

FISCAL NOTE
Requested by Legislative Council
01/24/2019

Amendment to: SB 2115

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(14,000)	\$14,000	\$(14,000)	\$14,000
Expenditures			\$(14,000)	\$14,000	\$(14,000)	\$14,000
Appropriations			\$(14,000)		\$(14,000)	

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2115 contains various changes related to Child Support

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 6 would allow for civil penalties collected related to failure to report new hires to be deposited to North Dakota special fund 463, Child Support Disbursement. It contains a continued appropriation to cover losses incurred while making child support disbursements.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The impact to the General Fund would be approximately \$14,000 per biennium.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

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- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

An overall decrease in the state's budget appropriation authority due to a decrease in General Fund revenue would be expected. Section 6 already allows the continued appropriation for the expense of these funds.

Name: Heide Delorme

Agency: Human Services

Telephone: 701-328-4608

Date Prepared: 01/28/2019

FISCAL NOTE
Requested by Legislative Council
01/24/2019

Amendment to: SB 2115

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Date Prepared: 01/28/2019

2019 SENATE HUMAN SERVICES COMMITTEE

SB 2115

2019 SENATE STANDING COMMITTEE MINUTES

Human Services Committee Red River Room, State Capitol

SB 2115
1/16/2019
Job # 30862

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Justin Velez/ Dan Johnston II
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Explanation or reason for introduction of bill/resolution:

Relating to child support.

Minutes:

2 attachments

Madam Chair Lee: Opens the hearing for SB 2115.

Jim Fleming, Director of Child Support Division of the Department of Human Services. See attachment 1-2 for testimony in support of SB 2115; as well as for proposed amendment.

(6:50) Madam Chair Lee: (Inaudible) (6:55) Are there that many people walking in to your offices to provide checks?

Jim Fleming: Yes. It would not be the employer side of things; it would be the costumer. People who are bouncing from job to job. Therefore, we do still make appointments with costumers

(8:28) Continues testimony.

(10:57) Senator Hogan: Do the furloughed employees get notice that you are doing that?

Jim Fleming: No, we have not given them notice of that.

Senator Anderson: Very soon, after the shutdown started I saw your piece in the newspaper. Obviously they would know that they could contact your office for any questions they would have.

(14:05) Continues testimony.

(15:45) Senator Hogan: Did you meet with the sheriff's association?

Jim Fleming: Yes, they are.

Senator Hogan: Are they comfortable with the language?

Jim Fleming: Yes, they were.

(16:15) Continues testimony.

(17:58) Senator Hogan: Would either party be required to have an email?

Jim Fleming: No, they would not. If they do not have one, the statute would not apply.

(18:28) Continues testimony.

(23:15) Madam Chair Lee: So if the parents agree that waiting is a good idea they could go back and present the request that it be made an obligation.

Jim Fleming: Some judges will give you a year pass then have you come back. If you are going to put that in the state, than go ahead and do it.

Senator Hogan: Will this apply to 4d and non4d cases?

Jim Fleming: Yes, they will be.

Senator Hogan: do you have any sets of what percentage of cases this might be? Moreover, will this change your numbers in any way?

Jim Fleming: I do not have a sense of the breakdown, and part of the reason is that is because child support is involved and the parents are saying, "Hey, we are good. We don't need you". If it is an assistance case than it is not up to the parents, if it is a no assistance case, they cannot have a child support establishment open with us and not get an obligation.

(27:55) Continues testimony.

(30:06) Senator Larsen: If you have that situation have, you found that you go after a different license in that case and have you done that before?

Jim Fleming: Usually we don't go after another license we still have to do our collections but we are not geared up to take professional license. In addition, that needs to be done smartly because even though you might still be able to work a few if you cannot drive, but if they need that license to work, we really are turning up the pressure. For hunting license, we could do that. Under the law, the fining is if the obligors' nonpayment was not willful, and that would come under the scrutiny as the driver's license. Those decisions would generally have us put license suspension of any kind on the shelf and just look at what else we can do.

Senator Larsen: For clarification, you can take professional licenses, right?

Jim Fleming: We sure can.

(31:42) Continues testimony.

(37:40-38:04) Donnell Presky, North Dakota Sheriffs Association: We support this bill.

Madam Chair Lee: Closes the hearing on SB 2115

2019 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2115
1/22/2019
Job # 31229

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Justin Velez

Explanation or reason for introduction of bill/resolution:

Relating to child support.

Minutes:

No Attachments

Madam Chair Lee opens the discussion on SB 2115.

Madam Chair Lee: Jim Fleming had an amendment, we can talk about that if you would like.

Senator O. Larsen: When I was reading that on the weekend that it automatically says that when they go get a divorce that the judge is going to start the process and I understood when he was testifying about that, that we have to have a base mark but I just think that if people are going to get divorced and do their own thing and try to work it out themselves then let them have a go at it and they can always go to court and get it rolling. I didn't like that part of the legislation there unless he was talking about taking that out.

Madam Chair Lee: Page 3 Lines 9-20.

Senator O. Larsen: The way I read that I guess was that the judge is going to make a judgement of this is what you are going to pay, you guys can work out what you want but I'm going to make a judgement. Unless I am reading this wrong. I guess I just didn't like that part of it.

Madam Chair Lee: They already do. The court determines what the child support obligations going to be. What he was talking about was the fact that these shorten the length of time it would be an automatic review. On the amendment I am looking at that is not removed. It talks about the amendment and providing a continuing appropriation.

Senator O. Larsen: Now I understand what he is talking about. I support that amendment, he was talking about that's when the person pays child support and the check bounces. I do support that amendment I was thinking of something different.

Senator K. Roers: I was trying to find the part that is underlined in his amendment and I couldn't find the word general fund but it was in that whole section.

Senator Hogan: I move to **ADOPT AMENDMENT**
Seconded by Senator Anderson

ROLL CALL VOTE TAKEN
6 YEA, 0 NAY, 0 ABSENT
MOTION CARRIES TO ADOPT AMENDMENT

Senator O. Larsen: This is the part that I need a little clarification on. On page 3 of this bill and it is underlined from number 9-20. Where the judgement for divorce or other relief under the title, "The child of both the child parents do not reside together the court establish a child support obligation unless the child court agency request the issue of child support be reserved". Whether they were married or not I thought that if they didn't want to go through the courts they could figure that out themselves, but if they go through the divorce proceedings and then they decide to then go and do the child support part of it. I thought if you filed for divorce that was step one, and then the next part of that is now im going to seek the child support part, that was a separate deal and now here as I am reading this now is at the time when you decide to file for divorce, now it already moves it forward and now we are going to take care of the child support thing now.

Senator K. Roers: What I was hearing him say was because there's been so much inconsistency from judge to judge. Even if you have come to an agreement and have decided to not go through, they will file it but not do anything about it just so that you have it on record, so that if in two years if there is suddenly an issue there is something already on record for you to start from instead of starting from scratch. That was my understanding of what that change was.

Madam Chair Lee: If you look at the amendment I'm thinking the numbering is wrong. If you look on page 2 after line 20 it says insert, I think it's supposed to be place after line 30 or line 4. If we look at page 2 section 3 line 20 is in the middle of section 3 and then section 4 goes on with subsections 1 and 2 and then section 5 moves on, so can you tell us where it ought to go?

