

## JOURNAL OF THE SENATE

## Sixty-third Legislative Assembly

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Bismarck, March 19, 2013

The Senate convened at 1:00 p.m., with President Pro Tempore Wanzek presiding.

The prayer was offered by Pastor Paul Gibson, First Baptist Church, Bismarck.

The roll was called and all members were present.

A quorum was declared by the President Pro Tempore.

**CONSIDERATION OF AMENDMENTS**

**HB 1336: SEN. MURPHY (Natural Resources 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.

**POINT OF PERSONAL PRIVILEGE**

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

**REMARKS OF SENATOR AXNESS**

**MR. PRESIDENT:** I stand before you today to recognize the achievements of athletes from every corner of the state who took to the hardwood this past weekend in pursuit of athletic glory.

Basketball fans across the United States hold the month of March sacred, as it brings the arrival of college and high school tournaments that call together some of the best young athletes in our nation and our state. But while we continue to celebrate the achievements of our high school athletes who took the court in Bismarck over the weekend, and Fargo this weekend, and as many of us fill in brackets with our NCAA tournament predictions, I am humbled at this opportunity to stand in recognition of another group of athletes who came together in gymnasiums up in Minot this past weekend, where North Dakota Special Olympics held its annual state basketball competition on Friday and Saturday.

When hundreds of Special Olympians gather from around the state, supported by family, friends and volunteers, there are a few things that you can be sure to find in abundance: courage, enthusiasm, sportsmanship, and wide smiles.

Special Olympics was founded in 1968 and now operates in 170 countries across the world. In North Dakota the organization has been operating since 1972, providing children and adults with disabilities, year-round opportunities to develop physical fitness, and as was self-evident in Minot, life-long friendships.

Mr. President, my family grew up in the excitement of Special Olympics. My older brother participated in bowling for many years taking us all across this great state to meet many great people. To this day we speak highly of the many friends we met along the way and the many memories we'll cherish the rest of our lives.

Ladies and gentleman, I would like to congratulate every participant of last weekend's tournament, and wish them continued success in their endeavors on and off the playing field, and say a special thank you to the volunteers and staff who make these events possible. The courage and collegiality displayed by these athletes is an example that we can all learn from.

**REQUEST**

**SEN. KLEIN REQUESTED** that the remarks of Sen. Axness be printed in the Journal, which request was granted.

**CONSIDERATION OF AMENDMENTS**

**HB 1227, as engrossed: SEN. MILLER (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 1247, as engrossed: SEN. LARSEN (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 1309, as engrossed: SEN. BERRY (Government and Veterans Affairs 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 1030:** A BILL for an Act to provide that the present use and disposal of coal combustion residues is acceptable in North Dakota.

**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 43 YEAS, 4 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; Miller; Murphy; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Unruh; Wanzek; Wardner; Warner

**NAYS:** Marcellais; Mathern; Nelson; Triplett

Engrossed HB 1030, as amended, passed.

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**SECOND READING OF HOUSE BILL**

**HB 1243:** A BILL for an Act to amend and reenact sections 6-08-16 and 6-08-16.2 of the North Dakota Century Code, relating to issuance of checks without sufficient funds or without an account.

**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, 4 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; Miller; Murphy; Nelson; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Unruh; Wanzek; Wardner; Warner

**NAYS:** Cook; Mathern; O'Connell; Triplett

HB 1243 passed.

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**SECOND READING OF HOUSE BILL**

**HB 1077:** A BILL for an Act to create and enact a new section to chapter 5-01 of the North Dakota Century Code, relating to direct sales by licensed wineries.

**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; Grabinger; Grindberg; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Luick; Lyson; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Schaible; Schneider; Sinner; Sitte; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

**NAYS:** Lee, J.

HB 1077 passed.

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#### CONSIDERATION OF MESSAGE FROM THE HOUSE

**SEN. TRIPLETT MOVED** that the Senate do concur in the House amendments to Reengrossed SB 2259 as printed on SJ page 740, which motion prevailed on a voice vote.

Reengrossed SB 2259, as amended, was placed on the Eleventh order of business.

#### SECOND READING OF SENATE BILL

**SB 2259:** A BILL for an Act to create and enact a new subsection to section 55-08-01.3 of the North Dakota Century Code, relating to historic preservation at state parks.

#### 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 40 YEAS, 7 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

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

**NAYS:** Carlisle; Cook; Dever; Klein; Lee, G.; O'Connell; Unruh

Reengrossed SB 2259 passed.

