

JOURNAL OF THE SENATE

Sixty-fourth Legislative Assembly

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Bismarck, February 5, 2015

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

The prayer was offered by Pastor Paul Herr, Century Baptist Church, Bismarck.

The roll was called and all members were present except Senators Grabinger and Robinson.

A quorum was declared by the President.

MOTION

SEN. KLEIN MOVED that the Senate resolve itself into a Confirmation Session, which motion prevailed.

REPORT OF SELECT COMMITTEE

MR. PRESIDENT: Your **Select Committee (Sen. Klein, Chairman)** appointed to consider the nomination to North Dakota State Board of Higher Education, do not advise and consent to the appointment of Kevin Melicher.

MOTION

SEN. SCHAIBLE MOVED that the report be adopted.

ROLL CALL

The question being, "will the Senate advise and consent to the appointment of Kevin Melicher to North Dakota State Board of Higher Education," the roll was called and there were 27 YEAS, 18 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Anderson; Burckhard; Casper; Davison; Dever; Dotzenrod; Erbele; Flakoll; Heckaman; Hogue; Kilzer; Klein; Krebsbach; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Murphy; Nelson; Oban; Oehlke; Schneider; Sinner; Sorvaag; Wanzek; Warner

NAYS: Armstrong; Axness; Bekkedahl; Bowman; Campbell; Carlisle; Cook; Holmberg; Laffen; Larsen; Miller; O'Connell; Poolman; Rust; Schaible; Triplett; Unruh; Wardner

ABSENT AND NOT VOTING: Grabinger; Robinson

The Senate advises and consents to the appointment of Kevin Melicher to North Dakota State Board of Higher Education.

MOTION

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

CONSIDERATION OF AMENDMENTS

SB 2272: SEN. WARNER (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 2272 was rereferred to the **Appropriations Committee**.

CONSIDERATION OF AMENDMENTS

SB 2045: SEN. J. LEE (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 2045 was rereferred to the **Appropriations Committee**.

CONSIDERATION OF AMENDMENTS

SB 2031: SEN. FLAKOLL (Education 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 2031 was rereferred to the **Appropriations Committee**.

CONSIDERATION OF AMENDMENTS

SB 2326: SEN. SCHAIBLE (Education 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 2326 was rereferred to the **Appropriations Committee**.

CONSIDERATION OF AMENDMENTS

SB 2168: SEN. ANDERSON (Human Services Committee) MOVED that the amendments be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

CONSIDERATION OF AMENDMENTS

SB 2073: SEN. NELSON (Judiciary Committee) MOVED that the amendments be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

CONSIDERATION OF AMENDMENTS

SB 2072: SEN. HOGUE (Judiciary Committee) MOVED that the amendments be adopted and then be placed on the Eleventh order with **DO PASS**, which motion prevailed on a voice vote.

SECOND READING OF SENATE BILL

SB 2113: A BILL for an Act to amend and reenact section 57-02-08.8 of the North Dakota Century Code, relating to the property tax credit for disabled veterans and extension of the disabled veterans' property tax credit to the disabled veteran's surviving spouse; and to provide an effective date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Grabinger; Robinson

Engrossed SB 2113 passed.

SECOND READING OF SENATE BILL

SB 2188: A BILL for an Act to amend and reenact section 43-07-02 and subsection 3 of section 43-07-10 of the North Dakota Century Code, relating to providing penalties for operating without a contractor's license and committing construction fraud; to repeal section 43-07-18 of the North Dakota Century Code, relating to the penalty for operating without a contractor's license; to provide a penalty; and to declare an emergency.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 45 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

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

ABSENT AND NOT VOTING: Grabinger; Robinson

Engrossed SB 2188 passed and the emergency clause was declared carried.

SECOND READING OF SENATE BILL

SB 2362: A BILL for an Act to amend and reenact subsection 1 of section 57-38-01.26 of the North Dakota Century Code, relating to extending the time for remitting funds to an angel fund to qualify for an income tax credit for the taxable year; and to provide an effective date.

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 9 YEAS, 36 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Campbell; Casper; Davison; Flakoll; Kilzer; Larsen; O'Connell; Sorvaag; Warner

NAYS: Anderson; Armstrong; Axness; Bekkedahl; Bowman; Burckhard; Carlisle; Cook; Dever; Dotzenrod; Erbele; Heckaman; Hogue; Holmberg; Klein; Krebsbach; Laffen; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Miller; Murphy; Nelson; Oban; Oehlke; Poolman; Rust; Schaible; Schneider; Sinner; Triplett; Unruh; Wanzek; Wardner

ABSENT AND NOT VOTING: Grabinger; Robinson

SB 2362 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 2116, SB 2121, SB 2154, SB 2215, SB 2219, SB 2241, SB 2256, SB 2327.

