

JOURNAL OF THE SENATE

Sixty-fourth Legislative Assembly

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Bismarck, January 29, 2015

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

The prayer was offered by Senator Gary Lee, District 22.

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

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. Poolman, Chairman)** has carefully examined the Journal of the Sixteenth Day and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 201, line 2, after "overstrike" insert "the second"

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

CONSIDERATION OF AMENDMENTS

SB 2206: SEN. DEVER (Human Services 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.

SB 2206 was rereferred to the **Appropriations Committee**.

SECOND READING OF SENATE BILL

SB 2103: A BILL for an Act to provide an appropriation to the state treasurer for allocations to counties, cities, school districts, and townships; to provide an appropriation to the department of transportation for state highway projects; to provide for a transfer; and to declare an emergency.

MOTION

SEN. MATHERN MOVED that Engrossed SB 2103 be amended as follows.

Page 1, line 3, after the semicolon insert "to provide an appropriation to the attorney general for hiring full-time equivalent positions; to provide an appropriation to the state department of health for hiring full-time equivalent positions;"

Page 1, line 3, after "transfer" insert "from the strategic investment and improvements fund to the highway fund; to provide for a transfer from the general fund to the housing incentive fund"

Page 6, after line 16, insert:

"SECTION 4. APPROPRIATION - TRANSFER - GENERAL FUND TO HOUSING INCENTIVE FUND. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$20,000,000, or so much of the sum as may be necessary, which the office of management and budget shall transfer to the housing incentive fund, for the period beginning with the effective date of this Act, and ending June 30, 2015. The funding provided in this section is considered a one-time funding item.

SECTION 5. APPROPRIATION - ATTORNEY GENERAL. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,000,000, or so much of the sum as may be necessary, to the attorney general for up to ten full-time equivalent positions to assist

with law enforcement activities in areas impacted by oil development, for the period beginning with the effective date of this Act, and ending June 30, 2015. The funding provided in this section is considered a one-time funding item.

SECTION 6. APPROPRIATION - STATE DEPARTMENT OF HEALTH.

There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$2,000,000, or so much of the sum as may be necessary, to the state department of health for the purpose of hiring up to fifteen additional environmental scientist full-time equivalent positions for the period beginning with the effective date of this Act, and ending June 30, 2015. The funding provided in this section is considered a one-time funding item."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment adds three new sections to provide the following:

- \$20 million transfer from the general fund to the housing incentive fund;
- \$1 million from the general fund to the Attorney General's office for hiring up to 10 FTE positions prior to the start of the 2015-17 biennium; and
- \$2 million from the general fund to the State Department of Health for hiring up to 15 FTE positions prior to the start of the 2015-17 biennium.

REQUEST

SEN. HECKAMAN REQUESTED a recorded roll call vote on the motion to adopt the proposed amendments to Engrossed SB 2103, which request was granted.

ROLL CALL

The question being on the motion to adopt the proposed amendments to Engrossed SB 2103, the roll was called and there were 15 YEAS, 31 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Axness; Dotzenrod; Grabinger; Heckaman; Marcellais; Mathern; Murphy; Nelson; O'Connell; Oban; Robinson; Schneider; Sinner; Triplett; Warner

NAYS: Anderson; Armstrong; Bekkedahl; Bowman; Burckhard; Carlisle; Casper; Cook; Davison; Dever; Erbele; Flakoll; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Miller; Oehlke; Poolman; Rust; Schaible; Sorvaag; Unruh; Wanzek; Wardner

ABSENT AND NOT VOTING: Campbell

The proposed amendments to Engrossed SB 2103 failed on a recorded roll call vote.

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 44 YEAS, 2 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Anderson; Armstrong; Axness; Bekkedahl; Bowman; Burckhard; Carlisle; Casper; Davison; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Oban; Oehlke; Poolman; Robinson; Rust; Schaible; Schneider; Sinner; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

NAYS: Cook; Luick

ABSENT AND NOT VOTING: Campbell

Engrossed SB 2103 passed and the emergency clause was declared carried.

