

**JOURNAL OF THE SENATE**

**Sixty-third Legislative Assembly**

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**Bismarck, March 12, 2013**

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

The prayer was offered by Pastor Sam Saylor, Gateway Community Fellowship, Bismarck.

The roll was called and all members were present.

A quorum was declared by the President.

**THE SENATE RECOGNIZED THE PRESENCE OF:**

Former Senator Curtis Olafson

**MOTION**

**SEN. KLEIN MOVED** that Senate Rule 508 be temporarily amended, replacing "forty-second legislative day" with "forty-third legislative day", which motion prevailed.

**CONSIDERATION OF AMENDMENTS**

**HB 1054, as engrossed: SEN. KLEIN (Agriculture Committee) MOVED** that the amendments be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

**CONSIDERATION OF AMENDMENTS**

**HB 1026, as engrossed: SEN. HECKAMAN (Agriculture Committee) MOVED** that the amendments be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a voice vote.

**SECOND READING OF HOUSE BILL**

**HB 1056:** A BILL for an Act to amend and reenact sections 37-07-05 and 37-04-08 of the North Dakota Century Code, relating to pay of national guard members when called to state active duty; 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 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

HB 1056 passed and the emergency clause was declared carried.

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**SECOND READING OF HOUSE BILL**

**HB 1230:** A BILL for an Act to amend and reenact subsection 1 of section 15-39.1-09 of the North Dakota Century Code, relating to expiration of the increase in teachers' fund for retirement member and employer 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 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

HB 1230 passed.

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#### **SECOND READING OF HOUSE BILL**

**HB 1154:** A BILL for an Act to amend and reenact section 43-36-10 of the North Dakota Century Code, relating to application requirements for registration as a professional soil classifier; and to provide for a legislative management study.

#### **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:** 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

HB 1154 passed.

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#### **SECOND READING OF HOUSE BILL**

**HB 1142:** A BILL for an Act to amend and reenact section 39-04.2-04 of the North Dakota Century Code, relating to distributions from the public transportation fund; and to provide a continuing appropriation.

#### **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:** 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

HB 1142 passed.

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#### **SECOND READING OF HOUSE BILL**

**HB 1157:** A BILL for an Act to amend and reenact section 24-05-04 of the North Dakota Century Code, relating to county road machinery.

#### **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

HB 1157, as amended, passed.

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### SECOND READING OF HOUSE BILL

**HB 1125:** A BILL for an Act to amend and reenact section 39-04-17 of the North Dakota Century Code, relating to notarized certificates for vehicle registration; 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 45 YEAS, 2 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Armstrong; Axness; Berry; Bowman; Burckhard; Campbell; Carlisle; 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

**NAYS:** Cook; Warner

Engrossed HB 1125, as amended, passed and the emergency clause was declared carried.

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

**MR. SPEAKER:** The Senate has passed, unchanged: HB 1057, HB 1058, HB 1162, HB 1178, HB 1354, HB 1369, HB 1434.

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

**MR. PRESIDENT:** The House has passed, unchanged: SB 2039, SB 2042, SB 2044, SB 2048, SB 2049, SB 2052, SB 2053, SB 2056, SB 2139, SB 2143, SB 2174, SB 2177.

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

**MR. PRESIDENT:** The House has amended and subsequently passed: SB 2083.

### HOUSE AMENDMENTS TO SENATE BILL NO. 2083

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

Page 1, line 8, replace "Two" with "Three"

Page 1, after line 14, insert:

"A person licensed or registered under another chapter of this title and carrying out the therapy or practice for which the person is licensed or registered."

Renumber accordingly

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

**MR. PRESIDENT:** The House has failed to pass, unchanged: SB 2098.

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

**MR. SPEAKER:** Your signature is respectfully requested on: SB 2081, SB 2184.

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

**MR. PRESIDENT:** The Speaker has signed: SB 2081, SB 2184.

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

**MR. SPEAKER:** The President has signed: SB 2055, SB 2057, SB 2058, SB 2081, SB 2086, SB 2090, SB 2092, SB 2093, SB 2110, SB 2184.

