

TENTH DAY

St. Paul, Minnesota, Wednesday, February 2, 2011

The Senate met at 12:00 noon and was called to order by the President.

CALL OF THE SENATE

Senator Koch 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. C. John Steer.

The members of the Senate gave the pledge of allegiance to the flag of the United States of America.

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

| | | | | |
|-------------|--------------|----------|------------|------------|
| Anderson | Fischbach | Koch | Nelson | Saxhaug |
| Bakk | Gazelka | Kruse | Newman | Scheid |
| Benson | Gerlach | Kubly | Nienow | Senjem |
| Berglin | Gimse | Langseth | Olson | Sheran |
| Bonoff | Hall | Latz | Ortman | Skoe |
| Brown | Hann | Lillie | Pappas | Sparks |
| Carlson | Harrington | Limmer | Parry | Stumpf |
| Chamberlain | Higgins | Lourey | Pederson | Thompson |
| Cohen | Hoffman | Magnus | Pogemiller | Torres Ray |
| Dahms | Howe | Marty | Reinert | Vandever |
| Daley | Ingebrigtsen | Metzen | Rest | Wiger |
| DeKruif | Jungbauer | Michel | Robling | Wolf |
| Dibble | Kelash | Miller | Rosen | |

The President declared a quorum present.

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communication was received.

January 26, 2011

The Honorable Michelle L. Fischbach
President of the Senate

Dear Senator Fischbach:

As Senate Minority leader and pursuant to 2010 Minnesota Statutes 175.007, Subd. 1(e), I have appointed Senator Ken Kelash to the Worker's Compensation Advisory Council.

Sincerely,
 Thomas M. Bakk
 DFL Caucus Leader
 Senate District 6

REPORTS OF COMMITTEES

Senator Koch moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

Senator Hann from the Committee on Health and Human Services, to which was referred

S.F. No. 32: A bill for an act relating to human services; establishing the healthy Minnesota contribution program; requiring plan to redesign service delivery for lower-income MinnesotaCare enrollees; amending Minnesota Statutes 2010, section 256L.05, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 256L.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2010, section 62E.14, is amended by adding a subdivision to read:

Subd. 4f. **Waiver of preexisting conditions for persons covered by healthy Minnesota contribution program.** A person may enroll in the comprehensive plan with a waiver of the preexisting condition limitation in subdivision 3 if the person is eligible for the healthy Minnesota contribution program, and has been denied coverage as described under section 256L.031, subdivision 6.

Sec. 2. Minnesota Statutes 2010, section 256B.04, subdivision 18, is amended to read:

Subd. 18. **Applications for medical assistance.** (a) The state agency may take applications for medical assistance and conduct eligibility determinations for MinnesotaCare enrollees.

(b) The commissioner of human services shall modify the Minnesota health care programs application form to add a question asking applicants: "Are you a U.S. military veteran?"

Sec. 3. [256L.031] **HEALTHY MINNESOTA CONTRIBUTION PROGRAM.**

Subdivision 1. **Defined contributions to enrollees.** (a) Beginning January 1, 2012, the commissioner shall provide each MinnesotaCare enrollee eligible under section 256L.04, subdivision 7, with gross family income equal to or greater than 133 percent of the federal poverty guidelines, with a monthly defined contribution to purchase health coverage under a health plan as defined in section 62A.011, subdivision 3. Beginning January 1, 2012, or upon federal approval, whichever is later, the commissioner shall provide each MinnesotaCare enrollee eligible under

section 256L.04, subdivision 1, with gross family income equal to or greater than 133 percent of the federal poverty guidelines, with a monthly defined contribution to purchase health coverage under a health plan as defined in section 62A.011, subdivision 3, offered by a health plan company as defined in section 62Q.01, subdivision 4.

(b) Enrollees eligible under paragraph (a) shall not be charged premiums under section 256L.15 and are exempt from the managed care enrollment requirement of section 256L.12.

(c) Sections 256L.03; 256L.05, subdivision 3; and 256L.11 do not apply to enrollees eligible under paragraph (a). Covered services, cost sharing, disenrollment for nonpayment of premium, enrollee appeal rights and complaint procedures, and the effective date of coverage for enrollees eligible under paragraph (a) shall be as provided under the terms of the health plan purchased by the enrollee.

(d) Unless otherwise provided in this section, all MinnesotaCare requirements related to eligibility, income and asset methodology, income reporting, and program administration, continue to apply to enrollees obtaining coverage under this section.

Subd. 2. **Use of defined contribution.** An enrollee may use up to the monthly defined contribution to pay premiums for coverage under a health plan as defined in section 62A.011, subdivision 3.

Subd. 3. **Determination of defined contribution amount.** (a) The commissioner shall determine the defined contribution sliding scale using the base contribution specified in paragraph (b) for the specified age ranges. The commissioner shall use a sliding scale for defined contributions that provides:

(1) persons with household incomes equal to 133 percent of the federal poverty guidelines with a defined contribution of 150 percent of the base contribution;

(2) persons with household incomes equal to 175 percent of the federal poverty guidelines with a defined contribution of 100 percent of the base contribution;

(3) persons with household incomes equal to or greater than 250 percent of the federal poverty guidelines with a defined contribution of 80 percent of the base contribution; and

(4) persons with household incomes in evenly spaced increments between the percentages of the federal poverty guidelines specified in clauses (1) to (3) with a base contribution that is a percentage interpolated from the defined contribution percentages specified in clauses (1) to (3).

| <u>Age</u> | <u>Monthly Per-Person Base Contribution</u> |
|-----------------|---|
| <u>Under 21</u> | <u>\$122.79</u> |
| <u>21-29</u> | <u>122.79</u> |
| <u>30-31</u> | <u>129.19</u> |
| <u>32-33</u> | <u>132.38</u> |
| <u>34-35</u> | <u>134.31</u> |
| <u>36-37</u> | <u>136.06</u> |
| <u>38-39</u> | <u>141.02</u> |

| | |
|--------------|---------------|
| <u>40-41</u> | <u>151.25</u> |
| <u>42-43</u> | <u>159.89</u> |
| <u>44-45</u> | <u>175.08</u> |
| <u>46-47</u> | <u>191.71</u> |
| <u>48-49</u> | <u>213.13</u> |
| <u>50-51</u> | <u>239.51</u> |
| <u>52-53</u> | <u>266.69</u> |
| <u>54-55</u> | <u>293.88</u> |
| <u>56-57</u> | <u>323.77</u> |
| <u>58-59</u> | <u>341.20</u> |
| <u>60+</u> | <u>357.19</u> |

(b) The commissioner shall multiply the defined contribution amounts developed under paragraph (a) by 1.20 for enrollees who are denied coverage under an individual health plan by a health plan company and who purchase coverage through the Minnesota Comprehensive Health Association.

(c) Notwithstanding paragraphs (a) and (b), the monthly defined contribution shall not exceed 90 percent of the monthly premium for the health plan purchased by the enrollee.

Subd. 4. **Administration by commissioner.** The commissioner shall administer the defined contributions. The commissioner shall:

- (1) calculate and process defined contributions for enrollees; and
- (2) pay the defined contribution amount to health plan companies or the Minnesota Comprehensive Health Association, as applicable, for enrollee health plan coverage.

Subd. 5. **Assistance to enrollees.** The commissioner of human services, in consultation with the commissioner of commerce, shall develop an efficient and cost-effective method of referring eligible applicants to professional insurance agent associations.

Subd. 6. **Minnesota Comprehensive Health Association (MCHA).** Beginning January 1, 2012, MinnesotaCare enrollees who are denied coverage under an individual health plan by a health plan company are eligible for coverage through a health plan offered by the Minnesota Comprehensive Health Association and may enroll in MCHA in accordance with section 62E.14. Any difference between the revenue and covered losses to the MCHA related to implementation of this section shall be paid to the MCHA from the health care access fund.

Subd. 7. **Federal approval.** The commissioner shall seek all federal waivers and approvals necessary to implement coverage under this section for MinnesotaCare enrollees eligible under section 256L.04, subdivision 1, with gross family incomes equal to or greater than 133 percent of the federal poverty guidelines, while continuing to receive federal matching funds.

Subd. 8. **Sunset.** This section shall expire upon the full implementation of the Patient Protection and Affordable Care Act (ACA), Public Law 111-148. For purposes of this section, full

implementation of the ACA means premium credits and cost-sharing subsidies are available for health plans offered in Minnesota through an insurance exchange established under sections 1311, 1321, 1401, and 1402 of the ACA, as amended by the Health Care Education Reconciliation Act of 2010, Public Law 111-152.

