

JOURNAL OF THE SENATE**Sixty-fourth Legislative Assembly**

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Bismarck, January 13, 2015

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

The prayer was offered by Sister Anna Rose Ruhland, St. Vincent's Care Center, Bismarck.

The roll was called and all members were present except Senators Klein and Wanzek.

A quorum was declared by the President.

SECOND READING OF SENATE BILL

SB 2077: A BILL for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code, relating to criminal history record checks for game and fish department volunteers and final applicants.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 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; Grabinger; Heckaman; Hogue; Holmberg; Kilzer; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Oban; Oehlke; Poolman; Robinson; Rust; Schaible; Schneider; Sinner; Sorvaag; Triplett; Unruh; Wardner; Warner

ABSENT AND NOT VOTING: Klein; Wanzek

SB 2077 passed.

SECOND READING OF SENATE BILL

SB 2040: A BILL for an Act to provide an appropriation to the office of management and budget to develop a master plan in conjunction with the capitol grounds planning commission for all state agencies with a physical location in the Bismarck area; to provide for reports to the legislative management; and to declare an emergency.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 19 YEAS, 26 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

YEAS: Bekkedahl; Burckhard; Campbell; Carlisle; Davison; Erbele; Laffen; Lee, G.; Lee, J.; Luick; Mathern; Murphy; O'Connell; Robinson; Schaible; Sorvaag; Triplett; Unruh; Warner

NAYS: Anderson; Armstrong; Axness; Bowman; Casper; Cook; Dever; Dotzenrod; Flakoll; Grabinger; Heckaman; Hogue; Holmberg; Kilzer; Krebsbach; Larsen; Marcellais; Miller; Nelson; Oban; Oehlke; Poolman; Rust; Schneider; Sinner; Wardner

ABSENT AND NOT VOTING: Klein; Wanzek

SB 2040 failed.

SECOND READING OF SENATE BILL

SB 2118: A BILL for an Act to amend and reenact subsection 4 of section 39-01-15 of the North Dakota Century Code, relating to mobility impaired parking privilege applications.

ROLL CALL

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 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; Grabinger; Heckaman; Hogue; Holmberg; Kilzer; Krebsbach; Laffen; Larsen; Lee, G.; Lee, J.; Luick; Marcellais; Mathern; Miller; Murphy; Nelson; O'Connell; Oban; Oehlke; Poolman; Robinson; Rust; Schaible; Schneider; Sinner; Sorvaag; Triplett; Unruh; Wardner; Warner

ABSENT AND NOT VOTING: Klein; Wanzek

SB 2118 passed.

MOTION

SEN. HOGUE MOVED that SB 2199 be returned to the Senate floor from the **Human Services Committee** and be rereferred to the **Judiciary Committee**, which motion prevailed.

Pursuant to Sen. Hogue's motion, SB 2199 was rereferred.

MOTION

SEN. HOGUE MOVED that the absent members be excused, which motion prevailed.

MOTION

SEN. HOGUE MOVED that the Senate be on the Fifth and Ninth orders of business and at the conclusion of those orders, the Senate stand adjourned until 1:00 p.m., Wednesday, January 14, 2015, which motion prevailed.

REPORT OF STANDING COMMITTEE

SB 2064: 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 2064 was placed on the Sixth order on the calendar.

Page 1, line 1, after "reenact" insert "subsection15 of section 27-20-02,"

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, after "27-20-30.1" insert "and 27-20-38"

Page 1, line 2, after "to" insert "the definition of permanency hearing,"

Page 1, line 3, after "Dakota" insert "and the rights and duties of legal custodian"

Page 1, after line 5, insert:

"SECTION 1. AMENDMENT. Subsection 15 of section 27-20-02 of the North Dakota Century Code is amended and reenacted as follows:

15. "Permanency hearing" means a hearing, conducted with respect to a child who is in foster care, to determine the permanency plan for the child which includes:

- a. Whether and, if applicable, when the child will be returned to the parent;
- b. Whether and, if applicable, when the child will be placed for adoption and the state will file a petition for termination of parental rights;
- c. Whether and, if applicable, when a fit and willing relative or other appropriate individual will be appointed as a legal guardian;
- d. Whether and, if applicable, to place siblings in the same foster care, relative, guardianship, or adoptive placement, unless it is determined that the joint placement would be contrary to the safety or well-being of any of the siblings;
- e. Whether and, if applicable, in the case of siblings removed from their home who are not jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings, unless it is determined to be contrary to the safety or well-being of any of the siblings;
- f. In cases in which a compelling reason has been shown that it would not be in the child's best interests to return home, to have parental rights terminated, to be placed for adoption, to be placed with a fit and willing relative, or to be placed with a legal guardian, whether and, if applicable, when the child, aged sixteen or older, will be placed in another planned permanent living arrangement. The court shall:
 - (1) Ask the child whether the child has a desired permanency outcome of another planned permanent living arrangement.
 - (2) Make a judicial determination explaining why another planned permanent living arrangement is the best permanency plan for the child, and
 - (3) Identify the compelling reasons it continues not to be in the best interest of the child to return home, be placed for adoption, be placed with a legal guardian, or be placed with a fit and willing relative;
- g. In the case of a child who has been placed in foster care outside the state in which the home of the parents is located, or if the parents maintain separate homes, outside the state in which the home of the parent who was the child's primary caregiver is located, whether out-of-state placements have been considered. If the child is currently in an out-of-state placement, the court shall determine whether the placement continues to be appropriate and in the child's best interests; and
- h. In the case of a child who has attained age sixteen, the services needed to assist the child to make the transition from foster care to independent living."

Page 2, after line 25, insert:

"SECTION 3. AMENDMENT. Section 27-20-38 of the North Dakota Century Code is amended and reenacted as follows:

27-20-38. Rights and duties of legal custodian.

A custodian to whom legal custody has been given by the court under this chapter has:

- 1. The right to the physical custody of the child and the right to determine the nature of the care, placement, and treatment of the child, including

ordinary medical care as well as medical or surgical treatment for a serious physical condition or illness which in the opinion of a licensed physician requires prompt treatment, except for any limits the court may impose.

2. The right and duty to provide for the care, protection, training, and education and the physical, mental, and moral welfare of the child, subject to the conditions and limitations of the order and to the remaining rights and duties of the child's parents or guardian.
3. A duty within thirty days after the removal of a child from the custody of the parent or parents of the child for the purpose of placement into foster care, to exercise due diligence to identify and provide notice to the following relatives: all parents of a sibling of the child entering foster care who have legal custody of the sibling, all adult grandparents, and any other adult relative suggested by the parents and grandparents, subject to exceptions due to family or domestic violence, that:
 - a. Specifies that the child has been or is being removed from the custody of the parent or parents of the child;
 - b. Explains the options the relative has under federal, state, and local law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice;
 - c. Describes the requirements and standards to become a foster family home and the additional services and supports that are available for children placed in that home; and
 - d. Describes how the relative of the child may enter into an agreement with the department to receive a subsidized guardianship payment.
4. For purposes of this section, "sibling of the child entering foster care" means:
 - a. A brother or sister who has at least one biological or adoptive parent in common;
 - b. A fictive brother or sister with a significant bond as identified by the child or parent; or
 - c. A child that would have been considered a sibling but for the termination or other disruption of parental rights, including a death of a parent."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2085: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2085 was placed on the Eleventh order on the calendar.

REPORT OF STANDING COMMITTEE

SB 2137: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2137 was placed on the Eleventh order on the calendar.

FIRST READING OF SENATE BILLS

Sens. Laffen, Rust, Unruh and Reps. Beadle, Delmore, Owens introduced:

SB 2201: A BILL for an Act to provide an appropriation to the department of commerce for energy-related research and development grants.

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

Sens. Oehlke, Dotzenrod, Sorvaag and Reps. Delmore, Dockter, Thoreson introduced:

SB 2202: A BILL for an Act to amend and reenact section 53-06.1-12 of the North Dakota

Century Code, relating to gaming and excise taxes; and to provide an effective date.
Was read the first time and referred to the **Finance and Taxation Committee**.

Sens. Laffen, Bekkedahl, Triplett and Rep. Hatlestad introduced:

SB 2203: A BILL for an Act amend and reenact section 48-01.2-06 of the North Dakota Century Code, relating to bids for public improvement contracts.

Was read the first time and referred to the **Industry, Business and Labor Committee**.

Sens. Hogue, Armstrong, Nelson and Reps. Klemin, Larson, Wallman introduced:

SB 2204: A BILL for an Act to create and enact a new subsection to section 12.1-08-03 of the North Dakota Century Code, relating to the jurisdiction and venue of the crime of hindering law enforcement.

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

Sen. Bekkedahl and Reps. Hawken, Hofstad, Keiser, Meier introduced:

SB 2205: A BILL for an Act to amend and reenact sections 43-28.1-01, 43-28.1-02, 43-28.1-03, and 43-28.1-04 of the North Dakota Century Code, relating to the dentists' loan repayment program; to repeal sections 43-28.1-01.1 and 43-28.1-10 of the North Dakota Century Code, relating to the loan repayment program for dentists in public health and nonprofit dental clinics and new practice grants for dentists; and to provide for application.