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

**MR. SPEAKER:** The Senate has passed, unchanged: HB 1132, HB 1152, HB 1156, HB 1161, HB 1177, HB 1181, HB 1195, HB 1224, HB 1252, HB 1282, HB 1321, HB 1326, HB 1346, HB 1371, HB 1391, HCR 3012, HCR 3026.

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

**MR. SPEAKER:** The Senate has passed, the emergency clause carried, unchanged: HB 1147, HB 1264.

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

**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1175.

#### 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 1207.

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

**MR. SPEAKER:** The Senate has failed to pass, unchanged: HB 1169.

#### 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: HCR 3006.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has passed, unchanged: SB 2209, SB 2270, SB 2311.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has amended and subsequently passed: SB 2047.

#### HOUSE AMENDMENTS TO SENATE BILL NO. 2047

Page 1, line 2, remove "extension of"

Page 1, line 6, overstrike "(Effective through July 31, 2013"

Page 1, line 6, remove "2015"

Page 1, line 6, overstrike the boldfaced closing parenthesis

Renumber accordingly

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** Your signature is respectfully requested on: SB 2102, SCR 4001, SCR 4005, SCR 4012, SCR 4013.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1305, HB 1456.

**MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)**  
**MR. SPEAKER:** The President has signed: HB 1305, HB 1456.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The Speaker has signed: HB 1034, HB 1036, HB 1047, HB 1049, HB 1051, HB 1056, HB 1062, HB 1064, HB 1065, HB 1066, HB 1069, HB 1070.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The Speaker has signed: HB 1068, HB 1111, HB 1115, HB 1150, HB 1214, HB 1293, HB 1417, HB 1443, HB 1468.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The Speaker has signed: HB 1068, HB 1111, HB 1115, HB 1150, HB 1158, HB 1187, HB 1194, HB 1214, HB 1280, HB 1293, HB 1417, HB 1443, HB 1468.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The Speaker has signed: HB 1072, HB 1073, HB 1074, HB 1081, HB 1087, HB 1089, HB 1092, HB 1094, HB 1095, HB 1100, HB 1101, HB 1104, HB 1108, HB 1110.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The Speaker has signed: HB 1122, HB 1123, HB 1142, HB 1146, HB 1154, HB 1155, HB 1158, HB 1187, HB 1194, HB 1229, HB 1230, HB 1268, HB 1280.

#### DELIVERY OF ENROLLED BILLS AND RESOLUTIONS

The following bills were delivered to the Governor for approval on March 19, 2013: SB 2062, SB 2111, SB 2117, SB 2122, SB 2141, SB 2154, SB 2284, SB 2334.

#### 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 20, 2013, which motion prevailed.

#### REPORT OF STANDING COMMITTEE

**HB 1005, as reengrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1005 was placed on the Sixth order on the calendar.

Page 1, line 3, remove the second "and"

Page 1, line 4, after "intent" insert "; and to declare an emergency"

Page 1, replace lines 13 through 17 with:

"Salaries and wages	\$1,054,524	\$374,264	\$1,428,788
Operating expenses	163,066	337,110	500,176
Coal severance payments	<u>252,800</u>	<u>0</u>	<u>252,800</u>
Total general fund	\$1,470,390	\$711,374	\$2,181,764"

Page 2, line 20, replace "ninety" with "ninety-one"

Page 2, line 20, replace "five" with "four"

Page 2, line 21, replace "twenty-seven" with "six"

Page 2, line 21, replace "ninety-three" with "ninety-five"

Page 2, line 22, replace "two hundred forty-three" with "sixty-two"

Page 2, after line 25, insert:

**"SECTION 6. EMERGENCY.** The sum of \$195,223 and one full-time equivalent position included in section 1 of this Act are declared to be an emergency measure."