Jonathan Alm, Attorney with the Department of Human Services: I would say that because it's supposed to be numerical, so 34-15.07 definitely does not fall after 14-09.0844 it should be actually page 3 after line 31 because that would be inserted after 14-09.25.

Senator Hogan: So do we want to have a revised amendment?

Madam Chair Lee: We can set that aside for a minute if he is waiting for Jennifer Clark to contact him back. I think it is a matter of placement not substance. It would most likely be on page 3 after line 31 and it would become section 6 then renumber accordingly. We can set this aside for now and vote this afternoon so that we can be on the same page as Mr. Fleming.

Madam Chair Lee closes the discussion on SB 2115.

2019 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2115
1/22/2019
Job # 31234 (13:15-23:00)

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Justin Velez

Explanation or reason for introduction of bill/resolution:

Relating to child support.

Minutes:

No Attachments

Madam Chair Lee opens the discussion on SB 2115.

Jonathan Alm, Attorney with the Department of Human Services: The amendment should be inserting that new section 5, it should be page 3 instead of page 2 and it should be after line 31 instead of after line 20.

Madam Chair Lee: We don't have to say renumber them because we are making it section 6 so renumber accordingly would take care of that, correct?

Jonathan Alm: Correct.

Madam Chair Lee: What I might suggest if this sounds agreeable to everyone. In order to clean that up we could further amend. So If someone wanted to further amend to change the page and line description to page 3 after line 31.

Senator O. Larsen: I move to **FURTHER AMEND.**
Seconded by Senator Clemens

Madam Chair Lee: That passes, can we talk about the amended bill that we have before us.

Senator K. Roers: I move a **DO PASS, AS AMENDED, REREFER TO APPROPRIATIONS.**
Can I just ask a question on clarification?

Madam Chair Lee: Of course.

Senator K. Roers: Because we added at the top to provide a continuing appropriation, does it need to go to appropriations?

Senator Hogan: I don't think we have to go to appropriations because this just changes where this deposits and where it comes out of and it's a full pass through.

Senator K. Roers: Ok, then **DO PASS, AS AMENDED, REREFER TO APPROPRIATIONS.**
Seconded by Senator Hogan

Madam Chair Lee: Any discussion?

Senator O. Larsen: I guess I just didn't agree with that section on page 3 9-20. I don't agree with us clarifying that all the judges now have to do the same thing as everybody else. If they are going to be filling for divorce they can come back later and do the child support stuff or leave it out. That is where I am at with that.

Madam Chair Lee: But on lines 16 and following it says "a child support obligation that is stayed under this subsection maybe re-instated on a prospective basis as provided under the terms of the stay". So doesn't that mean there's something set but if the two of you do something else do we come back to this. Do I misunderstand that Jonathan?

Jonathan Alm: I might have to get Jim Fleming to explain his bill or at least what the intent was. What was the question?

Madam Chair Lee: The question was on page 3 lines 9-20, and Senator O. Larsen you can explain your concern there.

Senator O. Larsen: As I was reading this here and listening to Jim Fleming talk about this, it is my understanding that when a judgement of divorce happens no matter what happens, as soon as that goes forward the judge then will say that im going to establish the child support. Regardless of the fact of if the people involved with the child decide on before they get divorced, they work it out themselves. Any time they go before the judge now the way I read this, the judge is going to say ok this is what's happening and I don't agree with that. I think the way the bill is being re-written with this new language is that the judge now is going to make a determination and we are just going to keep that on the shelf and that's how its going to be. I just feel they can come back to that sooner or later or whatever, I just don't feel comfortable with it.

Madam Chair Lee: I had made a note that Mr. Fleming had talked about, that the state would be better when re-unification is being tried, but when we go back up farther it says on line 11 "the court shall establish an obligation unless the child support agency request the issue of child support be reserved, and then the court may issue a stay of any further accruals under a child support order if the court finds a stay would be in the best interest of the child.". Im thinking it is kind of flexible. The child support agency can say we can stay in this they are going to see if they can make this work but as a backup the obligation is there.

Senator K. Roers: The application is filed but now you're just hanging onto it, so now I can just tell you to go to step 2,3, or 4 or whatever is next.

Senator Hogan: Looking at Mr. Flemings testimony he did this in collaboration with the family law section of the State Bar Association and with the North Dakota Judicial Conference. He

had consultation with those two groups who actually operationalized that and so I think this might be language that that group, based on his testimony, that they seem to all agree on.

Madam Chair Lee: As it says in that Senator Hogan just pointed out in the third paragraph, “the departments suggestion authorizing a child support obligation to be held in suspense temporarily and for a single affidavit process for restarting the monthly accrual of child support”.

Senator Hogan: So it is simplification.

Madam Chair Lee: I always thought it was a little more flexible, but I also think it is important it doesn't vary from county to county. If you want, we can ask Mr. Fleming to come back and we can chat about this again if it is important to the majority members if we do that.

Jonathan Alm: I did send him an instant message but he hasn't responded to that question yet.

Madam Chair Lee moves on from SB 2115 to talk to Pam Sagness about a different bill.

ROLL CALL VOTE TAKEN

5 YEA, 1 NAY, 0 ABSENT

MOTION CARRIES DO PASS, AS AMENDED, REREFER TO APPROPRIATIONS.

Senator Anderson will carry SB 2115 to the floor.

(NO RECORDING ON VOTE)

2019 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2115
1/22/2019
Job # 31242

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Justin Velez

Explanation or reason for introduction of bill/resolution:

Relating to child support.

Minutes:

No Attachments

Madam Chair Lee: Please step up and make sure we are on the right page.

Jim Fleming, Director of Child Support for North Dakota: Jonathan Alm was texting me back and forth and it sounded like there was a question about the section of SB 2115 that would try to add some language to the code about whether parents have to get a child support obligation or not.

Madam Chair Lee: We were having a discussion about how we interpreted page 3 lines 9-20 and our disparity of judgement was whether this was more confining or more flexible.

Jim Fleming: It is both, depending on which judge you're talking about. There are judges who will say you're not getting divorced unless you have child support obligation, the judges take that line. There are other judges that say as long as this has stipulation written on the top of it I'm going to skip to the last page and sign it, they are looking at it and saying no one is asking for child support I'm not going to make them get it. Our recommendation is you want to do something here because that inconsistency is very bothersome to us that it changes based on the person who is behind the bench. There's two options here, I do think the approach that you Senator O. Larsen will like the best is what's in the bill. Here are the two potential outcomes; under the bill before you, when the parents are getting divorced they are going to have to go through the guidelines and come up with what the obligor should owe if it was accruing, and then they say that we agree to the amount per month shall not accrue until one of us asks for it. This is helpful because it doesn't accrue if they don't want it but by looking at that number, that number is something you can turn on a lot faster and for child support to do a review down the road, what we do is we look to see if the income of the obligor has gone up or down 15% what the older number is. If it is only a 10% change in the number, we don't take the time to go to court and change it. They have to apply the guidelines nothing accrues that they don't want, but if they do want it to accrue down the line all they have to do is administratively send an affidavit and its done. The other direction you could go is to sanction the idea of nobody asks for it nobody gets it, but then there is no number in the

file, which means that if somebody later on changes their mind and want child support they are going to have to go to child support or hire an attorney to find that number and then go back to court and wait for the court to rule on the motion and get it going again. Either way is a viable option, either way would bring consistency but, from a customer service perspective where its more responsive, I think the bill as drafted might be a better way of giving people the freedom of having a government having a limited role in their life if they don't want it but when they change their mind it's easier to come back.