Was read the first time and referred to the **Human Services Committee**.

Sens. Dever, J. Lee, Murphy and Reps. Holman, Owens, Weisz introduced:

SB 2206: A BILL for an Act to create and enact sections 50-06-05.8 and 50-06-20.1 of the North Dakota Century Code, relating to the department of human services assuming certain costs of certain social service programs and to the establishment of a human services grant program; to amend and reenact sections 11-23-01, 50-01.2-00.1, 50-03-08, 50-06-20, 50-09-27, and 50-24.1-14 of the North Dakota Century Code, relating to county social service board budgets and programs funded at state expense; to repeal sections 50-03-09, 50-06.2-05.1, and 50-09-21.1 of the North Dakota Century Code, relating to the county's share of medical assistance for therapeutic foster care, service payments to the elderly and disabled, and the county share of foster care costs; to establish a social services financing commission; to provide an effective date; to provide an expiration date; and to declare an emergency.

Was read the first time and referred to the **Human Services Committee**.

Sen. Oehlke and Reps. Hofstad, D. Johnson, Meier introduced:

SB 2207: A BILL for an Act to amend and reenact section 11-11-53 of the North Dakota Century Code, relating to a state matching program for county historical work; to provide an appropriation; and to provide an effective date.

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

Sens. Oehlke, Poolman and Reps. Meier, Oversen introduced:

SB 2208: A BILL for an Act to amend and reenact section 12.1-30-04 of the North Dakota Century Code, relating to retail business leases and agreements and state holidays; and to provide a penalty.

Was read the first time and referred to the **Industry, Business and Labor Committee**.

Sens. Heckaman, Axness, Flakoll, Marcellais and Reps. Hunskor, Monson introduced:

SB 2209: A BILL for an Act to amend and reenact section 15.1-19-24 of the North Dakota Century Code, relating to youth suicide prevention training.

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

Sens. G. Lee, Flakoll, Marcellais and Reps. D. Johnson, Mock, Nathe introduced:

SB 2210: A BILL for an Act to create and enact chapter 15.1-09.2 of the North Dakota Century Code, relating to regional education associations; and to repeal chapter 15.1-09.1 of the North Dakota Century Code, relating to regional education associations.

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

Sens. Hogue, Campbell, Klein, Miller and Rep. Ruby introduced:

SB 2211: A BILL for an Act to amend and reenact subsection 2 of section 39-06.1-06 and section 39-08-20 of the North Dakota Century Code, relating to the offense of driving

without liability insurance.

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

Sens. Hogue, Laffen, G. Lee, Oehlke and Reps. Nathe, Ruby introduced:

SB 2212: A BILL for an Act to amend and reenact subsection 1 of section 57-38-30.3 of the North Dakota Century Code, relating to an individual income tax rate reduction; to provide an effective date; and to provide an expiration date.

Was read the first time and referred to the **Finance and Taxation Committee**.

Sens. Miller, Unruh and Reps. Rick C. Becker, Boehning, Rohr, Schatz introduced:

SB 2213: A BILL for an Act to amend and reenact sections 15-20.2-04, 15-20.2-06, and 15-20.2-13, subsection 1 of section 15.1-07-02, subsection 2 of section 15.1-07-03, sections 15.1-09-01 and 15.1-09-02, subsection 2 of section 15.1-09-05, sections 15.1-09-07, 15.1-09-08, 15.1-09-12, 15.1-09-14, 15.1-09-15, 15.1-09-16, 15.1-09-17, 15.1-09-18, 15.1-09-20, 15.1-09-21, and 15.1-09-23, subsection 1 of section 15.1-09-30, section 15.1-09-31, subsection 34 of section 15.1-09-33, subsections 3 and 4 of section 15.1-09-39, subsection 1 of section 15.1-29-03, and section 16.1-16-01 of the North Dakota Century Code, relating to school district elections; and to repeal sections 15.1-09-03, 15.1-09-09, 15.1-09-10, 15.1-09-13, 15.1-09-19, 15.1-09-22, and 15.1-09-24 of the North Dakota Century Code, relating to school district elections.

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

FIRST READING OF SENATE CONCURRENT RESOLUTION

Sens. Wardner, Schneider and Reps. Carlson, Onstad introduced:

SCR 4010: A concurrent resolution to amend and reenact section 5 of article IV of the Constitution of North Dakota, relating to residency requirements of members of the legislative assembly.

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

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

Jane Schaible, Secretary