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

**MR. PRESIDENT:** The House has temporarily amended Joint Rule 203(2), replacing "forty-fifth legislative day" with "fiftieth legislative day".

**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, March 13, 2013, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**SCR 4023: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SCR 4023 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SCR 4026: Education Committee (Sen. Flakoll, Chairman)** recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SCR 4026 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SCR 4028: Education Committee (Sen. Flakoll, Chairman)** recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SCR 4028 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SCR 4030: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SCR 4030 was placed on the Sixth order on the calendar.

Page 2, remove lines 4 and 5

Page 2, line 6, replace "4." with "3."

Page 2, line 10, replace "5." with "4."

Page 2, line 14, replace "6." with "5."

Page 2, line 16, replace "7." with "6."

Page 2, line 18, replace "8." with "7."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1068, as engrossed: Judiciary Committee (Sen. Hogue, Chairman)** recommends **DO PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1068 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1111: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1111 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1112: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1112 was placed on the Sixth order on the calendar.

Page 1, line 1, after "52-04-12" insert "and subsection 4 of section 52-06-02"

Page 1, line 2, after "Dakota" insert "and to unemployment insurance eligibility in the case of a labor dispute; and to declare an emergency"

Page 2, after line 15, insert:

**"SECTION 2. AMENDMENT.** Subsection 4 of section 52-06-02 of the North Dakota Century Code is amended and reenacted as follows:

4. For any week with respect to which it is found that the individual's unemployment is due to any kind of labor dispute, including a strike, sympathy strike, or a claimant's work stoppage dispute of any kind which exists because of a labor dispute at the factory, establishment, or other premises at which the individual is or was last employed~~lockout~~; provided, that this subsection does not apply if it is shown that:
  - a. The individual is not participating in or directly interested in the labor dispute ~~which caused the strike, sympathy strike, or a claimant's work stoppage dispute of any kind~~; and
  - b. The individual does not belong to a grade or class of workers of which, immediately before the commencement of the ~~stoppage~~labor dispute, there were members employed at the premises at which the ~~strike, sympathy strike, or a claimant's work stoppage~~labor dispute of any kind occurs, any of whom are participating in or directly interested in the labor dispute; provided, that if in any case separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department must, for the purpose of this subsection, be deemed to be a separate factory, establishment, or other premises.

**SECTION 3. EMERGENCY.** Section 2 of this Act is declared to be an emergency measure."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1113: 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). HB 1113 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact section 17-02-01.1 of the North Dakota Century Code, relating to the definition of eligible facility for ethanol production incentives; to"

Page 1, line 1, remove ", 17-02-01,"

Page 1, line 3, remove "ethanol plant reporting to the budget section,"

Page 1, line 3, replace "chapter 54-62" with "sections 17-02-01 and 54-62-03"

Page 1, line 4, after "to" insert "ethanol production incentives and the advisory commission on"

Page 3, remove lines 11 through 30

Page 4, replace lines 1 through 4 with:

**"SECTION 2.** Section 17-02-01.1 of the North Dakota Century Code is created and enacted as follows:

**17-02-01.1. Definition.**

In this chapter "eligible facility" means an ethanol production plant constructed in this state after July 31, 2003."

Page 4, line 22, replace "Chapter 54-62" with "Sections 17-02-01 and 54-62-03"

Page 4, line 22, replace "is" with "are"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1115: Judiciary Committee (Sen. Hogue, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1115 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1150: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1150 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1158: Judiciary Committee (Sen. Hogue, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1158 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1187: Transportation Committee (Sen. Oehlke, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1187 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1280, as engrossed: Judiciary Committee (Sen. Hogue, Chairman)** recommends **DO PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1280 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1293: Education Committee (Sen. Flakoll, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1293 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1417: Judiciary Committee (Sen. Hogue, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1417 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1468: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1468 was placed on the Fourteenth order on the calendar.

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

**William R. Horton, Secretary**