Senator O. Larsen: It makes it easy for the government but to people who don't want the government hanging out in their lives and the constituents that I have talked to about this bill they say, I want to be left alone, I have talked to my wife about it we have it all figured out and the last thing we want is another headache. That is exactly about 5 people I have talked to about this have said. That is where I'm coming from it.

Jim Fleming: Other than a number on paper somewhere that says this is what they owe if anybody wants to ask for it again, it's a number out there that the government end the game.

Madam Chair Lee: My concern is that it is very easy because of the pain that is going on at the time to say that I just want to get it over with, I just want to move on. Let's say it's the custodial parent that who is saying I will take care of it I'll send you money but I know situations where they thought they didn't need child support and then life and costs changes and then it's a way bigger deal to come back and now it is under pressure and you are already in the midst of this difficult deal anyway with the divorce because it is never perfect. It seems to me that having something set up that is kind of the backup plan, and everyone goes ahead and everything is okay and at 18 it's all over anyways.

Jim Fleming: Among the judges, some of the most vocal opponents to this approach were from Minot. Where they would hold firm that they would get an order all the time. The folks that you are talking to in your district are not folks who have gone that path because two of the judges from Minot specifically would say I don't like this approach. They recognize it with the group of judges. I was getting feedback from all over the place but, it's interesting being that you're from Minot and actually two of the judges said I am looking out for kids I think they should get it every single time, and then you have the judges from Bismarck and Fargo and some of the other places going if nobody is asking for it now, why you would you force it on them. In Minot right now this wouldn't happen, they would have to get that judgement.

Madam Chair Lee: I just see the same mom who doesn't have the money to hire an attorney saying we will both just have the same attorney, and I keep saying no that's not the way that works. He has the attorney and you don't have one.

Jim Fleming: It was interesting to me that the judges had come up with the idea that you come up with the number today, but it's almost meaningless because we say it right away and it doesn't accrue. That was an approach that I hadn't thought of but they sold us on the value of that because once you have that number it's easy to just say okay I want it now and we start accruing.

Senator Hogan: It seems like this establishes consistency and simplicity.

Jim Fleming: It's kind of a trap for people who think they have their deal done. If they reserve, it and they think that they have this mediated and all done. Then the ink is hardly dry on the page and they walk into child support and apply for services they will get that obligation. The parent who relied on that mediated outcome, gets burned because they thought it was resolved and now all of sudden they are faced with child support after they have negotiated everything else. For us consistency is the number one thing, one way or the other shouldn't matter where you live.

Madam Chair Lee: Could you confirm for us that our interpretation of continuing appropriation is because in essence it would be a passive kind of thing?

Jim Fleming: I was curious whether legislative council would correct my drafting of that amendment anyway because sometimes us agency attorneys can do our best but don't always get it right. The money that is received for child support is not subject to 2012 it is appropriate on an ongoing basis, whatever comes in goes out. If the new higher penalties are going to be added to that same account, I anticipated that there would similarly need to be a continuing appropriation for that money to come out of the child support fund and be dispersed. That was why I understood it needed to have a reference to a continued appropriation.

Senator Hogan: Could we have our intern take this amendment as we have passed it and run it by legislative council drafters to make sure they are comfortable.

Jim Fleming: If time had been a little bit more on my side that could have been a call that I would have made to find out how to draft it but they are in the heart of the bill drafting deadlines, I try to respect that. I apologize for the typo it says page 2 after line 20, I meant page 3 after line 20 but even that would have been wrong. I highlighted but didn't mention in the amendments on page 4 there is a singular noun and a plural verb attached to that. On line 10 you want to replace "decisions" with "decision".

Madam Chair Lee: We have a do pass, as amended on the floor but we are going to wait for the vote until tomorrow on that one.

Jim Fleming: You mentioned to Pam Sagness your interests in making sure fiscal notes get together in a hurry so we get it over to Senator Holmberg's committee, if this does require a fiscal note I have worked with my accountant who helped me prepare the number in the testimony so we should be able to turn that around if they ask for one. Since it's going to the treasury one way or the other so I wasn't sure if they would need one.

Madam Chair Lee: We don't either. Why don't you ask Legislative Council about that whether we need a fiscal note.

Madam Chair Lee closes the discussion on SB 2115.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2115

Page 1, line 2, after the third comma, insert "section 34-15-07,"

Page 1, line 4, remove "and" and after "support", insert "; and to provide a continuing appropriation"

Page 2, after line 20, insert:

"SECTION 5. AMENDMENT. Section 34-15-07 of the North Dakota Century Code is amended and reenacted as follows:

34-15-07. Disposition of civil money penalties.

A civil money penalty collected under this chapter must be paid into the state treasury for deposit in the general fund maintained for disbursement of child support under section 14-09-25 and is appropriated on a continuing basis for the purpose of offsetting losses to the fund.

Renumber accordingly

PROPOSED AMENDMENTS TO SENATE BILL NO. 2115

Page 1, line 2, after the third comma insert "section 34-15-07,"

Page 1, line 4, remove "and"

Page 1, line 4, after "support" insert "; and to provide a continuing appropriation"

Page 3, after line 31, insert:

"SECTION 6. AMENDMENT. Section 34-15-07 of the North Dakota Century Code is amended and reenacted as follows:

34-15-07. Disposition of civil money penalties - Continuing appropriation.

A civil money penalty collected under this chapter must be paid into the state treasury ~~for deposit in the general fund~~ and is appropriated to the department on a continuing basis for the purpose of covering losses the department incurs in making child support disbursements as provided under section 14-09-25."

Renumber accordingly

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2115

Senate Human Services Committee

☐ Subcommittee

Amendment LC# or Description: See below

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
 Other Actions: ☐ Reconsider ☐

Motion Made By Sen. Hogan Seconded By Sen. Anderson

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee	X		Sen. Kathy Hogan	X	
Sen. Oley Larsen	X				
Sen. Howard C. Anderson	X				
Sen. David Clemens	X				
Sen. Kristin Roers	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Page 1, line 2, after the third comma, insert "Section 34-15-07"
 Page 1, line 4, remove "and" and after "Support" insert "; and to provide a continuing appropriation"
 Page 3, after line 31 inserting Section 5 Disposition of civil money penalties.

Date: 1/22/19
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2115

Senate Human Services Committee

☐ Subcommittee

Amendment LC# or Description: See below

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐

Motion Made By Sen. O. Larsen Seconded By Sen. Clemens

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee	X		Sen. Kathy Hogan	X	
Sen. Oley Larsen	X				
Sen. Howard C. Anderson	X				
Sen. David Clemens	X				
Sen. Kristin Roers	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Changing the page and line description to page 3 after line 31.

