Dakota Century Code, relating to setbacks for oil and gas wells.

#### 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 17 YEAS, 30 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Axness; Bowman; Cook; Flakoll; Grabinger; Grindberg; Krebsbach; Mathern; Murphy; Nelson; O'Connell; Robinson; Schaible; Sinner; Sitte; Sorvaag; Warner

**NAYS:** Anderson; Andrist; Armstrong; Berry; Burckhard; Campbell; Carlisle; Dever; Dotzenrod; Erbele; Heckaman; Hogue; Holmberg; Kilzer; Klein; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Lyson; Marcellais; Miller; Oehlke; Poolman; Schneider; Triplett; Unruh; Wanzek; Wardner

SB 2206 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 2090, SB 2106, SB 2126, SB 2131, SB 2151, SB 2184, SB 2196, SB 2199, SB 2213, SB 2270.

#### 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 1167, HB 1226, HB 1268, HB 1310, HB 1321, HB 1350, HB 1372, HB 1391, HB 1401.

#### 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 1270.

#### 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., Wednesday, February 6, 2013, which motion prevailed.

#### REPORT OF STANDING COMMITTEE

**SB 2205: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2205 was rereferred to the **Appropriations Committee**.

**REPORT OF STANDING COMMITTEE**

**SB 2221: Transportation Committee (Sen. Oehlke, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2221 was placed on the Sixth order on the calendar.

Page 1, line 3, remove "and"

Page 1, line 3, after "transfer" insert "; and to amend and reenact section 24-02-37.2 of the North Dakota Century Code, relating to the special road committee"

Page 1, line 20, after the period insert "The special road committee may distribute a maximum of \$2,500,000 of grants under this section for projects located within the boundaries of each department of transportation district in the state. To be eligible to receive a grant under this section, the county or township road project must be located within a county that levies a combined total of seven or more mills for county road and bridge, farm-to-market and federal aid road, and county road purposes."

**SECTION 3. AMENDMENT.** Section 24-02-37.2 of the North Dakota Century Code is amended and reenacted as follows:

**24-02-37.2. Special road committee.**

The special road committee consists of one member of the ~~senate and one member of the house of representatives~~ legislative assembly appointed by the chairman of the legislative management, ~~the chairmen of the senate and house of representatives transportation committees, the senate minority leader, the house minority leader,~~ the director of the game and fish department, the director of the parks and recreation department, and the director of the department of transportation. If any member of the committee, except the director of the department of transportation, is unable to attend a meeting of the committee, the member may appoint a designee to serve in the member's place. The director of the department of transportation is chairman of the committee. The committee must meet at the call of the director to review requests for funding from the special road fund. The committee shall decide which project requests will receive funding. The director shall provide staff services to the committee. The members of the committee who are members of the legislative assembly are entitled to compensation from the department of transportation, from moneys appropriated from the special road fund, for attendance at committee meetings at the rate provided for members of the legislative assembly for attendance at interim committee meetings and are entitled to reimbursement for expenses incurred in attending the meetings in the amounts provided by law for other state officers."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2238: Education Committee (Sen. Flakoll, Chairman)** recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2238 was rereferred to the **Appropriations Committee**.

**REPORT OF STANDING COMMITTEE**

**SB 2261: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2261 was rereferred to the **Appropriations Committee**.

**REPORT OF STANDING COMMITTEE**

**SB 2262: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2262 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2263: Education Committee (Sen. Flakoll, Chairman)** recommends **DO NOT PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2263 was placed on the

Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2267: Education Committee (Sen. Flakoll, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2267 was placed on the Sixth order on the calendar.

Page 1, line 17, replace "Twenty" with "Twenty-five"

Page 2, line 3, replace "Twenty" with "Twenty-five"

Page 2, line 22, remove "Has a general fund levy equal to at least one hundred fifty mills, before any"

Page 2, remove line 23

Page 2, line 24, remove "b."

Page 2, line 25, replace "c." with "b."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2293: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO NOT PASS** (4 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2293 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2294: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (11 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). SB 2294 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2316: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2316 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2337: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2337 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2356: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2356 was rereferred to the **Appropriations Committee**.

**REPORT OF STANDING COMMITTEE**

**SB 2372: Human Services Committee (Sen. J. Lee, Chairman)** recommends **DO NOT PASS** (4 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2372 was placed on the Eleventh order on the calendar.

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

**William R. Horton, Secretary**