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

MR. SPEAKER: The Senate has passed, the emergency clause carried, and your favorable consideration is requested on: SB 2278.

MOTION

SEN. KLEIN MOVED that the absent members 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, February 6, 2015, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2044: 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** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2044 was placed on the Sixth order on the calendar.

Page 1, line 1, after "provide" insert "for the creation of a traumatic brain injury program; to provide"

Page 1, after line 4, insert:

"SECTION 1.**Traumatic brain injury flex fund program.**

1. The department of human services shall develop a flex fund program for traumatic brain injury services and support for individuals with traumatic brain injury.
2. To be eligible for the flex fund program, an individual must have been a resident of the state for a minimum of six months, have income levels that do not exceed three hundred percent of the federal poverty level, and have a diagnosis of traumatic brain injury. The flex fund must be the payer of last resort.
3. The traumatic brain injury flex fund program must be used to pay for services that increase the achievement of functional independence and a return to a productive lifestyle for an individual that has suffered a traumatic brain injury. Eligible services may include durable medical equipment, assistive technology, independent living, medicare, mental health, occupational therapy and equipment, physical therapy and equipment, speech and language, educational and employment, executive and social skills training programs, transportation, respite care, and home accessibility modifications."

Page 1, line 12, replace "The" with "During the 2015-16 interim, the"

Page 1, line 13, remove "during the 2015-16 interim"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2060: 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 2060 was placed on the Sixth order on the calendar.

Page 1, line 17, remove "With an established diagnosis consistent with chronic pain;"

Page 1, line 18, remove "(2)"

Page 1, line 19, replace "(3)" with "(2)"

Page 1, line 20, replace "(4)" with "(3)"

Page 1, line 20, remove "a reliable injured employee who is known to the prescriber and is"

Page 1, line 21, remove "expected to be"

Page 2, line 5, replace "an" with "one"

Page 2, line 6, after the underscored period insert "This paragraph does not preclude temporary coverage within a single clinic by an identified prescriber when the prescriber of record is unavailable and does not preclude a referral to a pain specialist."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2106: Judiciary Committee (Sen. Hogue, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2106 was placed on the Sixth order on the calendar.

Page 2, line 13, after the first underscored comma insert "guardian or"

Page 2, line 22, after "a" insert "guardian or"

Page 2, line 23, replace "an application" with "a petition"

Page 2, line 23, after "a" insert "guardian or"

Page 3, line 12, after "by" insert "guardian or"

Page 3, line 14, after "chapter" insert "30.1-28 or"

Page 3, line 14, after "a" insert "guardian or"

Page 5, line 25, after "A" insert "guardian or"

Page 5, line 26, after the second "the" insert "guardian or"

Page 8, line 1, after "A" insert "guardianship or"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2161: Judiciary Committee (Sen. Hogue, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2161 was placed on the Sixth order on the calendar.

Page 1, line 2, after "courts" insert "; and to provide an expiration date"

Page 1, line 6, after "courts" insert "- Report to legislative management"

Page 1, line 17, remove "A member appointed by the governor."

Page 1, line 18, remove "c."

Page 1, line 19, replace "d." with "c."

Page 1, line 21, replace "e." with "d."

Page 1, remove line 23

Page 1, line 24, replace "g." with "e."

Page 2, line 1, replace "h." with "f."

Page 2, remove line 2

Page 2, line 3, replace "j." with "g."

Page 2, remove lines 5 and 6

Page 2, line 7, replace "m. Two members" with:

 "h. One member"

Page 2, line 7, remove ", one"

Page 2, remove line 8

Page 2, line 9, remove "enforcement agencies"

Page 2, remove line 10

Page 2, line 11, replace "o." with "i."

Page 2, line 14, remove "Members of the interdisciplinary committee serve for a term of three years beginning"

Page 2, remove line 15

Page 2, line 16, remove "5."

Page 2, line 19, replace "6." with "5."

Page 2, line 19, replace "semiannually" with "quarterly"

Page 2, line 28, after the underscored comma insert "report findings and"

Page 2, line 28, after "recommend" insert "proposed legislation"

Page 2, line 28, remove "presiding judge of a judicial"

Page 2, remove line 29

Page 2, line 30, replace "judicial district should be considered" with "legislative management"

Page 3, line 2, replace "supreme court" with "legislative management"

Page 3, remove lines 6 through 14

Page 3, after line 17, insert:

"SECTION 2. EXPIRATION DATE. This Act is effective through July 31, 2017, and after that date is ineffective."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2169: Education Committee (Sen. Flakoll, Chairman) recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2169 was rereferred to the **Appropriations Committee**.