Date: 1/22/19
Roll Call Vote #: 2

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2115

Senate Human Services Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☒ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen K. Roers Seconded By Sen. Hogan

Senators	Yes	No	Senators	Yes	No
Chair Lee	X		Senator Hogan	X	
Vice Chair Larsen		X			
Senator Anderson	X				
Senator Clemens	X				
Senator Roers	X				

Total (Yes) 5 No 1

Absent 0

Floor Assignment Sen. Anderson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2115: 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 2115 was placed on the Sixth order on the calendar.

Page 1, line 2, after the third comma insert "section 34-15-07,"

Page 1, line 4, remove "and"

Page 1, line 4, after "support" insert "; and to provide a continuing appropriation"

Page 3, after line 31, insert:

"SECTION 6. AMENDMENT. Section 34-15-07 of the North Dakota Century Code is amended and reenacted as follows:

34-15-07. Disposition of civil money penalties - Continuing appropriation.

A civil money penalty collected under this chapter must be paid into the state treasury ~~for deposit in the general fund~~ and is appropriated to the department on a continuing basis for the purpose of covering losses the department incurs in making child support disbursements as provided under section 14-09-25."

Renumber accordingly

2019 SENATE APPROPRIATIONS

SB 2115

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2115
1/30/2019
JOB # 31797 & 31799

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Alice Delzer

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact NDCC relating to child support and to provide a continuing appropriation.

Minutes:

1. Testimony of Jim Flemming

V. Chairman Krebsbach: called the Committee to order on SB 2115 at 11:00 am. All committee members were present except Senator Holmberg, who was out of town. Chris Kadmas, Legislative Council and Stephanie Gullickson, OMB were also present.

Senator Judy Lee, District 13, West Fargo testified in favor of SB 2115, and explained the meaning of the bill and much of this bill is updating language. We are looking at an amendment which would require that there be a child support determination even if there is a different kind of agreement that is being supported by both parents. She also stated a lot of the money handled in child support is pass-through.

Senator Dever: Every session I have to remind myself the requirements for a bill to be sent to Appropriation, and it think it says \$5,000 appropriation or \$50,000 impact. I am not sure that this one requires that.

Senator Judy Lee: And if it doesn't, thank-you very much and good night. I believe Mr. Flemming could indicate whether or not he thought it was an appropriated one. If not, I apologize for having messed up your calendar as well.

V. Chairman Krebsbach: We'll hear from Jim anyway, he is here.

(3.01) Jim Flemming, Director of the Child Support Division of DHS: I am going to hand out Attachment # 1, which is my policy testimony as it covers the fiscal impact of the bill. He testified in favor of SB 2115 and provided Attachment # 1, which explains the sections of the bill and stated that pretty much every legislative session we come forward with a bill to make some kind of tweak to one of the multitude of laws that we deal with. This is one those bills. Internally we call it our Omnibus bill because it covers so many things. He continued with his written testimony. When we are looking at this unfunded liability we said we can make the two connect. What the engrossed bill would do and the fiscal impact of the bill is to say those

new higher penalties instead of having them be co-mingled in the general fund and just lost to child support, we will skim that money off and deposit it in the same account that the child support payments come out of to start funding this unfunded liability. It's not a lot of money, but as indicated in my testimony, the balance of recovery has only increased by about \$2,500.00 last year. So that \$337,000 is 25 years worth of operating losses and we can turn the corner and start to chip away at that. So, that is the fiscal impact of this bill. It does not enclose any new penalties. It just says that the penalties we impose will be deposited in the child support account instead of the general fund so that money can be used to cover those operating losses that we're not able to recover from the parents. We are still going to do our best to get that money back but if we can't at some point we have to get this loss off the books. Right now that money is in the clearing account. That clearing account always has dollars in it and that float is covering this loss. **(11.41)**

V. Chairman Krebsbach: You mentioned out of the monies that you have, \$200,000, approximately \$100,000 is uncollectable. that was confirmed. Do you ever write it off as bad debt?

Jim Flemming: No we don't. It's harder for state government to do that with the accounting rules that we operate under.

Senator Grabinger: More and more people are using credit cards and online payment. Is that eliminating some of this? This has got to be going down because you are not taking that many checks anymore.

Jim Flemming: You are right about the checks. The rules about the federal reserve give the account holder 5 days to reverse electronic payments so they still do that. The rules for credit cards are so regrettably liberal when it comes to fraud is that we have people who claim fraud. They have made payments on the same credit card, 3,4,5 consecutive months. on the 6th month they claim it's fraud and Visa lets them win. There is nothing we can do about it. The electronic changes the issue but it doesn't go away.

V. Chairman Krebsbach: We heard a hearing we didn't have to hear. We will move into SB 2175. (However, a new job was started for this bill concerning the appropriation for this bill.)

JOB # 31799

V. Chairman Krebsbach: asked Council to explain why we did have to hear SB 2115.

Chris Kadrmas, Legislative Council: SB 2115 in Section 6 of the bill provides a continuing appropriation for an amount that is greater than \$5,000. So it essentially is an appropriation. It's just that it will not be heard again if approved by the legislative assembly or the continuing appropriation removed.

The hearing on SB 2115 was closed.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2115
2/13/2019
Job # 32677

☒ Subcommittee
☐ Conference Committee

Committee Clerk: Alice Delzer / Florence Mayer
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Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 14-08.1-04, subsection 2 of section 14-09-08.1, subsection 4 of section 14-09-08.4, section 14-09-09.32, subsection 8 of section 14-09-25, section 34-15-07, and subsection 6 of section 50-09-08.6 of the North Dakota Century Code, relating to child support; to repeal section 14-09-09.37 of the North Dakota Century Code, relating to child support; and to provide a continuing appropriation.

Minutes:

1.Amendment # 19.8100.02001

Senators Dever, Erbele and Mathern were present Stephanie Gullickson, OMB and Brady Larson, Legislative Council were also present. **(Taken from subcommittee minutes, (43:16), on SB 2012 on 2/13/2019)**

Senator Mathern: I would move Amendment # 19.8100.02001 amendment for SB 2115.

Senator Erbele: Seconded.

A Roll Call Vote Was Taken: 3 yeas, 0 nays, 0 absent.

Motion Carried.

Senator Dever: This will be the only amendment necessary for SB 2115. Do we need a motion on the bill or just the amendment to go back to committee?

Senator Mathern: I think that is up to the call of the chair of the subcommittee. We have clearly acted on terms of our interest. But we could act on the bill to.

Senator Dever: It might be more appropriate to present the amendment and then the full committee votes on the bill.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2115
2/14/2019
Job # 32758

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Alice Delzer

Explanation or reason for introduction of bill/resolution:

A BILL for an Act for DHS relating to Child Support (Do Pass as Amended).

Minutes:

1. Proposed Amendment # 19.8100.02001

Chairman Holmberg: opened the hearing on SB 2115. All committee members were present. Brady Larson, Legislative Council and Stephanie Gullickson, OMB were also present.

Senator Dever: Moved the Attachment # 1. Proposed Amendment # 19.8100.02001. 2nd by Senator Mathern.

Senator Dever explained the amendment.

**A voice vote was taken.
Motion carried.**

Senator Dever: Moved a Do Pass as Amended. 2nd by Senator Mathern.

Chairman Holmberg: Call the roll on a Do Pass as Amended on SB 2115.