Sec. 4. Minnesota Statutes 2010, section 256L.05, is amended by adding a subdivision to read:

Subd. 6. **Referral of veterans.** The commissioner shall ensure that all applicants for MinnesotaCare with incomes less than 133 percent of the federal poverty guidelines who identify themselves as veterans are referred to a county veterans service officer for assistance in applying to the U.S. Department of Veterans Affairs for any veterans benefits for which they may be eligible.

Sec. 5. COVERAGE FOR LOWER-INCOME MINNESOTACARE ENROLLEES.

The commissioner of human services shall develop and present to the legislature, by December 15, 2011, a plan to redesign service delivery for MinnesotaCare enrollees eligible under Minnesota Statutes, section 256L.04, subdivisions 1 and 7, with incomes less than 133 percent of the federal poverty guidelines. The plan must be designed to improve continuity and quality of care, reduce unnecessary emergency room visits, and reduce average per-enrollee costs. In developing the plan, the commissioner shall consider innovative methods of service delivery including, but not limited to, increasing the use and choice of private sector health plan coverage and encouraging the use of community health clinics, as defined in the federal Community Health Care Act of 1964, as health care homes.

Sec. 6. DIRECTION TO COMMISSIONER; FEDERAL WAIVER.

The commissioner of human services shall apply to the Centers for Medicare and Medicaid Services for federal waivers to cover:

(1) families with children eligible under Minnesota Statutes, section 256L.04, subdivision 1; and

(2) adults eligible under Minnesota Statutes, section 256L.04, subdivision 1, under the MinnesotaCare healthy Minnesota contribution program established under Minnesota Statutes, section 256L.031, by July 1, 2011. The commissioner shall report to the legislative committees with jurisdiction over health and human services policy and finance whether or not the federal waiver application was accepted within ten working days of receipt of the decision.

EFFECTIVE DATE. This section is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to human services; establishing the healthy Minnesota contribution program; requiring plan to redesign service delivery for lower-income MinnesotaCare enrollees; amending Minnesota Statutes 2010, sections 62E.14, by adding a subdivision; 256B.04, subdivision 18; 256L.05, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 256L."

And when so amended the bill do pass and be re-referred to the Committee on Commerce and Consumer Protection. Amendments adopted. Report adopted.

Senator Robling from the Committee on Finance, to which was re-referred

S.F. No. 69: A bill for an act relating to education; reducing mandates for home schools; relieving superintendents of certain reporting requirements; amending Minnesota Statutes 2010, sections 120A.22, subdivision 11; 120A.24; 121A.15, subdivision 8; 123B.42, subdivision 1; 123B.44, subdivision 1; 171.05, subdivision 2; 171.17, subdivision 1; 171.22, subdivision 1; 181A.05, subdivision 1; repealing Minnesota Statutes 2010, section 120A.26, subdivisions 1, 2.

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

Senator Robling from the Committee on Finance, to which was re-referred

S.F. No. 56: A bill for an act relating to education; providing school district budget relief; amending Minnesota Statutes 2010, section 126C.44; repealing Minnesota Statutes 2010, sections 122A.61; 123B.05.

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

Senator Robling from the Committee on Finance, to which was re-referred

S.F. No. 40: A bill for an act relating to education; amending teacher licensure provisions; establishing an alternative teacher preparation program and limited-term teacher license; requiring reports; amending Minnesota Statutes 2010, sections 122A.16; 122A.23, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 122A; repealing Minnesota Statutes 2010, section 122A.24.

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

Page 2, delete section 2

Page 3, line 14, delete "122A.18" and insert "122A.09, subdivision 4, paragraph (b)"

Page 3, line 16, delete "tests" and insert "examinations under section 122A.09, subdivision 4, paragraph (e)"

Page 3, after line 16, insert:

"(c) Upon acceptance into an approved alternative teacher preparation program, the Board of Teaching must issue the participant a two-year limited-term license."

Page 4, line 17, delete everything after "who"

Page 4, line 18, delete "completed an" and insert "completes another state's" and delete everything after "program"

Page 4, line 19, delete everything before "may"

Page 4, line 20, delete everything after "license" and insert a period

Page 4, delete lines 21 to 25

Page 4, line 29, delete "tests" and insert "examinations under section 122A.09, subdivision 4, paragraphs (a) and (e)"

Page 4, line 30, delete "or 6"

Renumber the sections in sequence

Amend the title numbers accordingly

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Michel from the Committee on Jobs and Economic Growth, to which was referred

S.F. No. 139: A bill for an act relating to residential construction; providing for lead poisoning prevention; modifying effective dates; amending Laws 2010, chapter 321, sections 1; 2; 3.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Senator Ingebrigtsen from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 42: A bill for an act relating to environment; providing for permitting efficiency; modifying environmental review requirements; amending Minnesota Statutes 2010, sections 84.027, by adding a subdivision; 115.07; 116.03, by adding a subdivision; 116.07, subdivision 2; 116D.04, subdivisions 3a, 10; 116D.045, subdivisions 1, 3.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1

PERMITTING

Section 1. Minnesota Statutes 2010, section 84.027, is amended by adding a subdivision to read:

Subd. 14a. **Permitting efficiency.** (a) It is the goal of the state that environmental and resource management permits be issued or denied within 150 days of the submission of a substantially completed permit application. The commissioner of natural resources shall establish management systems designed to achieve the goal.

(b) The commissioner shall prepare semiannual permitting efficiency reports that include statistics on meeting the goal in paragraph (a). The reports are due February 1 and August 1 each year. For permit applications that have not met the goal, the report must state the reasons for not meeting the goal, steps that will be taken to complete action on the application, and the expected timeline. In stating the reasons for not meeting the goal, the commissioner shall separately identify delays caused by the responsiveness of the proposer, lack of staff, scientific or technical disagreements, or the level of public engagement. The report must specify the number of days from initial submission of the application to the day of determination that the application is complete. The report for the final quarter of the fiscal year must aggregate the data for the year and assess whether program or system changes are necessary to achieve the goal. The report must be posted on the department's Web site and submitted to the governor and the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over natural resources policy and finance.

(c) The commissioner shall allow electronic submission of environmental review and permit documents to the department.

(d) Within 30 days of application for a permit subject to paragraph (a), the commissioner of natural resources shall notify the project proposer, in writing, of whether or not the permit application is complete enough for processing. If the permit is incomplete, the commissioner must identify where deficiencies exist and advise the applicant on how they can be remedied. A resubmittal of the application begins a new 30-day review period. If the commissioner fails to notify the project proposer of completeness within the 30-day period, the application is deemed to be substantially complete and subject to the 150-day permitting review period in paragraph (a) from the date it was submitted.

Sec. 2. Minnesota Statutes 2010, section 115.07, is amended to read:

115.07 VIOLATIONS AND PROHIBITIONS.

Subdivision 1. **Obtain permit.** (a) Except as provided in paragraph (b), it shall be unlawful for any person to construct, install, or operate a disposal system, or any part thereof, until plans therefor shall and specifications for the disposal system have been submitted to the agency, unless the agency shall have waived the submission thereof to it of the plans and specifications and a written permit therefor shall have been for the disposal system is granted by the agency.

(b) If a person who discharges a pollutant into the waters of the state is required by statute or rule to obtain a national pollutant discharge elimination system permit or a state disposal system permit, the person may construct or install, prior to issuance of the permit, at the person's own risk, a disposal system or any part thereof, unless the action taken:

(1) is prohibited by federal law or regulation;

(2) is by a municipality constructing a wastewater system with a design capacity of 200,000 gallons per day, or less;

(3) is subject to environmental review under chapter 116D, and prohibited from commencing construction until that process is completed;

(4) is subject to a grant or loan agreement under chapter 446A;

(5) requires a construction storm water permit under rules of the agency; or

(6) requires a subsurface sewage treatment system permit under rules of the agency.

The person is prohibited from operating the system or discharging pollutants into the waters of the state until a written permit for the discharge is granted by the agency and until plans and specifications for the disposal system have been approved, unless the agency waives the submission of plans and specifications.

(c) For disposal systems operated on streams with extreme seasonal flows, the agency must allow seasonal permit limits based on a fixed or variable effluent limit when the municipality operating the disposal system requests them and is in compliance with agency water quality standards.

Subd. 3. **Permission for extension.** (a) Except as provided in paragraph (b), it shall be unlawful for any person to make any change in, addition to, or extension of any existing disposal

system or point source, or part thereof, to effect any facility expansion, production increase, or process modification which results in new or increased discharges of pollutants, or to operate such system or point source, or part thereof as so changed, added to, or extended until plans and specifications therefor shall have been submitted to the agency, ~~unless the agency shall have waived the~~ waives submission thereof to it of the plans and specifications and a written permit ~~therefor shall have been~~ for the change, addition, or extension is granted by the agency.

