

STATE OF MINNESOTA

Journal of the Senate

EIGHTY-FIFTH LEGISLATURE

FIFTY-FIRST DAY

St. Paul, Minnesota, Thursday, April 19, 2007

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

CALL OF THE SENATE

Senator Clark 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. Robert S. Knutson.

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

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

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 House File, herewith transmitted: H.F. No. 6.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted April 18, 2007

FIRST READING OF HOUSE BILLS

The following bill was read the first time.

H.F. No. 6: A bill for an act relating to education; providing for early childhood, family, adult, and prekindergarten through grade 12 education including general education, education excellence, special programs, facilities and technology, nutrition and accounting, libraries, state agencies, forecast adjustments, technical and conforming amendments, pupil transportation standards, and early childhood and adult programs; providing for task force and advisory groups; requiring school districts to give employees who are veterans the option to take personal leave on Veteran's Day and encouraging private employers to give employees who are veterans a day off with pay on Veteran's Day; requiring reports; authorizing rulemaking; funding parenting time centers; funding lead hazard reduction; appropriating money; amending Minnesota Statutes 2006, sections 13.32, by adding a subdivision; 16A.152, subdivision 2; 119A.50, by adding a subdivision; 119A.52; 119A.535; 120A.22, subdivision 7; 120B.021, subdivision 1; 120B.023, subdivision 2; 120B.024; 120B.11, subdivision 5; 120B.132; 120B.15; 120B.30; 120B.31, subdivision 3; 120B.36, subdivision 1; 121A.17, subdivision 5; 121A.22, subdivisions 1, 3, 4; 122A.16; 122A.18, by adding a subdivision; 122A.20, subdivision 1; 122A.414, subdivisions 1, 2; 122A.415, subdivision 1; 122A.60, subdivision 3; 122A.61, subdivision 1; 122A.628, subdivision 2; 122A.72, subdivision 5; 123A.73, subdivision 8; 123B.02, by adding a subdivision; 123B.10, subdivision 1, by adding a subdivision; 123B.143, subdivision 1; 123B.36, subdivision 1; 123B.37, subdivision 1; 123B.49, subdivision 4; 123B.53, subdivisions 1, 4, 5; 123B.54; 123B.57, subdivision 3; 123B.63, subdivision 3; 123B.77, subdivision 4; 123B.79, subdivisions 6, 8, by adding a subdivision; 123B.81, subdivisions 2, 4, 7; 123B.83, subdivision 2; 123B.88, subdivision 12; 123B.90, subdivision 2; 123B.92, subdivisions 1, 3, 5; 124D.095, subdivisions 2, 3, 4, 7; 124D.10, subdivisions 4, 8, 23a, 24; 124D.11, subdivision 1; 124D.111, subdivision 1; 124D.128, subdivisions 1, 2, 3; 124D.13, subdivisions 1, 2, 11, by adding a subdivision; 124D.135, subdivisions 1, 3, 5; 124D.16, subdivision 2; 124D.175; 124D.34, subdivision 7; 124D.4531; 124D.454, subdivisions 2, 3; 124D.531, subdivisions 1, 4; 124D.55; 124D.56, subdivisions 1, 2, 3; 124D.59, subdivision 2; 124D.65, subdivisions 5, 11; 124D.84, subdivision 1; 125A.11, subdivision 1; 125A.13; 125A.14; 125A.39; 125A.42; 125A.44; 125A.45; 125A.63, by adding a subdivision; 125A.75, subdivisions 1, 4; 125A.76, subdivisions 1, 2, 4, 5, by adding a subdivision; 125A.79, subdivisions 1, 5, 6, 8; 125B.15; 126C.01, subdivision 9, by adding subdivisions; 126C.05, subdivisions 1, 8, 15; 126C.10, subdivisions 1, 2, 2a, 2b, 4, 13a, 18, 24, 34, by adding a subdivision; 126C.126; 126C.13, subdivision 4; 126C.15, subdivision 2; 126C.17, subdivisions 6, 9; 126C.21, subdivisions 3, 5; 126C.41, by adding a subdivision; 126C.44; 126C.48, subdivisions 2, 7; 127A.441; 127A.47, subdivisions 7, 8; 127A.48, by adding a subdivision; 127A.49, subdivisions 2, 3; 128D.11, subdivision 3; 134.31, by adding a subdivision; 134.34, subdivision 4; 134.355, subdivision 9; 169.01, subdivision 6, by adding a subdivision; 169.443, by adding a subdivision; 169.447, subdivision 2; 169.4501, subdivisions 1, 2; 169.4502, subdivision 5; 169.4503, subdivisions 13, 20; 171.02, subdivisions 2, 2a; 171.321, subdivision 4; 205A.03, subdivision 1; 205A.05, subdivision 1; 205A.06, subdivision 1a; 272.029, by adding a subdivision; 273.11, subdivision 1a; 273.1393; 275.065, subdivisions 1, 1a, 3; 275.07, subdivision 2; 275.08, subdivision 1b; 276.04, subdivision 2; 517.08, subdivision 1c; Laws 2005, First Special Session chapter 5, article 1, sections 50, subdivision 2; 54, subdivisions 2, as amended, 4, 5, as amended, 6, as amended, 7, as amended, 8, as amended; article 2, sections 81, as amended; 84, subdivisions 2, as amended, 3, as amended, 4, as amended, 6, as amended, 10, as amended; article 3, section 18, subdivisions 2, as amended, 3, as amended, 4, as amended, 6, as amended; article