A Roll Call vote was taken. Yea: 14; Nay: 0; Absent:0.

Senator Anderson from Human Services will carry the bill.

The hearing was closed on SB 2115.

February 12, 2019

OK
12/1

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2115

Page 4, line 4, remove the overstrike over "~~for~~"

Page 4, line 5, remove the overstrike over "~~deposit in the~~"

Page 4, line 5, after "~~general~~" insert "child support collection and disbursement"

Page 4, line 5, remove the overstrike over "~~fund~~"

Renumber accordingly

Date: 2-13-2019
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2115

Senate Appropriations Committee

☒ Subcommittee

Amendment LC# or Description: Amendment A 19.8100.02001

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Mather Seconded By Erbele

Senators	Yes	No	Senators	Yes	No
Senator Holmberg			Senator Mather	<input checked="" type="checkbox"/>	
Senator Krebsbach			Senator Grabinger		
Senator Wanzek			Senator Robinson		
Senator Erbele	<input checked="" type="checkbox"/>				
Senator Poolman					
Senator Bekkedahl					
Senator G. Lee					
Senator Dever	<input checked="" type="checkbox"/>				
Senator Sorvaag					
Senator Oehlke					
Senator Hogue					

Total (Yes) 3 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2-14-2019Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2115

Senate Appropriations Committee☐ SubcommitteeAmendment LC# or Description: 19.8100.02001Recommendation: ☒ Adopt Amendment☐ Do Pass☐ Do Not Pass☐ Without Committee Recommendation☐ As Amended☐ Rerefer to Appropriations☐ Place on Consent Calendar

Other Actions:

☐ Reconsider☐

Motion Made By

Dever

Seconded By

Mathern

Senators	Yes	No	Senators	Yes	No
Senator Holmberg			Senator Mathern		
Senator Krebsbach			Senator Grabinger		
Senator Wanzek			Senator Robinson		
Senator Erbele					
Senator Poolman					
Senator Bekkedahl					
Senator G. Lee					
Senator Dever					
Senator Sorvaag					
Senator Oehlke					
Senator Hogue					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

*Voice Vote
Carried*

Date: 2-14-2019Roll Call Vote #: 2

**2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2115**

Senate Appropriations Committee☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
 Other Actions: ☐ Reconsider ☐ _____

Motion Made By Dever Seconded By Mathern

Senators	Yes	No	Senators	Yes	No
Senator Holmberg	<input checked="" type="checkbox"/>		Senator Mathern	<input checked="" type="checkbox"/>	
Senator Krebsbach	<input checked="" type="checkbox"/>		Senator Grabinger	<input checked="" type="checkbox"/>	
Senator Wanzek	<input checked="" type="checkbox"/>		Senator Robinson	<input checked="" type="checkbox"/>	
Senator Erbele	<input checked="" type="checkbox"/>				
Senator Poolman	<input checked="" type="checkbox"/>				
Senator Bekkedahl	<input checked="" type="checkbox"/>				
Senator G. Lee	<input checked="" type="checkbox"/>				
Senator Dever	<input checked="" type="checkbox"/>				
Senator Sorvaag	<input checked="" type="checkbox"/>				
Senator Oehlke	<input checked="" type="checkbox"/>				
Senator Hogue	<input checked="" type="checkbox"/>				

Total (Yes) 14 No 0Absent 0Floor Assignment Human Services - Anderson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2115, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2115
was placed on the Sixth order on the calendar.

Page 4, line 4, remove the overstrike over "for"

Page 4, line 5, remove the overstrike over "deposit in the"

Page 4, line 5, after "general" insert "child support collection and disbursement"

Page 4, line 5, remove the overstrike over "fund"

Renumber accordingly

2019 HOUSE HUMAN SERVICES

SB 2115

2019 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Fort Union Room, State Capitol

SB 2115
3/4/2019
33165

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Nicole Klamann

Explanation or reason for introduction of bill/resolution:

Relating to child support; relating to child support and to provide a continuing appropriation.

Minutes:

1

Chairman Weisz: Opened hearing

Jim Fleming, Director of Child Support Division of the Dept. of Human Services: In support written testimony provided, see **attachment 1**. This bill would continue the positive trends in regard to the payment rate and collection of arrearages by way of administrative restructuring and efficiencies, continued improvements to the website and customer service and the change from reviewing obligations from 36 months to 18 months.
(0:10:14)

Representative Bill Devlin: The two day payment forward requirements; Is this Federal or State?

Jim Fleming: It is Federal.

Representative Todd Porter: In section 6, regarding the work you do with employers to receive payment, is this a rule a policy? And where are they set out, employer penalty steps? Not often do we allow the department who penalizes to receive the funds for expenditures.

Jim Fleming: Chapters 34:15 the process is laid out. It gives the employer an opportunity to address the issue before penalty stage.
(0:12:13)

Representative Clayton Fegley: With technology, why is there an issue with bouncing checks when some stores know instantly if there are funds?

Jim Fleming: I'm not familiar with it being that fast.

Danelle Prescee, citizen: In support, no written testimony provided. We are supportive of this bill.

Representative Karen Rohr: By statute county or sheriff's offices do civil services for twenty dollars.

Danella Prescee: By statute county or sheriff's offices do civil services for a fee of twenty dollars. There were eighteen counties that were being reimbursed totaling twenty-five thousand dollars over time frame of 7/2017-6/2018.

Rep Rohr: Who pays?

Danella Prescee: I believe it comes from the Dept. Human services but may want to double check that.

Chairman Weisz: Opposition? Seeing none, closes meeting.

2019 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

SB2115
3/11/2019
33526 (17:04-37:30)

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Nicole Klamon by Caitlin Fleck

Explanation or reason for introduction of bill/resolution:

Minutes:

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Chairman Weisz: Opened the hearing on SB2115.

Rep Porter: In section 2, I'm wondering why I'd have to give all of my phone numbers out, and then why are they obligated to get my email address?

Chairman Weisz: Their argument is that this is how people get information now.

Rep Porter: Wouldn't it be my responsibility to give them that then?

Chairman Weisz: I think that those parts should be a "may," instead of a "shall." By putting those in, then you don't have an excuse to say that you didn't get the information.

Rep Ruby: In section 4, I'm looking that they are automatically putting some sort of child support in it. I would say that that is the opposite way of going, if the parents don't want that, then they shouldn't have to. Does the state get a portion of that, or why do they think that there has to be some form of child support?

Chairman Weisz: We don't get anything from it, the more uncollected child support, the worse the unit looks. What I found interesting is that they wanted consistency across the court systems, and Mr. Fleming seemed to imply that this language read that we didn't need the court system to establish the child support, yet the language seems to read the opposite. Part of their concern is that there may be leverage or a threat to one party and then it appears that both parties agree, but in reality, they wouldn't have agreed in a normal scenario. Because of that, they have language in there to determine if they need an order to be established or not.

Rep Ruby: So under that they would still have a dollar amount set, and they wouldn't have to collect it unless the court decided to?

Chairman Weisz: Depending on, there wouldn't have to be any dollar amount. It would be what the 2 parties agree on because they aren't going through a court system. This says that the agency can sign off on the agreement, and then it wouldn't have to go to court.