(b) If a person who discharges a pollutant into the waters of the state is required by statute or rule to obtain a national pollutant discharge elimination system permit or a state disposal system permit, the person may, prior to issuance of the permit, at the person's own risk, act to change, add to, or extend an existing disposal system or point source, or part thereof, unless the action taken:

(1) is prohibited by federal law or regulation;

(2) is by a municipality constructing a wastewater system with a design capacity of 200,000 gallons per day, or less;

(3) is subject to environmental review under chapter 116D, and prohibited from commencing construction until that process is completed;

(4) is subject to a grant or loan agreement under chapter 446A;

(5) requires a construction storm water permit under rules of the agency; or

(6) requires a subsurface treatment system permit under rules of the agency.

The person is prohibited from operating the system or discharging pollutants into the waters of the state until a written permit for the discharge is granted by the agency and until plans and specifications for the disposal system have been approved, unless the agency waives the submission of plans and specifications.

Sec. 3. Minnesota Statutes 2010, section 116.03, is amended by adding a subdivision to read:

Subd. 2b. **Permitting efficiency.** (a) It is the goal of the state that environmental and resource management permits be issued or denied within 150 days of the submission of a substantially completed permit application. The commissioner of the Pollution Control Agency shall establish management systems designed to achieve the goal.

(b) The commissioner shall prepare semiannual permitting efficiency reports that include statistics on meeting the goal in paragraph (a). The reports are due February 1 and August 1 each year. For permit applications that have not met the goal, the report must state the reasons for not meeting the goal, steps that will be taken to complete action on the application, and the expected timeline. In stating the reasons for not meeting the goal, the commissioner shall separately identify delays caused by the responsiveness of the proposer, lack of staff, scientific or technical disagreements, or the level of public engagement. The report must specify the number of days from initial submission of the application to the day of determination that the application is complete. The report for the final quarter of the fiscal year must aggregate the data for the year and assess whether program or system changes are necessary to achieve the goal. The report must be posted on the agency's Web site and submitted to the governor and the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over environment policy and finance.

(c) The commissioner shall allow electronic submission of environmental review and permit documents to the agency.

(d) Within 30 days of application for a permit subject to paragraph (a), the commissioner of the Pollution Control Agency shall notify the project proposer, in writing, of whether or not the permit application is complete enough for processing. If the permit is incomplete, the commissioner must identify where deficiencies exist and advise the applicant on how they can be remedied. A resubmittal of the application begins a new 30-day review period. If the commissioner fails to notify the project proposer of completeness within the 30-day period, the application is deemed to be substantially complete and subject to the 150-day permitting review period in paragraph (a) from the date it was submitted.

Sec. 4. Minnesota Statutes 2010, section 116.07, subdivision 2, is amended to read:

Subd. 2. Adoption of standards. (a) The Pollution Control Agency shall improve air quality by promoting, in the most practicable way possible, the use of energy sources and waste disposal methods which produce or emit the least air contaminants consistent with the agency's overall goal of reducing all forms of pollution. The agency shall also adopt standards of air quality, including maximum allowable standards of emission of air contaminants from motor vehicles, recognizing that due to variable factors, no single standard of purity of air is applicable to all areas of the state. In adopting standards the Pollution Control Agency shall give due recognition to the fact that the quantity or characteristics of air contaminants or the duration of their presence in the atmosphere, which may cause air pollution in one area of the state, may cause less or not cause any air pollution in another area of the state, and it shall take into consideration in this connection such factors, including others which it may deem proper, as existing physical conditions, zoning classifications, topography, prevailing wind directions and velocities, and the fact that a standard of air quality which may be proper as to an essentially residential area of the state, may not be proper as to a highly developed industrial area of the state. Such standards of air quality shall be premised upon scientific knowledge of causes as well as effects based on technically substantiated criteria and commonly accepted practices. No local government unit shall set standards of air quality which are more stringent than those set by the Pollution Control Agency.

(b) The Pollution Control Agency shall promote solid waste disposal control by encouraging the updating of collection systems, elimination of open dumps, and improvements in incinerator practices. The agency shall also adopt standards for the control of the collection, transportation, storage, processing, and disposal of solid waste and sewage sludge for the prevention and abatement of water, air, and land pollution, recognizing that due to variable factors, no single standard of control is applicable to all areas of the state. In adopting standards, the Pollution Control Agency shall give due recognition to the fact that elements of control which may be reasonable and proper in densely populated areas of the state may be unreasonable and improper in sparsely populated or remote areas of the state, and it shall take into consideration in this connection such factors, including others which it may deem proper, as existing physical conditions, topography, soils and geology, climate, transportation, and land use. Such standards of control shall be premised on technical criteria and commonly accepted practices.

(c) The Pollution Control Agency shall also adopt standards describing the maximum levels of noise in terms of sound pressure level which may occur in the outdoor atmosphere, recognizing that due to variable factors no single standard of sound pressure is applicable to all areas of the state. Such standards shall give due consideration to such factors as the intensity of noises, the types of

noises, the frequency with which noises recur, the time period for which noises continue, the times of day during which noises occur, and such other factors as could affect the extent to which noises may be injurious to human health or welfare, animal or plant life, or property, or could interfere unreasonably with the enjoyment of life or property. In adopting standards, the Pollution Control Agency shall give due recognition to the fact that the quantity or characteristics of noise or the duration of its presence in the outdoor atmosphere, which may cause noise pollution in one area of the state, may cause less or not cause any noise pollution in another area of the state, and it shall take into consideration in this connection such factors, including others which it may deem proper, as existing physical conditions, zoning classifications, topography, meteorological conditions and the fact that a standard which may be proper in an essentially residential area of the state, may not be proper as to a highly developed industrial area of the state. Such noise standards shall be premised upon scientific knowledge as well as effects based on technically substantiated criteria and commonly accepted practices. No local governing unit shall set standards describing the maximum levels of sound pressure which are more stringent than those set by the Pollution Control Agency.

(d) The Pollution Control Agency shall adopt standards for the identification of hazardous waste and for the management, identification, labeling, classification, storage, collection, transportation, processing, and disposal of hazardous waste, recognizing that due to variable factors, a single standard of hazardous waste control may not be applicable to all areas of the state. In adopting standards, the Pollution Control Agency shall recognize that elements of control which may be reasonable and proper in densely populated areas of the state may be unreasonable and improper in sparsely populated or remote areas of the state. The agency shall consider existing physical conditions, topography, soils, and geology, climate, transportation and land use. Standards of hazardous waste control shall be premised on technical knowledge, and commonly accepted practices. Hazardous waste generator licenses may be issued for a term not to exceed five years. No local government unit shall set standards of hazardous waste control which are in conflict or inconsistent with those set by the Pollution Control Agency.

(e) A person who generates less than 100 kilograms of hazardous waste per month is exempt from the following agency hazardous waste rules:

(1) rules relating to transportation, manifesting, storage, and labeling for photographic fixer and x-ray negative wastes that are hazardous solely because of silver content; and

(2) any rule requiring the generator to send to the agency or commissioner a copy of each manifest for the transportation of hazardous waste for off-site treatment, storage, or disposal, except that counties within the metropolitan area may require generators to provide manifests.

Nothing in this paragraph exempts the generator from the agency's rules relating to on-site accumulation or outdoor storage. A political subdivision or other local unit of government may not adopt management requirements that are more restrictive than this paragraph.

(f) In any rulemaking proceeding under chapter 14 to adopt standards for air quality, solid waste, or hazardous waste under this chapter, or standards for water quality under chapter 115, that are more stringent than any similar federal standard adopted under the Clean Air Act, United States Code, title 42, section 7412(b)(2); the Clean Water Act, United States Code, title 33, sections 1312(a) and 1313(c)(4); and the Resource Conservation and Recovery Act, United States Code, title 42, section 6921(b)(1), the statement of need and reasonableness must include documentation that the federal standard does not provide adequate protection for public health and the environment and a

comparison of the proposed standard with standards in border states and states within Environmental Protection Agency Region 5.

