

ONE HUNDRED SEVENTH DAY

St. Paul, Minnesota, Thursday, April 24, 2008

The Senate met at 10:00 a.m. and was called to order by the President.

CALL OF THE SENATE

Senator Pogemiller imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Rev. Gregory Welch.

The roll was called, and the following Senators answered to their names:

Anderson	Erickson Ropes	Kubly	Olson, G.	Senjem
Bakk	Fischbach	Langseth	Ortman	Sheran
Berglin	Foley	Larson	Pappas	Sieben
Betzold	Frederickson	Latz	Pariseau	Skogen
Bonoff	Gerlach	Limmer	Pogemiller	Sparks
Carlson	Gimse	Lourey	Prettner Solon	Stumpf
Chaudhary	Higgins	Lynch	Robling	Tomassoni
Clark	Ingebrigtsen	Marty	Rosen	Vandever
Cohen	Johnson	Metzen	Rummel	Vickerman
Day	Jungbauer	Michel	Saltzman	Wergin
Dille	Koch	Moua	Saxhaug	Wiger
Doll	Koering	Olseen	Scheid	

The President declared a quorum present.

The reading of the Journal was dispensed with and the Journal, as printed and corrected, was approved.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 3337: A bill for an act relating to energy; creating coordinated process for reducing greenhouse gas emissions; proposing coding for new law in Minnesota Statutes, chapter 216H.

Senate File No. 3337 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned April 23, 2008

Senator Prettner Solon moved that the Senate do not concur in the amendments by the House to S.F. No. 3337, and that a Conference Committee of 5 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 3722, 3195 and 3486.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted April 23, 2008

FIRST READING OF HOUSE BILLS

The following bills were read the first time.

H.F. No. 3722: A bill for an act relating to economic development; providing military reservist economic injury loans; defining terms; appropriating money; amending Minnesota Statutes 2007 Supplement, section 116L.17, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 116J.

Referred to the Committee on Finance.

H.F. No. 3195: A bill for an act relating to environment; establishing an intent to participate in a cap and trade program for greenhouse gas emissions; requiring studies; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 216H.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2818, now on the Calendar.

H.F. No. 3486: A bill for an act relating to motor carriers; reallocating proceeds of fees collected since 2005 under the International Fuel Tax Agreement compact; amending Minnesota Statutes 2006, sections 168D.06; 168D.07; 299A.705, subdivision 1.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 3314, now on General Orders.

MOTIONS AND RESOLUTIONS

Senator Bakk moved that his name be stricken as chief author, and the name of Senator Murphy be added as chief author to S.F. No. 3314. The motion prevailed.

Senator Berglin moved that the name of Senator Pogemiller be added as a co-author to S.F. No. 3835. The motion prevailed.

Senator Limmer introduced –

Senate Resolution No. 192: A Senate resolution congratulating Brett Johnson of Hanover, Minnesota, for receiving the Eagle Award.

Referred to the Committee on Rules and Administration.

Senators Prettner Solon, Bakk, Lourey, Saxhaug and Tomassoni introduced –

Senate Resolution No. 193: A Senate resolution honoring the University of Minnesota Duluth women's hockey team.

Referred to the Committee on Rules and Administration.

Senator Erickson Ropes introduced –

Senate Resolution No. 194: A Senate resolution congratulating Joe Tristano of Winona as one of the winners of the 2008 ARRM CARES Award.

Referred to the Committee on Rules and Administration.

Senator Koch introduced –

Senate Resolution No. 195: A Senate resolution congratulating Michael Jacobs of Rockford Township, Minnesota, for receiving the Eagle Award.

Referred to the Committee on Rules and Administration.

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate proceeded to the Order of Business of Introduction and First Reading of Senate Bills.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time.

Senators Rest, Saxhaug, Stumpf and Gimse introduced–

S.F. No. 3850: A bill for an act relating to drivers' licenses; creating enhanced driver's license and enhanced identification card; providing for application, issuance, and appearance of card; directing commissioner of public safety to seek approval of card by Homeland Security secretary for proof of identity and citizenship and for use in entering United States; amending Minnesota Statutes 2006, sections 171.01, by adding subdivisions; 171.04, by adding a subdivision; 171.06, subdivisions 1, 3, as amended, 6; 171.07, subdivision 3, as amended, by adding subdivisions; 171.071, by adding a subdivision; Minnesota Statutes 2007 Supplement, section 171.06, subdivision 2.