Rep Ruby: If the parents came, and said that they didn't want to do child support currently, is the child support agency even contacted?

Chairman Weisz: The judge would automatically say that that is the key in a judgment of divorce.

Rep Porter: In Mr. Fleming's testimony, this is one of those areas that is a greater contention in a divorce hearing, and both of the parties have decided on 0 but the judge looks at it and says no because he is obligated by law to have it as something. By putting this language in in section 4, they can reserve the right for support if anything changes, but for right now the judge and the department can agree with the 2 parties in a 0-dollar amount. Then it is just held in limbo and if anything else changes within the parties they hold that as a reservation in a preceding.

Chairman Weisz: It wouldn't prevent the party from going back to court and saying that this didn't work.

Rep Porter: Or even if the party's income changed. If one of those party's income changed, then they could come back and say that they now need child support. I think that section is so that the judge isn't forced to place an amount for support, and it can be reserved for the 2 parties.

Chairman Weisz: There is also under number 1 in that section that the court can have some flexibility depending on circumstances involved.

Rep Ruby: Wouldn't it be easier to say that the court could decide whether or not instead of the child support agency?

Chairman Weisz: The court will rarely ever deviate from the child support agency's guidelines. This language would give the court more leeway in deciding on child support.

31.50 Rep Porter: Move an amendment for section 2, on line 22, sub 2 that says "..." so it would read "residential and mailing addresses and any change of address may include electronic mail address" and then on line 23, of sub 3 "telephone number or cellular telephone number." Then on page 2, line 2, delete the new language but keep the "and" in there.

Representative Ruby: Second.

Rep Schneider: I don't have a problem with the alternative of email or cell phone, but the residential and mailing address is in there for legal purposes and service of process. So messing with that would cause some problems. This was to increase efficiencies and that would be a real barrier.

Chairman Weisz: So they would have to have the residential, and then have the option of including an email address as a form of communication.

Seth O'Neil, Legislative Intern: Do they have to include it now?

Chairman Weisz: I have no clue there if the department collects that now or not.

Rep Porter: Maybe we should just hold onto this, and send Seth up to see what he can come up with. Maybe we should create its own subsection. Motion withdrawn.

Rep Ruby: Second withdrawn.

Chairman Weisz: Ok, we will try to get some language on the options of doing this.

Meeting closed.

2019 HOUSE STANDING COMMITTEE MINUTES

Human Service Committee
Fort Union Room, State Capitol

SB 2115
3/12/2019
33595

☐ Subcommittee
☐ Conference Committee

Committee Clerk Risa Bergquist by Nicole Klamann
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Explanation or reason for introduction of bill/resolution:

Relating to child support; relating to child support and to provide a continuing appropriation.

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Minutes:

Chairman Weisz: Called the meeting to order for SB 2115

4:40 Rep. Porter: It just seems like it's one step over, they are already required by all the forms of communication. I just think it is something that is voluntary. I don't think there is anything that should make it a law that you have to give them your email. People may call my office and ask for my email, I still have the right to say no.

Mr. Fleming: We could take out that they give us their phone number. Blast emails are such an easy thing to do. If we try to do a mailing, it's a 15 thousand dollar mailing instead of the free email blast. If we had 90 or 95% of our customers, we could feel good about our communication.

Rep. Porter: You can't rely that they ever got that email. I could block you or send your email to spam, you can't guarantee a single email was delivered or read.

Mr. Fleming: We are finding that our customers are wanting to get an email rather than a letter. We feel our customers want to hear from us.

Chairman Weisz: Rep. Porter nothing guarantees they will get the letter either.

Rep. Porter: I agree but right now there is a system in place.

Rep. Skroch: If all the things you say are true why can't you use it as a voluntary option?

Mr. Fleming: That is what we are trying now, it's simply an opt in or opt out. Right now we can't ask the courts to get that information without the law to back us up.

Chairman Weisz: We are going to move on to page 3 subsection 2.

Rep. Ruby: I would like to see the court not have to put in some kind of child support giving you the ability to ask for a reserve.

Mr. Fleming: That kind of change could really add to domestic violence. We don't want people to threaten people not to go for child support. If we let them not ask for child support then when someone later on comes in for child support there is nothing ordered or owed so child support is doing all the leg work. There are many risks along with that for the individuals involved and also for the Child Support Work Force.

Chairman Weisz: Why are we getting in the middle of it if there is two people who agree that they don't want child support?

Mr. Fleming: That were the language comes from in lines 12-14 and that way the we have something on record until someone decides they want to come in for child support. Right now you have to have guideline number but it doesn't start to acquire until someone comes in to get child support.

Chairman Weisz: The language states court shall establish the child support obligation unless the child support agency ask for it to go to reserves. So is it true, based on that language, that support will not be established?

Mr. Fleming: It is established in the sense the number has been computed under the guideline but the establishment does not take effect until it starts to accrue and that is what can be stayed.

Chairman Weisz: But you are stating you can request the issue be reserved. You need to clarify that.

Mr. Fleming: When we get a case of a child that is on Medicaid and child support is not requested. Reserving is unique because we are the only ones that provide Medicaid cases when no parents are asking for child support.

0:22:10

Mr. Fleming: In some districts they will establish it no matter what, in other districts they stay it and reserve it without any questions asked. When I spoke to judges about this and the differences, I suggested they pick a lane, define the middle ground. They just need to do it all the same.

Rep Ruby: The only reason we can't put this in century code is because you think that will increase domestic violence?

Mr. Fleming: Absolutely

Rep. Ruby: Do you have supporting documentation?

Mr. Fleming: 20 years of child support experience

Rep. Skroch: You are trying to avoid going back into the court system?

Mr. Fleming: No it is saying the child support will start over, like a worker's comp hearing.

Chairman Weisz: Any further questions? Committee we have 3 main sections. We will take each section and see where the committee is at before we add an amendment. Page 1 line 23, scratch cellular and leave telephone.

Chairman Weisz: Next is making email mandatory.

Rep. Tveit: It's currently optional correct? Can we say the 'may.'

Chairman Weisz: This would spell out for anyone subject to the order would have to provide all the necessities and email is already a "may". So you would either have to say they have to or leave it alone.

Rep. Tveit: I would be fair to just leave it as is.

Rep. Schneider: That is a basic form of communication, it's awkward to not have it.

Rep. Porter: I don't think I should have to give it out. It doesn't have any legal baring on my relationship with this agency.

(0:30:34)

Rep. Dobervich: I support keeping the email in there, the people that are over the road need this. I just had an issue last week and had I gotten an email or a text message it could have saved a lot of hassle. And looking at what it costs to do the mailings, it think this could be a great way to save some money.

Rep. Porter: What is the penalty inside of this for giving you false information?

Mr. Fleming: There is no penalty.

Rep. Skroch: Are you having an issue right now having trouble communicating with clients? If so, is this going to fix that or is this just a matter of convenience?

Mr. Fleming: Today we don't try to send emails because our numbers aren't anywhere close to where we want them.

Rep. Skroch: So you aren't having difficulty making communication now?

Mr. Fleming: This just gives the court the option to add that line if it were backed by law. We could add it optional but they do not usually add optional information to court docs.

Rep. Tveit: On line 2 item 6, right now there are people that don't have an email, would it be mandatory to require them to get an email address?