Sec. 5. Minnesota Statutes 2010, section 116.07, subdivision 7c, is amended to read:

Subd. 7c. **NPDES feedlot permitting requirements.** (a) The agency must issue national pollutant discharge elimination system permits for feedlots with 1,000 animal units or more and that meet the definition of a "concentrated animal feeding operation" in Code of Federal Regulations, title 40, section 122.23, only as required by federal law. The issuance of national pollutant discharge elimination system permits for feedlots must be based on the following:

(1) a permit for a newly constructed or expanded animal feedlot that is identified as a priority by the commissioner, using criteria established under paragraph (d) in effect on January 1, 2010, must be issued as an individual permit;

(2) after January 1, 2001, an existing feedlot that is identified as a priority by the commissioner, using criteria established under paragraph (e) in effect on January 1, 2010, must be issued as an individual permit; and

(3) the agency must issue a general national pollutant discharge elimination system permit, if required, for animal feedlots that are not identified under clause (1) or (2).

(b) Prior to the issuance of a general national pollutant discharge elimination system permit for a category of animal feedlot facility permittees, the agency must hold at least one public hearing on the permit issuance.

(c) To the extent practicable, the agency must include a public notice and comment period for an individual national pollutant discharge elimination system permit concurrent with any public notice and comment for:

(1) the purpose of environmental review of the same facility under chapter 116D; or

(2) the purpose of obtaining a conditional use permit from a local unit of government where the local government unit is the responsible governmental unit for purposes of environmental review under chapter 116D.

(d) The commissioner, in consultation with the Feedlot and Manure Management Advisory Committee, created under section 17.136, and other interested parties must develop criteria for determining whether an individual national pollutant discharge elimination system permit is required under paragraph (a), clause (1). The criteria must be based on proximity to waters of the state, facility design, and other site-specific environmental factors. The agency shall issue a general operation permit for a feedlot with a capacity greater than 1,000 animal units that is not required by federal law to obtain a national pollutant discharge elimination system permit. A feedlot operator must complete an application for the operating permit, on forms provided by the commissioner, containing the following:

(1) the names and addresses of the owners and the signature of at least one of the owners;

(2) the legal name and business address of the facility, if different than the owner;

(3) the location of the facility by county, township, section, and quarter section;

(4) a list of all animal types, and the maximum number of animals of each animal type that can be confined within each lot, building, or area at the animal feedlot;

(5) a list of all existing and proposed manure storage areas;

(6) the total number of animal units that the facilities listed in clauses (4) and (5) will be capable of holding after completing construction or expansion;

(7) the soil type or texture and depth to saturated soils at the facility as identified in the United States Department of Agriculture Soil Survey Manual or a site-specific soils investigation;

(8) an aerial photograph showing the location of all wells, buildings, surface tile intakes, lakes, rivers, and watercourses within 1,000 feet of the proposed facility;

(9) the number of acres available for land application of manure;

(10) a manure management plan that meets the requirements in rules of the agency; and

(11) if applicable, a description of all conditions that make the facility a pollution hazard and a description of the corrective and protective measures proposed to correct the pollution hazard.

~~(e) The commissioner, in consultation with the Feedlot and Manure Management Advisory Committee, created under section 17.136, and other interested parties must develop criteria for determining whether an individual national pollutant discharge elimination system permit is required for an existing animal feedlot, under paragraph (a), clause (2). The criteria must be based on violations and other compliance problems at the facility. If federal law requires a feedlot to have a national pollutant discharge elimination system permit, the commissioner shall issue a joint state disposal system and national pollutant discharge elimination system permit for the feedlot.~~

~~(f) The commissioner, in consultation with the Feedlot and Manure Management Advisory Committee, created under section 17.136, and other interested parties must develop criteria for determining when an individual national pollutant discharge elimination system permit is transferred from individual to general permit status. If a feedlot is required to have a federal new construction stormwater permit, and a national pollutant discharge elimination system permit, the commissioner shall incorporate that permit into a state disposal system permit or national pollutant discharge elimination system permit required under this section.~~

~~(g) Notwithstanding the provisions in paragraph (a), until January 1, 2001, the commissioner may issue an individual national pollutant discharge elimination system permit for an animal feedlot. After the general permit is issued and the criteria under paragraphs (d) and (e) are developed, individual permits issued pursuant to this paragraph that do not fit the criteria for an individual permit under the applicable provisions of paragraph (d) or (e) must be transferred to general permit status. A feedlot owner may choose to apply for a national pollutant discharge elimination system permit even if the feedlot is not required by federal law to have a national pollutant discharge elimination system permit.~~

~~(h) The commissioner, in consultation with the Feedlot and Manure Management Advisory Committee, created under section 17.136, and other interested parties must develop criteria for determining which feedlots are required to apply for and obtain a national pollutant discharge elimination system permit and which feedlots are required to apply for and obtain a state disposal system permit based upon the actual or potential to discharge.~~

Sec. 6. Minnesota Statutes 2010, section 116.0711, is amended by adding a subdivision to read:

Subd. 4. **Animal unit determinations.** When making a determination on a permit or taking any other regulatory action for a feedlot permit, the commissioner shall use the maximum number of animal units actually confined at an animal feedlot instead of the feedlot's estimated maximum capacity for animal unit confinement.

Sec. 7. Minnesota Statutes 2010, section 116D.04, subdivision 2a, is amended to read:

Subd. 2a. **When prepared.** Where there is potential for significant environmental effects resulting from any major governmental action, the action shall be preceded by a detailed environmental impact statement prepared by the responsible governmental unit. The environmental impact statement shall be an analytical rather than an encyclopedic document which describes the proposed action in detail, analyzes its significant environmental impacts, discusses appropriate alternatives to the proposed action and their impacts, and explores methods by which adverse environmental impacts of an action could be mitigated. The environmental impact statement shall also analyze those economic, employment and sociological effects that cannot be avoided should the action be implemented. To ensure its use in the decision-making process, the environmental impact statement shall be prepared as early as practical in the formulation of an action. No mandatory environmental impact statement may be required for an ethanol plant, as defined in section 41A.09, subdivision 2a, paragraph (b), that produces less than 125,000,000 gallons of ethanol annually and is located outside of the seven-county metropolitan area.

(a) The board shall by rule establish categories of actions for which environmental impact statements and for which environmental assessment worksheets shall be prepared as well as categories of actions for which no environmental review is required under this section.

(b) The responsible governmental unit shall promptly publish notice of the completion of an environmental assessment worksheet in a manner to be determined by the board and shall provide copies of the environmental assessment worksheet to the board and its member agencies. Comments on the need for an environmental impact statement may be submitted to the responsible governmental unit during a 30-day period following publication of the notice that an environmental assessment worksheet has been completed. The responsible governmental unit's decision on the need for an environmental impact statement shall be based on the environmental assessment worksheet and the comments received during the comment period, and shall be made within 15 days after the close of the comment period. The board's chair may extend the 15-day period by not more than 15 additional days upon the request of the responsible governmental unit.

(c) An environmental assessment worksheet shall also be prepared for a proposed action whenever material evidence accompanying a petition by not less than 25 individuals, submitted before the proposed project has received final approval by the appropriate governmental units, demonstrates that, because of the nature or location of a proposed action, there may be potential for significant environmental effects. Petitions requesting the preparation of an environmental assessment worksheet shall be submitted to the board. The chair of the board shall determine the appropriate responsible governmental unit and forward the petition to it. A decision on the need for an environmental assessment worksheet shall be made by the responsible governmental unit within 15 days after the petition is received by the responsible governmental unit. The board's chair may extend the 15-day period by not more than 15 additional days upon request of the responsible governmental unit.

(d) Except in an environmentally sensitive location where Minnesota Rules, part 4410.4300, subpart 29, item B, applies, the proposed action is exempt from environmental review under this chapter and rules of the board, if:

(1) the proposed action is:

(i) an animal feedlot facility with a capacity of less than 1,000 animal units; or

(ii) an expansion of an existing animal feedlot facility with a total cumulative capacity of less than 1,000 animal units;

(2) the application for the animal feedlot facility includes a written commitment by the proposer to design, construct, and operate the facility in full compliance with Pollution Control Agency feedlot rules; and

(3) the county board holds a public meeting for citizen input at least ten business days prior to the Pollution Control Agency or county issuing a feedlot permit for the animal feedlot facility unless another public meeting for citizen input has been held with regard to the feedlot facility to be permitted. The exemption in this paragraph is in addition to other exemptions provided under other law and rules of the board.

(e) The board may, prior to final approval of a proposed project, require preparation of an environmental assessment worksheet by a responsible governmental unit selected by the board for any action where environmental review under this section has not been specifically provided for by rule or otherwise initiated.