SECOND READING OF SENATE BILL

SB 2126: A BILL for an Act to provide an appropriation to the department of transportation for the construction and maintenance of state highways and counties; to provide an appropriation to the housing finance agency for affordable housing projects; to provide an appropriation to the office of the attorney general for early hiring of criminal investigators; to provide an appropriation to the state department of health for early hiring of environmental scientists; to provide an appropriation to the department of trust lands for allocations to cities impacted by oil development; to provide for transfers from the general fund; and to declare an emergency.

MOTION

SEN. MATHERN MOVED that SB 2126 be amended as follows, which motion prevailed on a voice vote.

Page 1, line 1, remove "the department of transportation for the"

Page 1, remove line 2

Page 1, line 5, remove "to provide an"

Page 1, remove line 6

Page 1, line 7, remove "development;"

Page 1, line 7, replace "transfers" with "a transfer"

Page 1, remove lines 9 through 24

Page 2, remove lines 1 through 29

Page 3, remove lines 1 through 18

Page 3, line 30, replace "2017" with "2015"

Page 4, remove lines 7 through 14

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment:

- Removes a \$550 million transfer from the general fund to the highway fund and related appropriations to the Department of Transportation.
- Removes a \$300 million appropriation from the strategic investment and improvements fund to the Board of University and School Lands.
- Adjusts the time period allowed for the Attorney General to spend the \$1 million appropriation from the general fund to remainder of the 2013-15 biennium rather than until the end of the 2017-19 biennium.

SB 2126: A BILL for an Act to provide an appropriation to the housing finance agency for affordable housing projects; to provide an appropriation to the office of the attorney general for early hiring of criminal investigators; to provide an appropriation to the state department of health for early hiring of environmental scientists; to provide for a transfer from the general fund; 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 NOT PASS, the roll was called and there were 14 YEAS, 32 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Axness; Dotzenrod; Grabinger; Heckaman; Marcellais; Mathern; Murphy; Nelson; Oban; Robinson; Schneider; Sinner; Triplett; Warner

NAYS: Anderson; Armstrong; Bekkedahl; Bowman; Burckhard; Carlisle; Casper; Cook; Davison; Dever; Erbele; Flakoll; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Miller; O'Connell; Oehlke; Poolman; Rust; Schaible; Sorvaag; Unruh; Wanzek; Wardner

ABSENT AND NOT VOTING: Campbell

Engrossed SB 2126 failed.

SECOND READING OF SENATE BILL

SB 2152: A BILL for an Act to amend and reenact sections 15.1-09-33 and 15.1-15-09 of the North Dakota Century Code, relating to the suspension of school district personnel.

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

YEAS: Anderson; Armstrong; Axness; Bekkedahl; Bowman; Burckhard; Carlisle; Casper; Cook; Davison; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Oban; Oehlke; Poolman; Robinson; Rust; Schaible; Schneider; Sinner; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Campbell

SB 2152 passed.

SECOND READING OF SENATE BILL

SB 2047: A BILL for an Act to amend and reenact sections 25-03.2-01, 25-03.2-03, 25-03.2-07, and 25-03.2-10 of the North Dakota Century Code, relating to psychiatric residential treatment facilities for children and rulemaking authority of the department of human services.

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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Anderson; Armstrong; Axness; Bekkedahl; Bowman; Burckhard; Carlisle; Casper; Cook; Davison; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Oban; Oehlke; Poolman; Robinson; Rust; Schaible; Schneider; Sinner; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Campbell

Engrossed SB 2047 passed.

SECOND READING OF SENATE BILL

SB 2102: A BILL for an Act to amend and reenact sections 54-52-06.2, 54-52-06.4, and 54-52-06.5, and subsection 3 of section 54-52-17 of the North Dakota Century Code, relating to state employee retirement plans and retirement contributions by national guard security officers and firefighters.

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

YEAS: Anderson; Armstrong; Axness; Bekkedahl; Bowman; Burckhard; Carlisle; Casper; Cook; Davison; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Oban; Oehlke; Poolman; Robinson; Rust; Schaible; Schneider; Sinner; Sorvaag; Triplett; Unruh; Wanzek; Wardner; Warner

ABSENT AND NOT VOTING: Campbell

SB 2102 passed.