Mr. Fleming: No we could it worded to say "if available".

(0:37:25)

Rep. Dobervich: I was asked for my email on my insurance form and it didn't not say optional?

Chairman Weisz: We will go with a show of hands. We are tied. Let's move on to page 3, we got more explanation.

(0:39:40)

Rep. Ruby: I guess it was going to trust Jim on this and close my eyes and vote yes.

Rep. Devlin: I don't think it is any big deal to give an email.

Rep. Porter: It's a matter of making them do it. How are we saving 50 cents?

Chairman Weisz: They are not using it as official communication but why can't they use it for a blast email to people know of changes. Your driver's license would be a bigger deal and there's no problem with that.

Rep. Devlin: Wouldn't they have to send out snail mail and email?

Chairman Weisz: That is one of the biggest complaints from constituents because they have ignored the mail.

Rep. Devlin: I don't see this as an issue at all.

Rep. Porter: I would move to amend 2115, Page 2 line 2 remove the language for the requirement of an email

Rep. Tveit: I second the motion

Chairman Weisz: What about the cell phone number?

Rep. Porter: I thought we did that?

Chairman Weisz: We didn't motion, we just did a voice vote to see where we were.

Rep. Porter: I will do it separately.

Chairman Weisz: Ok

Roll Call Vote Yes: 5 No: 7 Absent: 2
Motion Fails.

Rep. M. Ruby: I would move to amend SB 2115, page 1 line 23 remove the underlined language.

Rep. Westlind: Seconded.

Voice vote: Motion carries to amend SB 2115.

Rep. Skroch: I move a Do Pass as Amended on SB 2115.

Rep. Dobervich: Seconded.

Roll Call Vote: Yes: 11 No: 1 Absent: 2.
Motion Carries.

Rep M. Ruby: Will carry the bill.

Chairman Weisz: Closes meeting

19.8100.03001
Title.04000

Adopted by the House Human Services
Committee

March 12, 2019

DA 3/12/19

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2115

Page 1, line 23, remove ", including cellular telephone number"

Renumber accordingly

Date: 3/11/2019
Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. - 185**

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: Sub 3, line 3: insert "or"
pg 2, line 2: delete new language

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Porter Seconded By Ruby

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman			Gretchen Dobervich		
Karen M. Rohr – Vice Chairman			Mary Schneider		
Dick Anderson					
Chuck Damschen					
Bill Devlin					
Clayton Fegley					
Dwight Kiefert					
Todd Porter					
Matthew Ruby					
Bill Tveit					
Greg Westlind					
Kathy Skroch					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

** Withdrawn*

Date: 3/12/19
Roll Call Vote #: 7

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2115

House Human Services

Committee

☐ Subcommittee

Amendment LC# or Description: Remove email requirement

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐

Motion Made By Rep. Porter Seconded By Rep. Tveit

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman		X	Gretchen Dobervich		X
Karen M. Rohr - Vice Chairman	A		Mary Schneider		X
Dick Anderson	A				
Chuck Damschen		X			
Bill Devlin	X				
Clayton Fegley		X			
Dwight Kiefert		X			
Todd Porter	X				
Matthew Ruby	X				
Bill Tveit	X				
Greg Westlind		X			
Kathy Skroch	X				

Total (Yes) 5 No 7

Absent 2

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

motion failed

Date: 3/12/19
Roll Call Vote #: 2

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2115

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: Remove "including cellular telephone number"

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐

Motion Made By Rep. M. Ruby Seconded By Rep. Westlund

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman			Gretchen Dobervich		
Karen M. Rohr - Vice Chairman			Mary Schneider		
Dick Anderson					
Chuck Damschen					
Bill Devlin					
Clayton Fegley					
Dwight Kiefert					
Todd Porter					
Matthew Ruby					
Bill Tveit					
Greg Westlund					
Kathy Skroch					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

motion carries

Date: 3/12/19
Roll Call Vote #: 3

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2115

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Skroch Seconded By Rep. Dobervich

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman	X		Gretchen Dobervich	X	
Karen M. Rohr – Vice Chairman	X		Mary Schneider	X	
Dick Anderson	X				
Chuck Damschen	X				
Bill Devlin	X				
Clayton Fegley	X				
Dwight Kiefert	X				
Todd Porter		X			
Matthew Ruby	X				
Bill Tveit	X				
Greg Westlind	X				
Kathy Skroch	X				

Total (Yes) 11 No 1

Absent 2

Floor Assignment Rep. M. Ruby

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2115, as reengrossed: Human Services Committee (Rep. Weisz, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (11 YEAS, 1 NAYS, 2 ABSENT AND NOT VOTING).
Reengrossed SB 2115 was placed on the Sixth order on the calendar.

Page 1, line 23, remove ", including cellular telephone number"

Renumber accordingly

2019 TESTIMONY

SB 2115

Department of Human Services
Senate Human Services Committee
Senator Judy Lee, Chairman

January 16, 2019

Chairman Lee and members of the Human Services Committee, I am Jim Fleming, Director of the Child Support Division of the Department of Human Services (Department). I am here to ask for the Committee's support for Senate Bill 2115.

As mentioned last week at the Department overview, the last two years have seen an improvement in the payment rate for current support and cases with a collection on arrears. The growth in unpaid support in cases being enforced by the state has stopped, after an extended time of multi-million dollar annual increases. The Department hopes to continue these trends through administrative restructuring and efficiencies, continued improvements to our website and overall customer service, and full implementation of the change from reviewing obligations every 36 months to reviewing obligations every 18 months. Senate Bill 2115 will further these goals.

Section One. The Department opened a dialogue with the North Dakota Association of Counties to update a law that has not been changed since transfer of administration of the child support program from the counties to the state in 2007. Originally, we hoped to extend the exemption from sheriff's fees to all cases being enforced by the Department. However, given the difference among the counties in the current billing practices of sheriffs, it was decided it would be best to first update the law to make billing practices more consistent statewide and to reflect the current expectations of state's attorneys in child support cases.

Section Two: The amendments in this section update the contact information each parent is required to maintain with the Department. Obtaining e-mail addresses and cellular phone numbers will help the Department proactively communicate with customers, especially as we do more texting and develop a mobile app.

Section Three: The proposed changes in this section will avoid postponement of a child support review when other aspects of a child support order (such as the parenting time schedule or spousal support) are changed but the child support obligation has not been reviewed.

Section Four: Currently, there is a wide variety among judges and judicial districts in terms of whether the court is required to establish a child support obligation in every case where parents are requesting a divorce or are in court on other family law issues. One school of thought is that the right to support belongs to the child and should be required in all cases, which is why current law prohibits a waiver of child support. The alternative school of thought is that if neither the parents nor the Department are requesting establishment of child support, then imposition of an obligation should not be forced on the parents.

After discussing the issue with members of the Family Law Section of the State Bar Association of North Dakota and the North Dakota Judicial Conference, the language in Section Four is the Department's suggestion for authorizing a child support obligation to be held in suspense temporarily and for a simple affidavit process for re-starting the monthly accrual of child support. Other approaches could be taken, but the Department feels there is a need for a law change in some way to bring greater consistency in this area.