Referred to the Committee on Transportation.

Senators Gimse, Michel, Day, Koch and Gerlach introduced—

S.F. No. 3851: A bill for an act relating to employment; modifying prevailing wage provisions; amending Minnesota Statutes 2006, section 177.42, subdivision 6.

Referred to the Committee on Business, Industry and Jobs.

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Senator Betzold moved that the Senate take up the General Orders Calendar. The motion prevailed.

GENERAL ORDERS**SUSPENSION OF RULES**

Senator Betzold moved that Rule 22.3 be suspended as to the lie-over requirement on H.F. 3346. The motion prevailed.

The Senate resolved itself into a Committee of the Whole, with Senator Metzen in the chair.

After some time spent therein, the committee arose, and Senator Metzen reported that the committee had considered the following:

S.F. No. 3366 and H.F. No 3411, which the committee recommends to pass.

S.F. No. 3715, which the committee recommends to pass with the following amendment offered by Senator Day:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2006, section 144A.071, subdivision 4c, is amended to read:

Subd. 4c. **Exceptions for replacement beds after June 30, 2003.** (a) The commissioner of health, in coordination with the commissioner of human services, may approve the renovation, replacement, upgrading, or relocation of a nursing home or boarding care home, under the following conditions:

(1) to license and certify an 80-bed city-owned facility in Nicollet County to be constructed on the site of a new city-owned hospital to replace an existing 85-bed facility attached to a hospital that is also being replaced. The threshold allowed for this project under section 144A.073 shall be the maximum amount available to pay the additional medical assistance costs of the new facility;

(2) to license and certify 29 beds to be added to an existing 69-bed facility in St. Louis County, provided that the 29 beds must be transferred from active or layaway status at an existing facility in St. Louis County that had 235 beds on April 1, 2003.

The licensed capacity at the 235-bed facility must be reduced to 206 beds, but the payment rate at that facility shall not be adjusted as a result of this transfer. The operating payment rate of the facility

adding beds after completion of this project shall be the same as it was on the day prior to the day the beds are licensed and certified. This project shall not proceed unless it is approved and financed under the provisions of section 144A.073;

(3) to license and certify a new 60-bed facility in Austin, provided that: (i) 45 of the new beds are transferred from a 45-bed facility in Austin under common ownership that is closed and 15 of the new beds are transferred from a 182-bed facility in Albert Lea under common ownership; (ii) the commissioner of human services is authorized by the 2004 legislature to negotiate budget-neutral planned nursing facility closures; and (iii) money is available from planned closures of facilities under common ownership to make implementation of this clause budget-neutral to the state. The bed capacity of the Albert Lea facility shall be reduced to 167 beds following the transfer. Of the 60 beds at the new facility, 20 beds shall be used for a special care unit for persons with Alzheimer's disease or related dementias; and

(4) to license and certify up to 80 beds transferred from an existing state-owned nursing facility in Cass County to a new facility located on the grounds of the Ah-Gwah-Ching campus. The operating cost payment rates for the new facility shall be determined based on the interim and settle-up payment provisions of Minnesota Rules, part 9549.0057, and the reimbursement provisions of section 256B.431. The property payment rate for the first three years of operation shall be \$35 per day. For subsequent years, the property payment rate of \$35 per day shall be adjusted for inflation as provided in section 256B.434, subdivision 4, paragraph (c), as long as the facility has a contract under section 256B.434; and

(5) to initiate a pilot program to license and certify up to 80 beds transferred from an existing county-owned nursing facility in Steele County relocated to the site of a new acute care facility as part of the county's Communities for a Lifetime comprehensive plan to create innovative responses to the aging of its population. Upon relocation to the new site, the nursing facility shall delicense 28 beds. The property payment rate for the first three years of operation of the new facility shall be increased by an amount as calculated according to items (i) to (v):

(i) compute the estimated decrease in medical assistance residents served by the nursing facility by multiplying the decrease in licensed beds by the historical percentage of medical assistance resident days;

(ii) compute the annual savings to the medical assistance program from the delicensure of 28 beds by multiplying the anticipated decrease in medical assistance residents, determined in item (i), by the existing facility's weighted average payment rate multiplied by 365;

(iii) compute the anticipated annual costs for community-based services by multiplying the anticipated decrease in medical assistance residents served by the nursing facility, determined in item (i), by the average monthly elderly waiver service costs for individuals in Steele County multiplied by 12;

(iv) subtract the amount in item (iii) from the amount in item (ii);

(v) divide the amount in item (iv) by an amount equal to the relocated nursing facility's occupancy factor under section 256B.431, subdivision 3f, paragraph (c), multiplied by the historical percentage of medical assistance resident days.