SECOND READING OF SENATE BILL

SB 2216: A BILL for an Act to provide an appropriation for junior achievement grants.

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 3 YEAS, 43 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Carlisle; Oban; Wanzek

NAYS: Anderson; Armstrong; Axness; Bekkedahl; Bowman; Burckhard; Casper; Cook; Davison; Dever; Dotzenrod; Erbele; Flakoll; Grabinger; Heckaman; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Oehlke; Poolman; Robinson; Rust; Schaible; Schneider; Sinner; Sorvaag; Triplett; Unruh; Wardner; Warner

ABSENT AND NOT VOTING: Campbell

SB 2216 failed.

MESSAGE TO THE HOUSE FROM THE SENATE (JANE SCHAIBLE, SECRETARY)

MR. SPEAKER: The Senate has passed, and your favorable consideration is requested on: SB 2067, SB 2105.

MESSAGE TO THE HOUSE FROM THE SENATE (JANE SCHAIBLE, SECRETARY)

MR. SPEAKER: The Senate has passed, and your favorable consideration is requested on: SB 2094, SB 2156, SB 2182, SB 2200, SB 2204, SB 2229, SB 2231, SB 2274, SB 2286.

MOTION

SEN. KLEIN MOVED that the absent member 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 12:30 p.m., Friday, January 30, 2015, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2059: 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). SB 2059 was placed on the Sixth order on the calendar.

Page 1, line 11, remove "employer's written offer to the employee by"

Page 1, line 12, replace "registered mail" with "employer in writing"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2079: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2079 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "subsection" with "subsections"

Page 1, line 1, after "1" insert "and 2"

Page 1, line 3, replace the first period with "; and to declare an emergency."

Page 2, line 14, replace "Subsection" with "Subsections"

Page 2, line 14, after the first "1" insert "and 2"

Page 2, line 15, replace "is" with "are"

Page 2, after line 24, insert:

- "2. Transfer of licensed nursing facility bed capacity from a nursing facility to another entity is permitted. The nursing facility may transfer the bed capacity either as nursing facility bed capacity or basic care bed capacity. Transferred bed capacity must become licensed by an entity ~~as the type of bed capacity originally transferred~~ within forty-eight months of transfer. Bed capacity transferred as basic care bed capacity may not be reverted to nursing facility bed capacity at any time. A receiving entity may transfer the received bed capacity to another entity within the forty-eight-month period originally established at the time the nursing facility first transferred the licensed nursing facility bed capacity. The subsequent receiving entity must license the received bed capacity within the forty-eight-month period originally established at the time of the first transfer.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2097: 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). SB 2097 was placed on the Sixth order on the calendar.

Page 1, line 11, after "2." insert "Booth space" means that part of a licensed salon that is operated independently by a licensed booth renter.

3."

Page 1, line 13, overstrike "3." and insert immediately thereafter "4."

Page 1, line 23, after "performing" insert "non-invasive"

Page 2, line 1, overstrike "4." and insert immediately thereafter "5."

Page 2, line 3, overstrike "5." and insert immediately thereafter "6."

Page 2, line 6, overstrike "6." and insert immediately thereafter "7."

Page 2, line 8, overstrike "7." and insert immediately thereafter "8."

Page 2, line 12, overstrike "8." and insert immediately thereafter "9."

Page 2, line 22, overstrike "9."

Page 2, line 24, remove the overstrike over "10."

Page 2, line 26, remove the overstrike over "11."

Page 2, line 26, remove "10."

Page 2, line 28, replace "11." with "12."

Page 2, line 30, overstrike "12." and insert immediately thereafter "13."

Page 3, line 1, overstrike "13." and insert immediately thereafter "14."

Page 3, line 3, after "performing" insert "non-invasive"

Page 3, line 5, overstrike "14." and insert immediately thereafter "15."

Page 3, line 9, overstrike "15." and insert immediately thereafter "16."

Page 3, line 11, overstrike "16." and insert immediately thereafter "17."