(f) An early and open process shall be utilized to limit the scope of the environmental impact statement to a discussion of those impacts, which, because of the nature or location of the project, have the potential for significant environmental effects. The same process shall be utilized to determine the form, content and level of detail of the statement as well as the alternatives which are appropriate for consideration in the statement. In addition, the permits which will be required for the proposed action shall be identified during the scoping process. Further, the process shall identify those permits for which information will be developed concurrently with the environmental impact statement. The board shall provide in its rules for the expeditious completion of the scoping process. The determinations reached in the process shall be incorporated into the order requiring the preparation of an environmental impact statement.

(g) The responsible governmental unit shall, to the extent practicable, avoid duplication and ensure coordination between state and federal environmental review and between environmental review and environmental permitting. Whenever practical, information needed by a governmental unit for making final decisions on permits or other actions required for a proposed project shall be developed in conjunction with the preparation of an environmental impact statement.

(h) An environmental impact statement shall be prepared and its adequacy determined within 280 days after notice of its preparation unless the time is extended by consent of the parties or by the governor for good cause. The responsible governmental unit shall determine the adequacy of an environmental impact statement, unless within 60 days after notice is published that an environmental impact statement will be prepared, the board chooses to determine the adequacy of an environmental impact statement. If an environmental impact statement is found to be inadequate, the responsible governmental unit shall have 60 days to prepare an adequate environmental impact

statement.

(i) The proposer of a specific action may prepare a draft environmental impact statement under this section on that action for submission to and review, modification, and determination of completeness and adequacy by the responsible governmental unit. A draft environmental impact statement prepared by the project proposer and submitted to the responsible governmental unit shall identify or include as an appendix all studies and other sources of information used to substantiate the analysis contained in the draft environmental impact statement. The responsible governmental unit shall require additional studies, if needed, and obtain from the project proposer all additional studies and information necessary for the responsible governmental unit to perform its responsibility to review, modify, and determine the completeness and adequacy of the environmental impact statement.

Sec. 8. Minnesota Statutes 2010, section 116D.04, subdivision 3a, is amended to read:

Subd. 3a. **Final decisions.** Within ~~90~~ 30 days after final approval of an environmental impact statement, final decisions shall be made by the appropriate governmental units on those permits which were identified as required and for which information was developed concurrently with the preparation of the environmental impact statement. Provided, however, that the ~~90-day~~ 30-day period may be extended where a longer period is required by federal law or state statute or is consented to by the permit applicant. The permit decision shall include the reasons for the decision, including any conditions under which the permit is issued, together with a final order granting or denying the permit.

Sec. 9. Minnesota Statutes 2010, section 116D.04, subdivision 10, is amended to read:

Subd. 10. **Review.** Decisions on the need for an environmental assessment worksheet, the need for an environmental impact statement, and the adequacy of an environmental impact statement may be reviewed by ~~a declaratory judgment action in the district court of the county wherein the proposed action, or any part thereof, would be undertaken~~ the Court of Appeals. Judicial review under this section shall be initiated within 30 days after the governmental unit makes the decision, and a bond may be required under section 562.02 unless at the time of hearing on the application for the bond the plaintiff has shown that the claim has sufficient possibility of success on the merits to sustain the burden required for the issuance of a temporary restraining order. Nothing in this section shall be construed to alter the requirements for a temporary restraining order or a preliminary injunction pursuant to the Minnesota Rules of Civil Procedure for district courts. The board may initiate judicial review of decisions referred to herein and may intervene as of right in any proceeding brought under this subdivision.

Sec. 10. Minnesota Statutes 2010, section 116D.045, subdivision 1, is amended to read:

Subdivision 1. **Assessment.** The board shall by rule adopt procedures to assess the proposer of a specific action for reasonable costs of preparing, reviewing, and distributing ~~an~~ the environmental impact statement ~~on that action required pursuant to section 116D.04. Such~~ The costs shall be determined by the responsible governmental unit pursuant to the rules promulgated by the board.

Sec. 11. Minnesota Statutes 2010, section 116D.045, subdivision 3, is amended to read:

Subd. 3. **Use of assessment.** As necessary, the responsible governmental unit shall assess the project proposer for reasonable costs that the responsible governmental unit incurs in preparing,

reviewing, and distributing the environmental impact statement and the proposer shall pay the assessed cost to the responsible governmental unit. Money received under this subdivision by a responsible governmental unit may be retained by the unit for the same purposes. Money received by a state agency must be credited to a special account and is appropriated to the agency to cover the assessed costs incurred.

Sec. 12. **RULE AMENDMENT.**

The commissioner of the Pollution Control Agency, the commissioner of natural resources, and the Environmental Quality Board, must amend rules necessary to conform to this act. The commissioners and the board may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), and Minnesota Statutes, section 14.386, does not apply, except as provided in Minnesota Statutes, section 14.388.

Sec. 13. **EFFECTIVE DATE.**

This article is effective the day following final enactment.

ARTICLE 2

TMDL ALTERNATIVES

Section 1. Minnesota Statutes 2010, section 114D.15, subdivision 10, is amended to read:

Subd. 10. **Total maximum daily load or TMDL.** "Total maximum daily load" or "TMDL" means a scientific study that contains a calculation of the maximum amount of a pollutant that may be introduced into a surface water and still ensure that applicable water quality standards for that water are restored and maintained. A TMDL also is the sum of the pollutant load allocations for all sources of the pollutant, including a wasteload allocation for point sources, a load allocation for nonpoint sources and natural background, an allocation for future growth of point and nonpoint sources, and a margin of safety to account for uncertainty about the relationship between pollutant loads and the quality of the receiving surface water. "Natural background" means characteristics of the water body resulting from the multiplicity of factors in nature, including climate and ecosystem dynamics, that affect the physical, chemical, or biological conditions in a water body, but does not include measurable and distinguishable pollution that is attributable to human activity or influence. A TMDL must take into account seasonal variations. TMDL includes TMDL alternatives.

Sec. 2. Minnesota Statutes 2010, section 114D.15, is amended by adding a subdivision to read:

Subd. 10a. **TMDL alternatives.** "TMDL alternatives" means analysis and plans that address water pollution control requirements expected to result in the attainment of an applicable water quality standard in a reasonable period of time as described in the United States Environmental Protection Agency's Integrated Reporting Guidance for sections 303(d), 305(b), and 314 of the federal Clean Water Act, United States Code, title 33, sections 1313(d), 1315(b), and 1324, and associated regulations and guidelines. TMDL alternatives shall be utilized when a TMDL is not needed because other pollution control requirements required by a local, state, or federal authority are sufficient to implement applicable water quality standards within a reasonable period of time. These alternatives to TMDL's include Category 4b waters that are not required to be included on the section 303(d) list. TMDL alternatives may be included in a watershed management plan or local water management plan that is developed or amended, adopted, and approved according to chapter 103B or 103D.

Sec. 3. Minnesota Statutes 2010, section 114D.15, subdivision 11, is amended to read:

Subd. 11. **TMDL implementation plan.** "TMDL implementation plan" means a document detailing restoration activities needed to meet the approved TMDL's pollutant load allocations for point and nonpoint sources. Applicable portions of watershed management plans or local water management plans that are developed or amended, adopted, and approved according to chapter 103B or 103D shall be considered TMDL implementation plans if: (1) that purpose is stated as an objective when the plan is developed or amended, adopted, and approved; and (2) the Board of Water and Soil Resources has reviewed and approved the TMDL implementation plan based on procedures under chapter 103B or 103D.

Sec. 4. Minnesota Statutes 2010, section 114D.20, subdivision 2, is amended to read:

Subd. 2. **Goals for implementation.** The following goals must guide the implementation of this chapter:

(1) to identify impaired waters in accordance with federal TMDL requirements or TMDL alternatives within ten years after the effective date of this section and thereafter to ensure continuing evaluation of surface waters for impairments;

(2) to submit TMDL's to the United States Environmental Protection Agency for all impaired waters in a timely manner in accordance with federal TMDL requirements or TMDL alternatives;

(3) to set a reasonable time for implementing restoration of each identified impaired water;

(4) to provide assistance and incentives to prevent waters from becoming impaired and to improve the quality of waters that are listed as impaired but do not have an approved TMDL addressing the impairment;

(5) to promptly seek the delisting of waters from the impaired waters list when those waters are shown to achieve the designated uses applicable to the waters; and

(6) to achieve compliance with federal Clean Water Act requirements in Minnesota.

Sec. 5. Minnesota Statutes 2010, section 114D.20, subdivision 4, is amended to read:

Subd. 4. **Priorities for identifying impaired waters.** The Pollution Control Agency, in accordance with federal TMDL requirements or TMDL alternatives, shall set priorities for identifying impaired waters, giving consideration to:

(1) waters where impairments would pose the greatest potential risk to human or aquatic health; and

(2) waters where data developed through public agency or citizen monitoring or other means, provides scientific evidence that an impaired condition exists.