REPORT OF STANDING COMMITTEE

SB 2173: 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 2173 was placed on the Sixth order on the calendar.

Page 1, line 9, after the first "physician" insert "or an advanced practice registered nurse"

Page 1, line 9, after the second "physician" insert "or advanced practice registered nurse"

Page 1, line 13, after "physician" insert "or the advanced practice registered nurse"

Page 1, line 13, after "and" insert "the"

Page 1, line 16, after "physician" insert "or the advanced practice registered nurse"

Page 1, line 17, after "physician" insert "or the advanced practice registered nurse"

Page 1, line 22, after "examiners" insert "or board of nursing"

Page 2, line 1, replace "each board which pharmacists and physicians are" with "the respective board of any physician, advanced practice registered nurse, and pharmacist"

Page 2, line 1, remove "If"

Page 2, remove lines 2 through 5

Page 2, line 6, after the "4." insert "If there is a change in personnel under the collaborative agreement, a pharmacist, physician, and advanced practice registered nurse under the collaborative agreement shall send immediate notice of the change to the respective licensing board of that individual. Unless necessary, a change in personnel does not necessitate board approval of the collaborative agreement.

5."

Page 2, line 7, after "physician" insert "or advanced practice registered nurse"

Page 2, line 9, replace "5." with "6."

Page 2, line 16, after "examiners" insert "or the board of nursing"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2209: 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 2209 was placed on the Sixth order on the calendar.

Page 1, line 7, remove the overstrike over "~~Once every two years~~"

Page 1, line 7, remove "Annually"

Page 1, line 8, after "school" insert "instructional"

Page 1, line 9, after the "to" insert "mental health risk indicators, including"

Page 1, line 9, remove "and mental health risk indicators"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2234: 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 2234 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 department of human services study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY. The department of human services shall study eligibility for developmental disability waivers and report to the legislative management by January 1, 2016."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2253: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2253 was rereferred to the **Appropriations Committee**.

REPORT OF STANDING COMMITTEE

SB 2262: Political Subdivisions Committee (Sen. Burckhard, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2262 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2288: 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 2288 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "; and to"

Page 1, line 3 remove "provide an appropriation"

Page 1, remove lines 16 through 20

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2310: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2310 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2334: 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 2334 was placed on the Sixth order on the calendar.

Page 4, line 12, replace "confirmation-diagnostic" with "confirmatory-diagnostic"

Page 5, line 24, replace "Institution" with "Institutional"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2364: 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 2364 was placed on the Sixth order on the calendar.

Page 1, line 1, replace the first "subsection" with "subsections 1 and"

Page 1, line 1, replace the second "subsection" with "subsections 1 and"

Page 1, after line 6 insert:

"SECTION 1. AMENDMENT. Subsection 1 of section 54-59-25 of the North Dakota Century Code is amended and reenacted as follows:

1. The health information technology advisory committee consists of the state chief information officer or the chief information officer's designee, the state health officer or the state health officer's designee, the governor or the governor's designee, the executive director of the department of human services or the executive director's designee, the chairman of the house human services committee and the chairman of the senate human services committee or if either or both of them are unwilling or unable to serve then the chairman of the legislative management shall appoint a replacement who is a member of the same legislative chamber as the individual being replaced, and individuals appointed by the governor to represent a broad range of public and private health information technology stakeholders. A committee member who is not an ex officio member, designee of an ex officio member, state employee, or legislator is entitled to mileage and expenses as provided by law for state officers and employees, to be paid by the health information technology office. A committee member who is an ex officio member, designee of an ex officio member, state employee, or legislator is entitled to receive that member's regular salary and receive mileage and expenses, to be paid by the employing agency."

Page 1, after line 11, insert:

"SECTION 3. AMENDMENT. Subsection 1 of section 54-59-26 of the North Dakota Century Code is amended and reenacted as follows:

1. The health information technology office is created in the department. The health information technology advisory committee shall make recommendations to the health information technology office for implementing ~~a statewide~~ interoperable health information infrastructure that is consistent with emerging national standards; promote the adoption and use of electronic health records and other health information technologies; and promote interoperability of health information systems for the purpose of improving health care quality, patient safety, and the overall efficiency of health care and public health services."

Renumber accordingly

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

Jane Schaible, Secretary