4, section 25, subdivisions 2, as amended, 3, as amended; article 5, section 17, subdivision 3, as amended; article 7, section 20, subdivisions 2, as amended, 3, as amended, 4, as amended; article 8, section 8, subdivisions 2, as amended, 5, as amended; article 9, section 4, subdivision 2; Laws 2006, chapter 263, article 3, section 15; Laws 2006, chapter 282, article 2, section 28, subdivision 4; article 3, section 4, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 119A; 121A; 122A; 123B; 124D; 135A; repealing Minnesota Statutes 2006, sections 120B.233; 121A.23; 123A.22, subdivision 11; 123B.81, subdivision 8; 124D.06; 124D.081, subdivisions 1, 2, 3, 4, 5, 6, 9; 124D.454, subdivisions 4, 5, 6, 7; 124D.531, subdivision 5; 124D.62; 125A.10; 125A.75, subdivision 6; 125A.76, subdivision 3; 169.4502, subdivision 15; 169.4503, subdivisions 17, 18, 26.

SUSPENSION OF RULES

Senator Pogemiller moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 6 and that the rules of the Senate be so far suspended as to give H.F. No. 6 its second and third reading and place it on its final passage. The motion prevailed.

H.F. No. 6 was read the second time.

Senator Stumpf moved to amend H.F. No. 6 as follows:

Delete everything after the enacting clause, and delete the title, of H.F. No. 6, and insert the language after the enacting clause, and the title, of S.F. No. 2095, the third engrossment.

The motion prevailed. So the amendment was adopted.

H.F. No. 6 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 48 and nays 8, as follows:

Those who voted in the affirmative were:

Anderson	Doll	Latz	Pogemiller	Skoe
Berglin	Fischbach	Lourey	Prettner Solon	Skogen
Betzold	Foley	Lynch	Rest	Sparks
Bonoff	Frederickson	Marty	Robling	Stumpf
Carlson	Gimse	Metzen	Rosen	Tomassoni
Chaudhary	Higgins	Olseen	Rummel	Torres Ray
Clark	Koch	Olson, G.	Saltzman	Vickerman
Cohen	Koering	Olson, M.	Saxhaug	Wiger
Dibble	Langseth	Pappas	Sheran	
Dille	Larson	Pariseau	Sieben	

Those who voted in the negative were:

Day	Ingebrigtsen	Michel	Vandever
Gerlach	Limmer	Senjem	Wergin

So the bill, as amended, was passed and its title was agreed to.

