

## JOURNAL OF THE SENATE

## Sixty-second Legislative Assembly

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Bismarck, March 15, 2011

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

The prayer was offered by Pastor Ron Dazell, Evangelical Bible Church, Dickinson.

The roll was called and all members were present.

A quorum was declared by the President.

**THE SENATE RECOGNIZED THE PRESENCE OF:**

Former Senator Duane Mutch.

**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 Forty-fifth Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 725, after line 13, insert:

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

**MR. PRESIDENT:** The Speaker has signed: HCR 3029.

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

**MR. PRESIDENT:** The Speaker has signed: HB 1090, HB 1105, HB 1107, HB 1119, HB 1153, HB 1262, HB 1305, HB 1326, HB 1453."

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

**POINT OF PERSONAL PRIVILEGE**

**SEN. KILZER** rose on a point of personal privilege.

**REMARKS OF SENATOR KILZER**

**MR. PRESIDENT:** It is my honor today to recognize the Century High School boys basketball team, led by coach Darin Mattern, as the 2011 Class A State Champions in North Dakota. District 47 is proud to be the home of Century High School.

Ten days ago, Bismarck High beat Century for the top spot at the West Region tournament, but Century came back strong on Saturday to take the state title at the Fargodome in a hard-fought game that ended in a score of 57 for the Patriots, 51 for the Bismarck High Demons.

Justin Ledger was named the Most Valuable Player of the tournament. He finished the night with 22 points and grabbed eight rebounds. Tom Fraase sank three three-pointers in the final ten minutes of the game, which helped Century pull ahead of BHS to win. Coach Mattern was named Class A Coach of the Year. Tonight, the team will be honored at a public reception at the Olson Gym at Century High School starting at 6:00 pm. You are all welcome to attend.

To the entire CHS boys basketball team, congratulations on your state championship win!

**REQUEST**

**SEN. KILZER REQUESTED** that his remarks be printed in the Journal, which request was granted.

**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. G. Lee, Chairman)** appointed to consider the nomination to the North Dakota Gaming Commission, do advise and consent to the appointment of Blake Krabseth.

**MOTION**

**SEN. LAFFEN MOVED** that the report be adopted.

**ROLL CALL**

The question being, "will the Senate advise and consent to the appointment of Blake Krabseth to the North Dakota Gaming Commission," the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

The Senate advises and consents to the appointment of Blake Krabseth to the North Dakota Gaming Commission.

**MOTION**

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

**SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3005:** A concurrent resolution recognizing the 25th anniversary of the formation of North Dakota's sister state relationship with the Province of Taiwan, Republic of China.

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

HCR 3005 was declared adopted on a voice vote.

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**SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3010:** A concurrent resolution directing the Legislative Management to study passenger rail service within the state, including options for the implementation of a passenger rail service route in the southern part of the state.

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

HCR 3010 was declared adopted on a voice vote.

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**SECOND READING OF HOUSE BILL**

**HB 1078:** A BILL for an Act to amend and reenact section 27-20-48 of the North Dakota Century Code, relating to the immunity of a guardian ad litem.

**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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek;

Wardner; Warner

Engrossed HB 1078 passed.

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#### SECOND READING OF HOUSE BILL

**HB 1071:** A BILL for an Act to amend and reenact subsection 1 of section 57-02-01 of the North Dakota Century Code, relating to retention of property tax status as agricultural property for property previously devoted to agricultural uses which is being used for mineral extraction and for which the surface owner owns none of the subsurface mineral rights; and to provide an effective date.

#### 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:** 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; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

Engrossed HB 1071, as amended, passed.

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#### SECOND READING OF HOUSE BILL

**HB 1375:** A BILL for an Act to provide for a legislative management study of national guard member benefits.

#### 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

Engrossed HB 1375 passed.

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#### SECOND READING OF HOUSE BILL

**HB 1213:** A BILL for an Act to amend and reenact section 15-10-02 of the North Dakota Century Code, relating to state board of higher education advisers.

#### 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 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; Nething; Nodland; O'Connell; Oehlke; Olafson; Robinson; Schaible; Schneider; Sitte; Sorvaag; Stenehjem; Taylor; Triplett; Uglem; Wanzek; Wardner; Warner

HB 1213 passed.

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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: SCR 4026.