Sec. 6. Minnesota Statutes 2010, section 114D.25, subdivision 1, is amended to read:

Subdivision 1. **General duties and authorities.** (a) The Pollution Control Agency, in accordance with federal TMDL requirements or TMDL alternatives, shall:

(1) identify impaired waters and propose a list of the waters for review and approval by the United States Environmental Protection Agency;

(2) evaluate watershed management plans or local water management plans that are developed or amended, adopted, and approved according to chapter 103B or 103D to determine whether a plan constitutes either a TMDL or a TMDL alternative;

(3) develop and or approve TMDL's for listed impaired waters, using current scientific models, methods, and approaches, and submit the approved TMDL's to the United State Environmental Protection Agency for final approval; and

~~(3)~~(4) propose to delist waters from the Environmental Protection Agency impaired waters list.

(b) A TMDL must include a statement of the facts and scientific data supporting the TMDL and a list of potential implementation options, including:

(1) a range of estimates of the cost of implementation of the TMDL; and

(2) for point sources, the individual wasteload data and the estimated cost of compliance addressed by the TMDL.

(c) The implementation information need not be sent to the United States Environmental Protection Agency for review and approval.

Sec. 7. Minnesota Statutes 2010, section 114D.35, subdivision 1, is amended to read:

Subdivision 1. **Public and stakeholder participation.** Public agencies and private entities involved in the implementation of this chapter shall encourage participation by the public and stakeholders, including local citizens, landowners and managers, and public and private organizations, in the identification of impaired waters, in developing TMDL's, and in planning, priority setting, and implementing restoration of impaired waters. In particular, the Pollution Control Agency shall make reasonable efforts to provide timely information to the public and to stakeholders about impaired waters that have been identified by the agency. The agency shall seek broad and early public and stakeholder participation in scoping the activities necessary to develop a TMDL, including the current scientific models, methods, and approaches to be used in TMDL development, and to implement restoration pursuant to section 114D.15, subdivision 7.

Sec. 8. Minnesota Statutes 2010, section 114D.35, subdivision 2, is amended to read:

Subd. 2. **Expert scientific advice.** The Clean Water Council and public agencies and private entities shall make use of available public and private expertise from educational, research, and technical organizations, including the University of Minnesota and other higher education institutions, to provide appropriate independent expert advice on current scientific models, methods, and approaches used in identifying impaired waters, developing TMDL's, and implementing prevention and restoration."

Amend the title as follows:

Page 1, line 3, before the semicolon, insert "; modifying the TMDL process"

Amend the title numbers accordingly

And when so amended the bill do pass and be re-referred to the Committee on State Government Innovation and Veterans. Amendments adopted. Report adopted.

Senator Koch, from the Committee on Rules and Administration, to which was referred

H.F. No. 130 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

| GENERAL ORDERS | | CONSENT CALENDAR | | CALENDAR | |
|----------------|----------|------------------|----------|----------|----------|
| H.F. No. | S.F. No. | H.F. No. | S.F. No. | H.F. No. | S.F. No. |
| 130 | 60 | | | | |

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 130 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 130, the first engrossment; and insert the language after the enacting clause of S.F. No. 60, the first engrossment; further, delete the title of H.F. No. 130, the first engrossment; and insert the title of S.F. No. 60, the first engrossment.

And when so amended H.F. No. 130 will be identical to S.F. No. 60, and further recommends that H.F. No. 130 be given its second reading and substituted for S.F. No. 60, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

SECOND READING OF SENATE BILLS

S.F. Nos. 69, 56, 40 and 139 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. No. 130 was read the second time.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time.

Senators Howe, Senjem, Parry and Wiger introduced—

S.F. No. 176: A bill for an act relating to retirement; general employees retirement plan of the Public Employees Retirement Association; including employees of the Red Wing Port Authority in the plan; validating retroactive retirement coverage for employees of the Red Wing Port Authority; amending Minnesota Statutes 2010, section 353.01, subdivisions 2a, 6.

Referred to the Committee on State Government Innovation and Veterans.

Senator Jungbauer introduced—

S.F. No. 177: A bill for an act relating to environment; requiring Pollution Control Agency

to refund erroneous assessments, costs, and payments in the matter of the Baytown groundwater contamination Superfund site.

Referred to the Committee on Environment and Natural Resources.

Senator Jungbauer introduced—

S.F. No. 178: A bill for an act relating to the city of Ramsey; providing special rules for a tax increment district in the city; amending Laws 2010, chapter 389, article 7, section 22.

Referred to the Committee on Taxes.

Senators Ingebrigtsen, Carlson, Pederson, Miller and Hoffman introduced—

S.F. No. 179: A bill for an act relating to motor vehicles; expanding eligibility for gold star license plates to surviving legal guardians and siblings; amending Minnesota Statutes 2010, section 168.1253, subdivision 1.

Referred to the Committee on Transportation.

Senators Benson, Nienow, Daley and Chamberlain introduced—

S.F. No. 180: A bill for an act relating to state government; requiring the Department of Human Services to issue a request for proposals for a Medicaid fraud detection and business intelligence contract.

Referred to the Committee on Health and Human Services.

Senator Lourey introduced—

S.F. No. 181: A bill for an act relating to state lands; authorizing public sale of certain tax-forfeited land that borders public water.

Referred to the Committee on Environment and Natural Resources.

Senator Lourey introduced—

S.F. No. 182: A bill for an act relating to state lands; authorizing private sale of tax-forfeited land.

Referred to the Committee on Environment and Natural Resources.

Senators Sheran and Rosen introduced—

S.F. No. 183: A bill for an act relating to taxation; sales and use; expanding the exemption for certain public safety radio equipment; amending Minnesota Statutes 2010, section 297A.70, subdivision 8.

Referred to the Committee on Taxes.

Senator Sheran introduced—

S.F. No. 184: A bill for an act relating to capital improvements; authorizing the sale and issuance of state bonds; appropriating money to expand the Mankato Civic Center auditorium and remodel and expand the Mankato Civic Center and All Seasons arenas.

Referred to the Committee on Capital Investment.

Senators Bonoff, Olson and Rest introduced—

S.F. No. 185: A bill for an act relating to education finance; adjusting the special education percentage eligibility requirement for a charter school to receive the accelerated aid payment shift; amending Minnesota Statutes 2010, section 127A.45, subdivision 6a.

Referred to the Committee on Education.

Senators Senjem, Nelson and Howe introduced—

S.F. No. 186: A bill for an act relating to natural resources; appropriating money for the restoration of Lake Zumbro and Schmidt Lake.

Referred to the Committee on Environment and Natural Resources.

Senators Senjem and Nelson introduced—

S.F. No. 187: A bill for an act relating to capital improvements; modifying a previous appropriation related to the DR-1941 area; amending Laws 2010, Second Special Session chapter 1, article 1, section 9, subdivision 5.

Referred to the Committee on Capital Investment.

Senators Senjem and Nelson introduced—

S.F. No. 188: A bill for an act relating to highways; designating Arianna Celeste MacNamara Memorial Bridge; amending Minnesota Statutes 2010, section 161.14, by adding a subdivision.

Referred to the Committee on Transportation.

Senators Senjem and Nelson introduced—

S.F. No. 189: A bill for an act relating to capital improvements; modifying a previous appropriation related to the Southeastern Minnesota Regional Public Safety Training Center; amending Laws 2008, chapter 179, section 15, subdivision 8.

Referred to the Committee on Capital Investment.

Senators Senjem and Nelson introduced—

S.F. No. 190: A bill for an act relating to the state budget; budget priorities; repealing the political contribution refund; amending Minnesota Statutes 2010, sections 270A.03, subdivision

7; 289A.50, subdivision 1; 290.01, subdivision 6; repealing Minnesota Statutes 2010, sections 10A.322, subdivision 4; 13.4967, subdivision 2; 290.06, subdivision 23.

Referred to the Committee on Taxes.

Senator Scheid introduced—

S.F. No. 191: A bill for an act relating to insurance; enacting the recommendation of the Small Group Health Insurance Market Working Group by repealing a requirement that small employers that do not offer group health coverage either offer, or file a form with the state stating a decision not to offer, a Section 125 plan through which employees may contribute wages to a pretax account from which to pay for individual health insurance; repealing Minnesota Statutes 2010, section 62U.07.

Referred to the Committee on Health and Human Services.

Senators Magnus, Kubly, Nienow, Miller and Skoe introduced—

S.F. No. 192: A bill for an act relating to agriculture; appropriating money for livestock investment grants.