For subsequent years, the adjusted property payment rate shall be adjusted for inflation as

provided in section 256B.434, subdivision 4, paragraph (c), as long as the facility has a contract under section 256B.434.

(b) Projects approved under this subdivision shall be treated in a manner equivalent to projects approved under subdivision 4a.

Sec. 2. STEELE COUNTY ASSET TRANSFER; STATUS OF TRANSFEEE.

Subdivision 1. **Asset transfer authorized.** Steele County may lease, sell, or otherwise transfer to a nonprofit corporation all of the real and personal property, tangible and intangible, including contract rights, receivables, and enterprise funds, owned or used by the county for nursing home, assisted living, and related purposes and may acquire a membership interest in the nonprofit corporation. Any lease must provide for rent payable by the corporation at least sufficient to pay the principal and interest on the outstanding bonds of the county issued to finance any of the facilities. The lease may grant the corporation an option or require the corporation to purchase the facilities upon payment or redemption of the outstanding bonds. Any lease, sale, or other transfer must be on terms and conditions approved by the county board, without advertisement or public solicitation of bids.

Subd. 2. **Status of transferee.** The articles of incorporation or bylaws of the transferee corporation may provide that the county board has the right to appoint and remove one or more members of the governing board of the corporation and that specified actions be subject to the approval of the members. The corporation shall be a nonprofit corporation organized under Minnesota Statutes, chapter 317A, and entitled to exercise all of the powers of a nonprofit corporation under that chapter. If the county board does not have the right to appoint a majority of the governing board of the nonprofit corporation, neither Minnesota Statutes, section 465.717, nor other laws applicable to public corporations shall apply to the nonprofit corporation.

Subd. 3. **Open meeting law; data practices.** A nonprofit corporation created under this section is subject to the Minnesota Open Meeting Law and Minnesota Government Data Practices Act.

EFFECTIVE DATE; LOCAL APPROVAL. This section is effective the day after the governing body of Steele County and its chief clerical officer timely complete compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3."

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 2925, which the committee recommends to pass with the following amendments offered by Senators Saltzman and Robling:

Senator Saltzman moved to amend S.F. No. 2925 as follows:

Page 1, line 10, after "three" insert "other" and reinstate the stricken "deputy and"

Page 1, lines 11 and 12, reinstate the stricken language

The motion prevailed. So the amendment was adopted.

Senator Robling moved to amend S.F. No. 2925 as follows:

Page 1, line 9, after the period, insert "A commissioner who is licensed as a professional engineer under section 326.02, may appoint a deputy commissioner who is not a licensed professional engineer."

The motion prevailed. So the amendment was adopted.

H.F. No. 3346, which the committee recommends to pass with the following amendment offered by Senator Senjem:

Page 1, after line 5, insert:

"Section 1. Minnesota Statutes 2006, section 13.681, is amended by adding a subdivision to read:

Subd. 6. **Utility disconnection.** Utility data on disconnections provided to cities under section 216B.0976 shall be treated as private data on individuals or nonpublic data.

Sec. 2. **[216B.0976] NOTICE TO CITIES OF UTILITY DISCONNECTION.**

Subdivision 1. **Notice required.** Notwithstanding section 13.685 or any other law or administrative rule to the contrary, a public utility, cooperative electric association, or municipal utility must provide notice to a statutory city or home rule charter city, as prescribed by this section, of disconnection of a customer's gas or electric service. Upon written request from a city, on October 15 and November 1 of each year, or the next business day if that date falls on a Saturday or Sunday, a report must be made available to the city of the address of properties currently disconnected and the date of the disconnection. Upon written request from a city, between October 15 and April 15, daily reports must be made available of the address and date of any newly disconnected properties.

For the purpose of this section, "disconnection" means a cessation of services initiated by the public utility, cooperative electric association, or municipal utility that affects the primary heat source of a residence and service is not reconnected within 24 hours.

Subd. 2. **Data.** Data on customers that are provided to cities under subdivision 1 are private data on individuals or nonpublic data, as defined in section 13.02."