Page 4, line 8, replace "medical director" with "physician practicing within the scope of the physician's license under chapter 43-17 or nurse practicing within the scope of the nurse's license under chapter 43-12.1"

Page 4, line 16, replace "have a medical or nursing license" with "be a physician licensed to practice medicine in this state under chapter 43-17 or nurse licensed to practice nursing in this state under chapter 43-12.1"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2151: Education Committee (Sen. Flakoll, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2151 was placed on the Sixth order on the calendar.

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

Page 2, line 12, after "2." insert "The board of the school district in which the coalition of service providers is located shall provide advice and guidance to the coalition in all matters pertaining to this Act."

3."

Page 2, line 16, replace "; and" with an underscored period

Page 2, line 17, after "program" insert "that:"

(1) Is"

Page 2, line 18, after "15.1-37-01" insert "; and"

(2) Incorporates within its curriculum at least ten hours of research-based parental involvement.

c. Has documented the provider's willingness to admit children of all learning abilities into the early childhood education program"

Page 3, after line 13, insert:

"SECTION 4. A new section to chapter 15.1-37 of the North Dakota Century Code is created and enacted as follows:

Acceptance of children into program - Requirements - Limitations.

1. If a provider is unable to accommodate all children seeking placement in the provider's program, the provider shall accept children in accordance with a chronologically-based application process or a lottery-based application process, under which children of all learning abilities are equally eligible.
2. The number of children accepted into a program may be limited by considerations regarding space, safety, and availability of personnel."

Page 4, line 1, replace "and 4" with "through 5"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2167: Political Subdivisions Committee (Sen. Burckhard, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2167 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study of the one-call system."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - ONE-CALL EXCAVATION NOTICE SYSTEM. During the 2015-16 interim, the legislative management shall consider studying the one-call excavation notice system. The study must include the financial and operational impact on the underground facilities owners from the tremendous increase in the number of locates, a review of who should be responsible for the expenses associated with locating underground facilities in certain situations, the appropriateness of penalties for one-call excavation notice system violators, and the enforcement of penalties by the appropriate state agencies. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations to the sixty-fifth legislative assembly."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2179: Transportation Committee (Sen. Oehlke, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2179 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2228: Agriculture Committee (Sen. Miller, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2228 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2237: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2237 was placed on the Sixth order on the calendar.

Page 1, line 8, replace "Individually identifiable health information of a patient" with "Client records and client information that are protected under title 42, Code of Federal Regulations, part 2, the Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191; 110 Stat. 1936; 29 U.S.C. 1181 et seq.], or are specifically excluded from disclosure by other state or federal law, and which are"

Page 1, line 9, overstrike "is" and insert immediately thereafter "are"

Page 1, line 10, after "license" insert ". As used in this section, client records and client information does not include statistical program information or information regarding an applicant's or provider's programs"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2239: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2239 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2255: Transportation Committee (Sen. Oehlke, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2255 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2309: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO NOT PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2309 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2320: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2320 was placed on the Sixth order on the calendar.

Page 1, line 3, after "individuals" insert "; and to provide an effective date"

Page 1, after line 21, insert:

"SECTION 2. EFFECTIVE DATE. This Act becomes effective on January 1, 2016."

Renumber accordingly

FIRST READING OF SENATE CONCURRENT RESOLUTIONS

Sen. Dever introduced:

SCR 4018: A concurrent resolution directing the Legislative Management to study the use of seclusion and restraint procedures in schools.

Was read the first time and referred to the **Education Committee**.

Sens. Heckaman, Murphy and Reps. Kelsh, Mooney, J. Nelson introduced:

SCR 4019: A concurrent resolution directing the Legislative Management to study the feasibility and desirability of utilizing state funds to provide health insurance, workers' compensation insurance, or other benefits to volunteer firefighters, volunteer emergency medical service personnel, and volunteer ambulance workers across the state.

Was read the first time and referred to the **Political Subdivisions Committee**.

Sens. Miller, Klein, Wanzek and Reps. Headland, D. Johnson, M. Nelson introduced:

SCR 4020: A concurrent resolution urging Congress to establish food labeling standards, direct the clarification of voluntary food labeling standards, and provide for a review of foods derived through the use of biotechnology.

Was read the first time and referred to the **Agriculture Committee**.

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

Jane Schaible, Secretary