Referred to the Committee on Agriculture and Rural Economies.

Senator Skoe introduced—

S.F. No. 193: A bill for an act relating to human services; increasing the daily rate at an ICF/MR facility in Clearwater County; amending Minnesota Statutes 2010, section 256B.5012, by adding a subdivision.

Referred to the Committee on Health and Human Services.

Senators Thompson, Latz and Scheid introduced—

S.F. No. 194: A bill for an act relating to secured transactions; enacting amendments to the Uniform Commercial Code Article 9 adopted by the National Conference of Commissioners on Uniform State Laws; making conforming changes; amending Minnesota Statutes 2010, sections 86B.820, subdivisions 10, 11; 168A.01, subdivisions 18, 19; 336.2A-103; 336.9-102; 336.9-105; 336.9-307; 336.9-311; 336.9-316; 336.9-317; 336.9-326; 336.9-406; 336.9-408; 336.9-502; 336.9-503; 336.9-507; 336.9-515; 336.9-516; 336.9-518; 514.963, subdivision 7; 514.965, subdivision 7; proposing coding for new law in Minnesota Statutes, chapter 336.

Referred to the Committee on Judiciary and Public Safety.

Senators Limmer, Scheid and Hoffman introduced—

S.F. No. 195: A bill for an act relating to vulnerable adults; modifying provisions governing investigations, reviews, and hearings; making the crime of criminal abuse of a vulnerable adult a registrable offense under the predatory offender registration law; changing terminology; increasing the criminal penalty for assaulting a vulnerable adult; providing criminal penalties; amending Minnesota Statutes 2010, sections 144.7065, subdivision 10; 243.166, subdivision 1b; 245C.28,

by adding a subdivision; 256.021; 256.045, subdivision 4; 518.165, subdivision 5; 524.5-118, subdivision 2; 609.2231, by adding a subdivision; 609.224, subdivision 2; 626.557, subdivisions 9, 9a, 9c, 9d, 12b; 626.5571, subdivision 1; 626.5572, subdivision 13.

Referred to the Committee on Judiciary and Public Safety.

Senators Pederson, Saxhaug and Ingebrigtsen introduced—

S.F. No. 196: A bill for an act relating to environment; requiring a study on state and local water management.

Referred to the Committee on Environment and Natural Resources.

Senators Reinert, Howe, Dibble and Scheid introduced—

S.F. No. 197: A bill for an act relating to liquor; modifying off-sale intoxicating liquor sales; amending Minnesota Statutes 2010, section 340A.504, subdivision 4.

Referred to the Committee on Commerce and Consumer Protection.

Senator Rest introduced—

S.F. No. 198: A bill for an act relating to education finance; encouraging school programs offering alternative school year calendars; authorizing grants; appropriating money; amending Minnesota Statutes 2010, sections 124D.12; 124D.126, by adding a subdivision.

Referred to the Committee on Education.

Senator Rest introduced—

S.F. No. 199: A bill for an act relating to education finance; clarifying that a school district is not required to provide educational services to students without disabilities from other states; amending Minnesota Statutes 2010, section 125A.515, by adding a subdivision.

Referred to the Committee on Education.

Senators Bakk and Saxhaug introduced—

S.F. No. 200: A bill for an act relating to public finance; altering school district referendum market value tax base; modifying taxation of seasonal recreational property; amending Minnesota Statutes 2010, sections 126C.01, subdivision 3; 275.025, subdivisions 1, 4; repealing Minnesota Statutes 2010, section 275.025, subdivision 3.

Referred to the Committee on Taxes.

Senators DeKruif, Thompson, Magnus, Gimse and Koch introduced—

S.F. No. 201: A bill for an act relating to crimes; providing that careless driving resulting in death is a gross misdemeanor; amending Minnesota Statutes 2010, section 169.13, by adding a subdivision.

Referred to the Committee on Judiciary and Public Safety.

Senator Rest introduced–

S.F. No. 202: A bill for an act relating to insurance; requiring health insurers to honor the patient's assignment of benefits; amending Minnesota Statutes 2010, section 72A.201, subdivision 4.

Referred to the Committee on Health and Human Services.

Senators Hann, Olson, Chamberlain, Scheid and Stumpf introduced–

S.F. No. 203: A bill for an act relating to education finance; creating the early graduation achievement scholarship program; appropriating money; amending Minnesota Statutes 2010, sections 120B.07; 126C.126; 126C.20; proposing coding for new law in Minnesota Statutes, chapter 120B.

Referred to the Committee on Education.

Senators Langseth, Stumpf, Skoe and Senjem introduced–

S.F. No. 204: A bill for an act relating to capital improvements; authorizing the sale and issuance of state bonds; appropriating money for flood hazard mitigation grants.

Referred to the Committee on Capital Investment.

Senator Chamberlain introduced–

S.F. No. 205: A bill for an act relating to economic development; extending the deadline for spending tax increments under certain conditions; amending Minnesota Statutes 2010, section 469.176, subdivision 4m.

Referred to the Committee on Taxes.

Senator Lourey introduced–

S.F. No. 206: A bill for an act relating to capital investment; authorizing the sale and issuance of bonds; appropriating money for an entrepreneurship and technology business incubator.

Referred to the Committee on Capital Investment.

Senators Saxhaug and Stumpf introduced–

S.F. No. 207: A bill for an act relating to health; providing an exemption from using a licensed well contractor; proposing coding for new law in Minnesota Statutes, chapter 103I.

Referred to the Committee on Health and Human Services.

Senators Hann, Nienow and Olson introduced–

S.F. No. 208: A bill for an act relating to education; identifying a process for negotiating

teacher employment contracts; amending Minnesota Statutes 2010, sections 179A.16, subdivision 1; 179A.18, subdivisions 1, 3; proposing coding for new law in Minnesota Statutes, chapter 179A; repealing Minnesota Statutes 2010, sections 123B.05; 179A.18, subdivision 2.

Referred to the Committee on State Government Innovation and Veterans.

Senator Daley introduced—

S.F. No. 209: A bill for an act relating to education finance; repealing ability to borrow short-term by modifying payments to districts; repealing Minnesota Statutes 2010, section 127A.46.

Referred to the Committee on Education.

MOTIONS AND RESOLUTIONS

Senator Hann moved that the name of Senator Hoffman be added as a co-author to S.F. No. 33. The motion prevailed.

Senator Kubly moved that the name of Senator Rest be added as a co-author to S.F. No. 131. The motion prevailed.

Senator Latz moved that the name of Senator Stumpf be added as a co-author to S.F. No. 166. The motion prevailed.

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

CONSENT CALENDAR

S.F. No. 55: A bill for an act relating to education; modifying charter authorizer approval deadline; amending Minnesota Statutes 2010, section 124D.10, subdivision 3.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

| | | | | |
|-------------|--------------|----------|------------|------------|
| Anderson | Fischbach | Koch | Nelson | Saxhaug |
| Bakk | Gazelka | Kruse | Newman | Scheid |
| Benson | Gerlach | Kubly | Nienow | Senjem |
| Berglin | Gimse | Langseth | Olson | Sheran |
| Bonoff | Hall | Latz | Ortman | Skoe |
| Brown | Hann | Lillie | Pappas | Sparks |
| Carlson | Harrington | Limmer | Parry | Stumpf |
| Chamberlain | Higgins | Lourey | Pederson | Thompson |
| Cohen | Hoffman | Magnus | Pogemiller | Torres Ray |
| Dahms | Howe | Marty | Reinert | Vanderveer |
| Daley | Ingebrigtsen | Metzen | Rest | Wiger |
| DeKruif | Jungbauer | Michel | Robling | Wolf |
| Dibble | Kelash | Miller | Rosen | |

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 26, Senator Koch, Chair of the Committee on Rules and Administration, designated S.F. No. 4 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 4: A bill for an act relating to energy; regulating and monitoring decommissioning of nuclear power plants and disposal of used fuel; abolishing prohibition on issuing certificate of need for new nuclear power plant; amending Minnesota Statutes 2010, section 216B.243, subdivision 3b; proposing coding for new law in Minnesota Statutes, chapter 216B.

Senator Anderson moved to amend S.F. No. 4 as follows:

Page 1, after line 7, insert:

"Section 1. Minnesota Statutes 2010, section 216B.16, is amended by adding a subdivision to read:

Subd. 6e. **Special rules for nuclear plant cost recovery.** (a) Notwithstanding any law to the contrary, the commission may not allow any of the costs attributable to the licensing and construction of a nuclear generating plant to be recovered from ratepayers until the plant has operated for one month at a monthly load capacity factor of at least 85 percent.