REPORTS OF COMMITTEES**Senator Scheid from the Committee on Commerce and Consumer Protection, to which was re-referred**

S.F. No. 1764: A bill for an act relating to the environment; requiring commissioner of natural resources and director of Explore Minnesota Tourism to develop a travel green program; requiring a report.

Reports the same back with the recommendation that the bill do pass.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Senator Scheid from the Committee on Commerce and Consumer Protection, to which was referred

S.F. No. 162: A bill for an act relating to commerce; imposing certain customer sales or service call center requirements; prescribing a criminal penalty; proposing coding for new law in Minnesota Statutes, chapter 325E.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [325E.259] CUSTOMER SALES OR SERVICE CALL CENTER REQUIREMENTS.

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given them.

(1) "Customer sales call center" means an entity whose primary purpose includes the initiating or receiving of telephonic communications on behalf of any person for the purpose of initiating telephone solicitations as defined in section 325E.311, subdivision 6.

(2) "Customer service call center" means an entity whose primary purpose includes the initiating or receiving of telephonic communications on behalf of any person for the purposes of providing or receiving services or information necessary in connection with the providing of services or other benefits.

(3) "Customer services employee" means a person employed by or working on behalf of a customer sales call center or a customer service call center.

Subd. 2. **Customers' right to customer sales or customer service call center information.** An individual who is a Minnesota resident who receives a telephone call from, or places a telephone call to, a customer sales call center or a customer service call center, upon request, has the right to know the identification of the country where the customer service employee is located.

Subd. 3. **Nonapplicability; business-to-business calls.** The rights granted under this section to an individual who is a Minnesota resident do not apply when the individual who is a Minnesota resident is making or receiving the call on behalf of a business.

Subd. 4. **Violation.** It is fraud under section 325F.69 for a person to willfully violate this section.

Subd. 5. **Application to other remedies.** Nothing in this section changes the remedies currently available under state or federal law or creates additional or new remedies.

Sec. 2. **EFFECTIVE DATE; APPLICATION.**

This act is effective August 1, 2007."

And when so amended the bill do pass.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Senator Scheid from the Committee on Commerce and Consumer Protection, to which was re-referred

S.F. No. 2173: A bill for an act relating to civil actions; requiring insurers to act in good faith in connection with claims practices; proposing coding for new law in Minnesota Statutes, chapter 604.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 7, delete "a" and insert "an insured's"

Page 1, delete lines 9 to 13 and insert:

"(b) An insurer does not act in good faith if the insured can show:

(1) the absence of a reasonable basis for denying the benefits of the insurance policy; and

(2) the insurer's knowledge or reckless disregard of the lack of a reasonable basis for denying a claim."

Page 1, line 16, after "than" insert "": (i)"

Page 1, line 17, delete "or other" and insert "": (ii) a"

Page 1, line 18, after the semicolon, insert "or (iii) an insurance contract authorized under section 60A.06, subdivision 1, clause (4);"

Page 2, line 1, delete "A person" and insert "An insurer"

Page 2, line 2, delete "injured party" and insert "insured" and before "damages" insert "actual"

Page 2, after line 7, insert:

"Subd. 4. **Right to cure.** (a) As a condition precedent to bringing an action for violation of this section, the insurer must have been given 60 days' written notice of the violation.

(b) The notice shall state with specificity the following information:

(1) the facts and circumstances giving rise to the violation; and

(2) the name of any individual involved in the violation.

(c) No action shall lie if, within 60 days after filing notice, the damages are paid or circumstances

giving rise to the violation are corrected.

Subd. 5. **No effect on third parties.** Nothing in this section shall be deemed to effect third-party claims or remedies for bad faith against insurers under the common law or any other statute."

And when so amended the bill do pass.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

MOTIONS AND RESOLUTIONS

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 Johnson, Wergin, Jungbauer, Langseth and Koch introduced–

S.F. No. 2245: A bill for an act relating to capital improvements; appropriating money for a forensic crime lab in Anoka County; authorizing the sale and issuance of state bonds.

Referred to the Committee on Finance.

Senator Kubly introduced–

S.F. No. 2246: A bill for an act relating to capital improvements; authorizing the issuance of state bonds; appropriating money to pave Pacific Avenue in the city of Benson.