ReNUMBER accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1005 - State Treasurer - Senate Action**

	Executive Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$1,317,913	\$1,375,684	\$53,104	\$1,428,788
Operating expenses	326,872	500,176		500,176
Coal severance payments	252,800	252,800		252,800
Accrued leave payments		13,038	(13,038)	
Total all funds	\$1,897,585	\$2,141,698	\$40,066	\$2,181,764
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
General fund	\$1,897,585	\$2,141,698	\$40,066	\$2,181,764
FTE	8.00	8.00	0.00	8.00

**Department No. 120 - State Treasurer - Detail of Senate Changes**

	Restores Executive Compensation Package <sup>1</sup>	Removes Separate Line Item for Accrued Leave Payments <sup>2</sup>	Total Senate Changes
Salaries and wages	\$40,066	\$13,038	\$53,104
Operating expenses			
Coal severance payments			
Accrued leave payments		(13,038)	(13,038)
Total all funds	\$40,066	\$0	\$40,066
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>
General fund	\$40,066	\$0	\$40,066
FTE	0.00	0.00	0.00

<sup>1</sup>Funding reductions made by the House to the state employee compensation and benefits package are restored to the Governor's recommended level.

<sup>2</sup>The accrued leave payments line item added by the House is removed and the associated funding returned to line items with salaries and wages funding.

Section 4 of the bill is changed to provide 4 percent annual salary increases for the State Treasurer, the same as the executive budget. The House provided 3 percent annual increases.

A section is added to declare an emergency for the new account manager FTE position to allow the position to be filled prior to July 1, 2013.

#### REPORT OF STANDING COMMITTEE

**HB 1014, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1014 was placed on the Sixth order on the calendar.

Page 1, replace lines 12 through 16 with:

"Protection and advocacy operations	<u>\$5,104,253</u>	<u>\$787,326</u>	<u>\$5,891,579</u>
Total all funds	\$5,104,253	\$787,326	\$5,891,579
Less estimated income	<u>3,118,888</u>	<u>114,724</u>	<u>3,233,612</u>
Total general fund	\$1,985,365	\$672,602	\$2,657,967"

Re-number accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

##### House Bill No. 1014 - Protection and Advocacy Project - Senate Action

	Executive Budget	House Version	Senate Changes	Senate Version
Protection and Advocacy Project	\$5,886,347			
Accrued leave payments		93,590	(93,590)	
Protection and advocacy operations		5,573,188	318,391	5,891,579
Total all funds	\$5,886,347	\$5,666,778	\$224,801	\$5,891,579
Less estimated income	<u>3,233,612</u>	<u>3,233,612</u>	0	<u>3,233,612</u>
General fund	\$2,652,735	\$2,433,166	\$224,801	\$2,657,967
FTE	27.50	27.50	0.00	27.50

##### Department No. 360 - Protection and Advocacy Project - Detail of Senate Changes

	Restores Executive Compensation Package <sup>1</sup>	Removes Separate Line Item for Accrued Leave Payments <sup>2</sup>	Total Senate Changes
Protection and Advocacy Project			
Accrued leave payments		(93,590)	(93,590)
Protection and advocacy operations	224,801	93,590	318,391
Total all funds	\$224,801	\$0	\$224,801
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>
General fund	\$224,801	\$0	\$224,801
FTE	0.00	0.00	0.00

<sup>1</sup>Funding reductions made by the House to the state employee compensation and benefits package are restored to the Governor's recommended level.

<sup>2</sup>The accrued leave payments line item added by the House is removed and the associated funding returned to line items with salaries and wages funding.

#### REPORT OF STANDING COMMITTEE

**HB 1084, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1084 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1236, as engrossed: 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). Engrossed HB 1236 was placed on the Sixth order on the calendar.

Page 2, line 4, replace ""Rent"" with ""Rental""

Page 2, line 11, remove "with the same lessor"

Page 4, line 10, remove "due under this chapter on the cumulative value of the lease"

Page 4, remove lines 11 and 12

Page 4, line 13, replace "are collected" with "calculated on the equivalent value of three years of lease payments. The equivalent value of three years of lease payments is the sum of the lease payments under the agreement divided by the term of the lease in months times thirty-six. The tax may be collected and remitted to the commissioner in equal installments with each lease payment over the term of the lease"

Page 4, line 15, replace "full term of the lease" with "equivalent value of three years of lease payments"

ReNUMBER accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1301: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1301 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1359, as engrossed: Political Subdivisions Committee (Sen. Andrist, Chairman)** recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1359 was placed on the Fourteenth order on the calendar.

#### FIRST READING OF HOUSE CONCURRENT RESOLUTION

**HCR 3006:** A concurrent resolution to create and enact a new section to article X of the Constitution of North Dakota, relating to prohibition of the imposition of mortgage taxes or any sales or transfer taxes on the mortgage or transfer of real property. Was read the first time and referred to the **Judiciary Committee**.

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

**William R. Horton, Secretary**