Sections Five and Six: These sections are proposed to be amended to be more consistent with the approach taken for other administrative appeals of state agency decisions. The Department's decision to suspend interest or suspend a license is not taken lightly, and only after a thorough case review. The Department's approach can be difficult to convey in a brief court hearing, and warrants the deferential standard of review that the court usually applies to such agency decisions.

Section Seven: North Dakota Century Code Section 14-09-09.37 was enacted because the Affordable Care Act placed responsibility to provide health insurance for a child on the parent who claimed the child as a dependent.

14-09-09.37. Allocation of tax exemption for the child.

Each order entered under this code for the support of a minor child or the support of a child after majority under section 14-09-08.2 must identify the person who is authorized to claim the child as a dependent for purposes of filing an income tax return.

Under the 2018 Tax Cuts and Jobs Act, personal exemptions have been repealed, and the penalty for failing to insure the child has been eliminated. Since the purpose of the statute can no longer be served, we recommend that it be repealed.

Amendment: The process for developing agency appropriation bills has changed since Senate Bill 2115 was first drafted, and a beneficial law change that would otherwise have been included in Senate Bill 2012 needs to be offered instead as an amendment to Senate Bill 2115.

The Department is required to forward payments within two business days, and most payments are distributed within one business day. This does not leave time for the incoming payment to clear the bank, and can lead to reversal of the payment after it is sent to the family. At the same time, payments can be posted to the wrong account based on human error of a third party such as an employer or a Department employee, and additional funds must be posted to the correct account. In each case, the ultimate outcome is that more child support is paid to families than is collected, and leads to an unfunded liability for the account at the state treasury into which payments are deposited and disbursements are withdrawn. Currently, these "recovery accounts" are covered by the daily float in the account, but this is not a sustainable solution. Unfortunately, federal match is not available for these business losses, and the state is liable for 100% of the cost. Although we try to recoup these

funds, we are not always successful. The total liability in recovery accounts is \$335,325 as of January 14, 2019, which includes recent recoveries as well as those that are older and are uncollectible.

Current law provides that employer penalties for failing to report new hires are deposited in the state general fund. For federal match purposes, the penalties are considered child support program income and cannot be matched like other program expenses, even though the "income" is not used to operate the program. There is no connection between employer penalties and recovery accounts, but we have identified these penalties as a source of program-related funds that can help eliminate the unfunded liability in the child support disbursement account. Over the last 34 months, a total of \$19,815 in new hire reporting penalties have been imposed in 26 compliance actions, which averages to around \$14,000 per biennium (two penalties are uncollected because the employer has gone out of business). The number of compliance actions is fairly small because we work actively with employers and take a number of steps before imposing the penalty.

The recovery balance grew by less than \$2,500 from this time last year, so the amount of funds that would be retained by the Department under the amendment would succeed in reducing the unfunded liability. We encourage your consideration of this amendment, along with a technical amendment to correct a drafting error in the bill as introduced.

In conclusion, Senate Bill 2115 will improve the efficiency of the Department's child support program, and improve customer service, and we request a "Do Pass" recommendation of the bill with amendments.

This concludes my testimony, and I am happy to answer any questions you may have.

SB 2115
1/16/19
#2 pg. 1

Prepared by the North Dakota
Department of Human Services
01/16/2019

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2115

Page 1, line 2, after the third comma, insert "section 34-15-07,"

Page 1, line 4, remove "and" and after "support", insert "; and to provide a continuing appropriation"

Page 2, after line 20, insert:

"SECTION 5. AMENDMENT. Section 34-15-07 of the North Dakota Century Code is amended and reenacted as follows:

34-15-07. Disposition of civil money penalties.

A civil money penalty collected under this chapter must be paid into the state treasury for deposit in the general fund maintained for disbursement of child support under section 14-09-25 and is appropriated on a continuing basis for the purpose of offsetting losses to the fund.

Renumber accordingly

SB 2115
1-30-19
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p1

Department of Human Services
Senate Human Services Committee
Senator Judy Lee, Chairman

January 16, 2019

Chairman Lee and members of the Human Services Committee, I am Jim Fleming, Director of the Child Support Division of the Department of Human Services (Department). I am here to ask for the Committee's support for Senate Bill 2115.

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Section Two: The amendments in this section update the contact information each parent is required to maintain with the Department. Obtaining e-mail addresses and cellular phone numbers will help the Department proactively communicate with customers, especially as we do more texting and develop a mobile app.

SB 2113
1-30-19
#1
p 2

Section Three: The proposed changes in this section will avoid postponement of a child support review when other aspects of a child support order (such as the parenting time schedule or spousal support) are changed but the child support obligation has not been reviewed.

Section Four: Currently, there is a wide variety among judges and judicial districts in terms of whether the court is required to establish a child support obligation in every case where parents are requesting a divorce or are in court on other family law issues. One school of thought is that the right to support belongs to the child and should be required in all cases, which is why current law prohibits a waiver of child support. The alternative school of thought is that if neither the parents nor the Department are requesting establishment of child support, then imposition of an obligation should not be forced on the parents.

After discussing the issue with members of the Family Law Section of the State Bar Association of North Dakota and the North Dakota Judicial Conference, the language in Section Four is the Department's suggestion for authorizing a child support obligation to be held in suspense temporarily and for a simple affidavit process for re-starting the monthly accrual of child support. Other approaches could be taken, but the Department feels there is a need for a law change in some way to bring greater consistency in this area.

Sections Five and Six: These sections are proposed to be amended to be more consistent with the approach taken for other administrative appeals of state agency decisions. The Department's decision to suspend interest or suspend a license is not taken lightly, and only after a thorough case review. The Department's approach can be difficult to convey in a brief court hearing, and warrants the deferential standard of review that the court usually applies to such agency decisions.

SB 2115
1-30-19

Section Seven: North Dakota Century Code Section 14-09-09.37 was enacted because the Affordable Care Act placed responsibility to provide health insurance for a child on the parent who claimed the child as a dependent.

#1
p3

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SB 2115

1-30-19

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This concludes my testimony, and I am happy to answer any questions you may have.

19.8100.02001
Title.

Prepared by the Legislative Council staff for
Senator Dever

February 12, 2019

#1 SB 2115
2-13-2019
pg 1

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2115

Page 4, line 4, remove the overstrike over "for"

Page 4, line 5, remove the overstrike over "deposit in the"

Page 4, line 5, after "general" insert "child support collection and disbursement"

Page 4, line 5, remove the overstrike over "fund"

Renumber accordingly

19.8100.02001
Title.

Prepared by the Legislative Council staff for
Senator Dever

February 12, 2019

2-14-19
SB2115
#1
P1

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2115

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Page 4, line 5, remove the overstrike over "deposit in the"

Page 4, line 5, after "general" insert "child support collection and disbursement"

Page 4, line 5, remove the overstrike over "fund"

Renumber accordingly

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#1
SB 2115
3/4/19
pg. 1

Department of Human Services
House Human Services Committee
Representative Robin Weisz, Chairman

March 4, 2019

Chairman Weisz and members of the Human Services Committee, I am Jim Fleming, Director of the Child Support Division of the Department of Human Services (Department). I am here to ask for the Committee's support for Reengrossed Senate Bill 2115.

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#1
SB 2115
3/4/19
P.2

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