Referred to the Committee on Finance.

Senator Marty introduced–

S.F. No. 2247: A bill for an act relating to sales and use tax; clarifying the treatment of kidney dialysis equipment; amending Minnesota Statutes 2006, section 297A.67, subdivision 7.

Referred to the Committee on Taxes.

Senator Koering introduced–

S.F. No. 2248: A bill for an act relating to capital improvements; appropriating money for a tornado siren in the city of Buckman; authorizing the sale and issuance of state bonds.

Referred to the Committee on Finance.

Senators Bakk and Larson introduced–

S.F. No. 2249: A bill for an act relating to tax increment financing; making technical and

minor policy changes; amending Minnesota Statutes 2006, sections 469.174, subdivisions 10, 10a; 469.175, subdivision 3; 469.176, subdivisions 2, 4l, 7; 469.1761, subdivision 1; 469.177, subdivision 1; 469.178, subdivision 7; 469.1791, subdivision 3; repealing Minnesota Statutes 2006, section 469.174, subdivision 29.

Referred to the Committee on Taxes.

Senator Tomassoni introduced—

S.F. No. 2250: A bill for an act relating to capital improvements; appropriating money for sewer and water extensions in the city of Hibbing; authorizing the sale and issuance of state bonds.

Referred to the Committee on Finance.

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Murphy moved that S.F. No. 1971, No. 27 on General Orders, be stricken and re-referred to the Committee on Finance. 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.

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, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 2089: A bill for an act relating to state government; appropriating money for jobs and economic development purposes; establishing and modifying certain programs; regulating certain activities and practices; providing for accounts, assessments, and fees; modifying provisions governing contractors; requiring studies; amending Minnesota Statutes 2006, sections 13.712, by adding a subdivision; 13.7905, by adding a subdivision; 16B.61, subdivision 1a; 16B.65, subdivisions 1, 5a; 16B.70, subdivision 2; 80A.28, subdivision 1; 116J.551, subdivision 1; 116J.554, subdivision 2; 116J.555, subdivision 1; 116J.575, subdivisions 1, 1a; 116J.966, subdivision 1; 116L.17, subdivision 1; 116L.20, subdivision 1; 116M.18, subdivision 6a; 177.27, subdivisions 1,

4; 268A.01, subdivision 13, by adding a subdivision; 268A.085, subdivision 1; 268A.15, by adding a subdivision; 298.22, subdivision 2; 298.227; 326.242, subdivision 8, by adding a subdivision; 326.2441; 326.37, subdivision 1; 326.38; 326.40, subdivision 1; 326.401, subdivision 2; 326.42, subdivision 1; 326.46; 326.461, by adding a subdivision; 326.47, subdivisions 2, 6; 326.48, subdivisions 1, 2; 326.50; 326.51; 326.52; 326.975, subdivision 1; 326.992; 327.33, subdivisions 2, 6; 327B.04, subdivision 7; 462A.21, subdivision 8b; 462A.33, subdivision 3; 471.471, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 177; 181; 182; 326; proposing coding for new law as Minnesota Statutes, chapters 59C; 326B; repealing Minnesota Statutes 2006, sections 16B.747, subdivision 4; 16C.18, subdivision 2; 181.722; 183.375, subdivision 5; 183.545, subdivision 9; 326.241; 326.44; 326.52; 326.64; 326.975.

Senate File No. 2089 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned April 19, 2007

Senator Pogemiller, for Senator Tomassoni, moved that the Senate do not concur in the amendments by the House to S.F. No. 2089, 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. 2089: Senators Tomassoni, Metzen, Sparks, Scheid and Koch.

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

MEMBERS EXCUSED

Senators Erickson Ropes, Hann, Johnson, Jungbauer, Kubly, Moua, Neuville and Ortman were excused from the Session of today. Senators Bakk and Scheid were excused from the Session of today from 10:00 to 10:45 a.m.

ADJOURNMENT

Senator Pogemiller moved that the Senate do now adjourn until 10:00 a.m., Friday, April 20, 2007. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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