(b) The commission may not allow rate recovery for cost overruns related to the construction of nuclear power plants and related facilities. Cost overruns are the excess of actual costs over the costs found in the certificate of need proceeding for the plant.

EFFECTIVE DATE. This section is effective August 1, 2011, and applies to costs for plants receiving a certificate of need on or after that date."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 24 and nays 40, as follows:

Those who voted in the affirmative were:

| | | | | |
|----------|------------|--------|------------|------------|
| Anderson | Dibble | Latz | Pogemiller | Sparks |
| Bakk | Harrington | Lourey | Reinert | Stumpf |
| Berglin | Higgins | Marty | Saxhaug | Torres Ray |
| Bonoff | Kelash | Metzen | Sheran | Wiger |
| Cohen | Kubly | Pappas | Skoe | |

Those who voted in the negative were:

| | | | | |
|-------------|-----------|--------------|----------|--------|
| Benson | DeKruif | Hann | Kruse | Miller |
| Brown | Fischbach | Hoffman | Langseth | Nelson |
| Carlson | Gazelka | Howe | Lillie | Newman |
| Chamberlain | Gerlach | Ingebrigtsen | Limmer | Nienow |
| Dahms | Gimse | Jungbauer | Magnus | Olson |
| Daley | Hall | Koch | Michel | Ortman |

Parry
Pederson

Rest
Robling

Rosen
Scheid

Senjem
Thompson

Vandever
Wolf

The motion did not prevail. So the amendment was not adopted.

Senator Higgins moved to amend S.F. No. 4 as follows:

Page 2, after line 21, insert:

"Sec. 3. Minnesota Statutes 2010, section 216B.243, is amended by adding a subdivision to read:

Subd. 3c. **Nuclear plant; local referendum.** A certificate of need issued for a new nuclear-powered electric generating plant or nuclear waste storage facility is subject to approval of voters of the county in which the plant or facility is proposed to be sited at a general election."

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 22 and nays 42, as follows:

Those who voted in the affirmative were:

| | | | | |
|----------|------------|------------|------------|----------|
| Anderson | Harrington | Marty | Sheran | Vandever |
| Bakk | Higgins | Pappas | Skoe | Wiger |
| Berglin | Kelash | Pogemiller | Sparks | |
| Cohen | Kubly | Reinert | Stumpf | |
| Dibble | Lourey | Saxhaug | Torres Ray | |

Those who voted in the negative were:

| | | | | |
|-------------|--------------|----------|----------|----------|
| Benson | Gazelka | Koch | Miller | Robling |
| Bonoff | Gerlach | Kruse | Nelson | Rosen |
| Brown | Gimse | Langseth | Newman | Scheid |
| Carlson | Hall | Latz | Nienow | Senjem |
| Chamberlain | Hann | Lillie | Olson | Thompson |
| Dahms | Hoffman | Limmer | Ortman | Wolf |
| Daley | Howe | Magnus | Parry | |
| DeKruif | Ingebrigtsen | Metzen | Pederson | |
| Fischbach | Jungbauer | Michel | Rest | |

The motion did not prevail. So the amendment was not adopted.

Senator Dibble moved to amend S.F. No. 4 as follows:

Page 2, after line 21, insert:

"Sec. 3. Minnesota Statutes 2010, section 216B.243, is amended by adding a subdivision to read:

Subd. 3c. **Nuclear plant; plutonium weapon reprocessing prohibition.** The commission may not issue a certificate of need for a new nuclear-powered electric generating plant if it finds that the applicant plans to reprocess spent fuel produced by the proposed plant into weapons-grade plutonium either at the plant or elsewhere in the state."

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 22 and nays 42, as follows:

Those who voted in the affirmative were:

| | | | | |
|----------|------------|--------|------------|------------|
| Anderson | Harrington | Lourey | Pogemiller | Torres Ray |
| Bakk | Higgins | Marty | Reinert | Wiger |
| Berglin | Kelash | Metzen | Saxhaug | |
| Cohen | Kubly | Nelson | Sheran | |
| Dibble | Latz | Pappas | Skoe | |

Those who voted in the negative were:

| | | | | |
|-------------|--------------|----------|----------|----------|
| Benson | Gazelka | Koch | Nienow | Senjem |
| Bonoff | Gerlach | Kruse | Olson | Sparks |
| Brown | Gimse | Langseth | Ortman | Stumpf |
| Carlson | Hall | Lillie | Parry | Thompson |
| Chamberlain | Hann | Limmer | Pederson | Vandever |
| Dahms | Hoffman | Magnus | Rest | Wolf |
| Daley | Howe | Michel | Robling | |
| DeKruif | Ingebrigtsen | Miller | Rosen | |
| Fischbach | Jungbauer | Newman | Scheid | |

The motion did not prevail. So the amendment was not adopted.

Senator Marty moved to amend S.F. No. 4 as follows:

Page 2, after line 21, insert:

"Sec. 3. Minnesota Statutes 2010, section 216B.243, is amended by adding a subdivision to read:

Subd. 3c. **Nuclear plant; long-term waste storage limitation.** The commission may not issue a certificate of need for a new nuclear-powered electric generating plant if it finds that the operation of the plant will cause a net increase in the long-term storage within the state of used nuclear fuel produced by nuclear-powered electric generating plants in the state. For the purpose of this section, "net increase" means an increase above the long-term storage required solely by the operation of the Prairie Island and Monticello nuclear-powered electric generating plants."

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 21 and nays 43, as follows:

Those who voted in the affirmative were:

| | | | | |
|----------|------------|------------|------------|-------|
| Anderson | Harrington | Marty | Saxhaug | Wiger |
| Bakk | Higgins | Metzen | Sheran | |
| Berglin | Kelash | Pappas | Skoe | |
| Cohen | Kubly | Pogemiller | Sparks | |
| Dibble | Lourey | Reinert | Torres Ray | |

Those who voted in the negative were:

| | | | | |
|-------------|--------------|----------|----------|----------|
| Benson | Gazelka | Koch | Nelson | Rosen |
| Bonoff | Gerlach | Kruse | Newman | Scheid |
| Brown | Gimse | Langseth | Nienow | Senjem |
| Carlson | Hall | Latz | Olson | Stumpf |
| Chamberlain | Hann | Lillie | Ortman | Thompson |
| Dahms | Hoffman | Limmer | Parry | Vandever |
| Daley | Howe | Magnus | Pederson | Wolf |
| DeKruif | Ingebrigtsen | Michel | Rest | |
| Fischbach | Jungbauer | Miller | Robling | |

The motion did not prevail. So the amendment was not adopted.

Senator Marty moved to amend S.F. No. 4 as follows:

Page 2, after line 13, insert:

"Sec. 2. [216B.1615] PUBLIC OPTION FOR INSURANCE FOR NUCLEAR PLANTS PROHIBITED.

To the extent not preempted by federal law, a nuclear-powered electric generating plant granted a certificate of need after March 1, 2011, may not insure, in whole or in part, its liability for damage to others caused by the operation of the plant through a taxpayer-funded insurance program."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion did not prevail. So the amendment was not adopted.

S.F. No. 4 was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 50 and nays 14, as follows:

Those who voted in the affirmative were:

| | | | | |
|-------------|--------------|----------|----------|----------|
| Bakk | Gazelka | Koch | Nelson | Saxhaug |
| Benson | Gerlach | Kruse | Newman | Scheid |
| Bonoff | Gimse | Langseth | Nienow | Senjem |
| Brown | Hall | Latz | Olson | Sheran |
| Carlson | Hann | Lillie | Ortman | Skoe |
| Chamberlain | Harrington | Limmer | Parry | Sparks |
| Dahms | Hoffman | Magnus | Pederson | Stumpf |
| Daley | Howe | Metzen | Rest | Thompson |
| DeKruif | Ingebrigtsen | Michel | Robling | Vandever |
| Fischbach | Jungbauer | Miller | Rosen | Wolf |

Those who voted in the negative were:

| | | | | |
|----------|---------|--------|------------|------------|
| Anderson | Dibble | Kubly | Pappas | Torres Ray |
| Berglin | Higgins | Lourey | Pogemiller | Wiger |
| Cohen | Kelash | Marty | Reinert | |

So the bill passed and its title was agreed to.

MEMBERS EXCUSED

Senators Goodwin, Sieben and Tomassoni were excused from the Session of today.

ADJOURNMENT

Senator Koch moved that the Senate do now adjourn until 11:00 a.m., Thursday, February 3, 2011. The motion prevailed.

Cal R. Ludeman, Secretary of the Senate