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

**MR. SPEAKER:** The Senate has passed, unchanged: HB 1027, HB 1083, HB 1098, HB 1102, HB 1108, HB 1109, HB 1131, HB 1137, HB 1156, HB 1159, HB 1181, HB 1218, HB 1261, HB 1396.

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

**MR. SPEAKER:** The Senate has passed, the emergency clause carried, unchanged: HB 1122, HB 1337.

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

**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1040, HB 1085, HB 1091, HB 1095, HB 1204.

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

**MR. SPEAKER:** The Senate has amended, subsequently passed, and the emergency clause carried: HB 1188.

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

**MR. PRESIDENT:** The House has passed, unchanged: SB 2062, SB 2064, SB 2136, SB 2156, SB 2166, SB 2168, SB 2192, SB 2199, SB 2263, SB 2292.

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

**MR. PRESIDENT:** The House has passed, the emergency clause carried, unchanged: SB 2190.

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

**MR. PRESIDENT:** The House has amended and subsequently passed: SB 2035, SB 2089, SB 2097, SB 2100, SB 2113.

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2035**

Page 1, line 12, after "physician" insert ", a physician assistant."

Page 2, line 1, after "physician" insert ", a physician assistant."

Renumber accordingly

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2089**

Page 1, line 15, overstrike "required" and insert immediately thereafter "conducted"

Renumber accordingly

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2097**

Page 1, line 13, after "Set" insert ", by rule."

Page 1, line 14, after "set" insert ", by rule."

Renumber accordingly

**HOUSE AMENDMENTS TO SENATE BILL NO. 2100**

Page 1, line 2, after "electricians" insert "; and to provide for a legislative management study"

Page 2, after line 6, insert:

**"SECTION 3. LEGISLATIVE MANAGEMENT STUDY - COMPENSATION FOR MEMBERS OF BOARDS AND COMMISSIONS.** During the 2011-12 interim, the legislative management shall consider studying the statutory provisions setting compensation rates for members of executive branch boards and commissions to determine whether it may be desirable to standardize some or all of the compensation rate provisions. The legislative management may limit the study to occupational boards and commissions. 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

#### **HOUSE AMENDMENTS TO SENATE BILL NO. 2113**

Page 22, line 9, after "director" insert "and state crime laboratory"

Page 22, line 12, after "director" insert "and state crime laboratory"

Renumber accordingly

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** Your signature is respectfully requested on: SB 2181, SB 2202, SB 2205, SB 2278, SB 2284, SB 2289.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1084, HB 1240, HB 1263.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The Speaker has signed: SB 2181, SB 2202, SB 2205, SB 2278, SB 2284, SB 2289.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** The President has signed: HB 1028, HB 1073, HB 1079, HB 1084, HB 1101, HB 1157, HB 1183, HB 1192, HB 1223, HB 1240, HB 1263, HB 1341, HB 1365, HB 1388, HCR 3001, HCR 3030, HCR 3034.

#### **MOTION**

**SEN. CHRISTMANN MOVED** that the Senate be on the Fourth, Fifth, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Wednesday, March 16, 2011, which motion prevailed.

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

**HB 1066, as engrossed: Education Committee (Sen. Freborg, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1066 was placed on the Fourteenth order on the calendar.

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

**HB 1096: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1096 was placed on the Fourteenth order on the calendar.

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

**HB 1130, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1130 was placed on the Fourteenth order on the calendar.

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

**HB 1140, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1140 was placed on the Fourteenth order on the calendar.

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

**HB 1200, as engrossed: Agriculture Committee (Sen. Flakoll, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1200 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1271: Education Committee (Sen. Freborg, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1271 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1355, 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 HB 1355 was placed on the Sixth order on the calendar.

Page 2, line 19, remove "prima facie"

Page 2, line 24, remove "prima facie"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1385, as engrossed: Education Committee (Sen. Freborg, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1385 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1399: Agriculture Committee (Sen. Flakoll, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1399 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1425, as reengrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1425 was placed on the Sixth order on the calendar.

Page 1, line 18, replace "state agencies" with "governmental entities"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HCR 3024: Agriculture Committee (Sen. Flakoll, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3024 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HCR 3027: Agriculture Committee (Sen. Flakoll, Chairman)** recommends **DO PASS** (5 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). HCR 3027 was placed on the Fourteenth order on the calendar.

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

**William R. Horton, Secretary**