Page 2, line 11, delete "1" and insert "3"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 2825, which the committee recommends to pass with the following amendment offered by Senator Pappas:

Page 2, delete lines 4 to 6 and insert:

"(d) Maternity patients who chose a primary caregiver should receive as part of their prenatal education information regarding all methods of pain relief, including evidence-based nonpharmacological methods."

The motion prevailed. So the amendment was adopted.

On motion of Senator Pogemiller, the report of the Committee of the Whole, as kept by the Secretary, was adopted.

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith returned: S.F. No. 2500.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned April 24, 2008

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 3683: A bill for an act relating to the operation of state government; changing certain provisions and programs related to agriculture; creating a livestock investment grant program; modifying pesticide and fertilizer regulation; changing certain payment provisions for certain agricultural chemical corrective action costs; changing certain food sanitary provisions; changing certain fee provisions; defining certain terms; regulating egg sales and handling; increasing the somatic cell count limit for goat milk; providing for control of bovine tuberculosis; adding a member to the NextGen Energy Board; modifying the expiration date for the NextGen Energy Board; modifying the expiration date for the Minnesota Agriculture Education Leadership Council; establishing requirements for practicing animal chiropractic care; recognizing a Program for the Assessment of Veterinary Education Equivalence certification; limiting use of certain drugs;

changing certain requirements; regulating prescription of veterinary drugs; modifying definition of biodiesel; increasing minimum biodiesel content; creating a tiered biodiesel content goal; requiring counties to consider natural heritage data in adopting or amending comprehensive plans; requiring local governments to consider comprehensive plans to limit development on agricultural, forest, wildlife, and open space land; regulating certain racetracks; modifying 2007 appropriation language; creating the Veterans Health Care Advisory Council; changing certain provisions and programs related to veterans; providing for certain medallions; authorizing the placement of a plaque in the court of honor on the Capitol grounds by Minnesota's Mexican-American veterans to honor all Minnesota veterans who have served at any time in the United States armed forces; appropriating money; amending Minnesota Statutes 2006, sections 18B.07, subdivision 2; 18D.305, subdivision 2; 18E.04, subdivision 2; 28A.03, by adding a subdivision; 28A.08; 28A.082, by adding a subdivision; 28A.09, subdivision 1; 29.23; 31.05; 31.171; 41D.01, subdivision 4; 148.01, subdivision 1, by adding subdivisions; 156.001, by adding a subdivision; 156.02, subdivisions 1, 2; 156.04; 156.072, subdivision 2; 156.073; 156.12, subdivisions 2, 4, 6; 156.15, subdivision 2; 156.16, subdivisions 3, 10; 156.18, subdivisions 1, 2; 156.19; 168.1255, subdivisions 1, 3, by adding subdivisions; 196.021; 196.03; 197.236; 198.32, subdivision 1; 239.77, as amended; 240.06, subdivision 5a, by adding a subdivision; 240.13, subdivision 6; 394.232, subdivision 6; 462.355, subdivision 1; 462.357, by adding subdivisions; Minnesota Statutes 2007 Supplement, sections 31.175; 35.244; 41A.105; 296A.01, subdivision 8a; 394.23; Laws 2007, chapter 45, article 1, section 3, subdivisions 3, 4; proposing coding for new law in Minnesota Statutes, chapters 17; 18C; 32; 148; 196; 394; repealing Minnesota Statutes 2006, sections 198.001, subdivisions 6, 9; 198.002, subdivisions 1, 3, 6; 198.003, subdivisions 5, 6; 198.004, subdivision 2; Minnesota Statutes 2007 Supplement, sections 198.002, subdivision 2; 198.004, subdivision 1; Minnesota Rules, part 9050.0040, subpart 15.

Senate File No. 3683 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned April 24, 2008

Senator Pogemiller, for Senator Vickerman, moved that the Senate do not concur in the amendments by the House to S.F. No. 3683, and that a Conference Committee of 5 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Senator Pogemiller from the Subcommittee on Conference Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

S.F. No. 3683: Senators Vickerman, Skogen, Dille, Murphy and Erickson Ropes.

Senator Pogemiller moved that the foregoing appointments be approved. The motion prevailed.

MEMBERS EXCUSED

Senators Dahle; Dibble; Hann; Murphy; Olson, M.; Rest; Skoe and Torres Ray were excused from the Session of today.

ADJOURNMENT

Senator Pogemiller moved that the Senate do now adjourn until 1:00 p.m., Monday, April 28, 2008. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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