

TWELFTH DAY

St. Paul, Minnesota, Monday, February 7, 2011

The Senate met at 11:00 a.m. and was called to order by the President.

CALL OF THE SENATE

Senator Michel 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. Carl M. Nielsen, III.

The members of the Senate gave the pledge of allegiance to the flag of the United States of America, led by military service veteran, Mr. Herb Cook.

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

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

January 31, 2011

The Honorable Michelle L. Fischbach
President of the Senate

Dear Senator Fischbach:

The Subcommittee on Committees of the Committee on Rules and Administration met on January 31, 2011, and by appropriate action made the following appointments:

Pursuant to Minnesota Statutes 2010

298.22: Iron Range Resources and Rehabilitation Board - Senators Bakk, Carlson, Gazelka, Saxhaug and Tomassoni, effective January 31, 2011, for a term expiring January 31, 2013.

Sincerely,
Amy Koch, Chair
Subcommittee on Committees

January 31, 2011

The Honorable Michelle L. Fischbach
President of the Senate

Dear Senator Fischbach:

As the Senate Majority Leader, I am hereby making the following appointment:

Pursuant to Minnesota Statutes 2010

298.22: Iron Range Resources and Rehabilitation Board - John "Jack" Ryan, Jr., effective February 4, 2011, for a term expiring January 31, 2013.

Sincerely,
Amy Koch
Senate Majority Leader

February 3, 2011

The Honorable Michelle L. Fischbach
President of the Senate

Dear Senator Fischbach:

As the Senate Majority Leader, I am hereby making the following appointment:

Pursuant to Minnesota Statutes 2010

175.007: Advisory Council on Workers' Compensation - Senator Lillie to serve at the pleasure of the appointing authority.

Sincerely,
Amy Koch
Senate Majority Leader

REPORTS OF COMMITTEES

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

Senator Limmer from the Committee on Judiciary and Public Safety, to which was re-referred

S.F. No. 42: A bill for an act relating to environment; providing for permitting efficiency; modifying environmental review requirements; modifying the TMDL process; amending Minnesota Statutes 2010, sections 84.027, by adding a subdivision; 114D.15, subdivisions 10, 11, by adding a subdivision; 114D.20, subdivisions 2, 4; 114D.25, subdivision 1; 114D.35, subdivisions 1, 2; 115.07; 116.03, by adding a subdivision; 116.07, subdivisions 2, 7c; 116.0711, by adding a subdivision; 116D.04, subdivisions 2a, 3a, 10; 116D.045, subdivisions 1, 3.

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

Page 7, after line 13, insert:

"Application. This section applies to proceedings in which the notice under section 14.14, subdivision 1a, or 14.22, is made on or after the effective date."

Page 12, line 17, delete "prepare a" and insert "include in the information submitted to the responsible governmental unit a preliminary"

Page 12, line 18, delete "submission to and"

Page 12, lines 20 and 23, before "draft" insert "preliminary"

Page 12, line 34, before "required" insert "permitted by section 15.99 or"

Page 13, after line 2, insert:

"Application. This section applies to matters in which final approval of an environmental impact statement is made on or after the effective date."

Page 13, delete section 9 and insert:

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

Subd. 10. **Review. Decisions** A person aggrieved by a final decision on the need for an environmental assessment worksheet, the need for an environmental impact statement and, or 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 is entitled to judicial review of the decision under sections 14.63 to 14.68. A petition for a writ of certiorari by an aggrieved person for judicial review under sections 14.63 to 14.68 must be filed with the Court of Appeals and served on the responsible governmental unit not more than 30 days after the party receives the final decision and order of the responsible governmental unit. Proceedings for review under this section must be instituted by serving a petition for a writ of certiorari personally or by certified mail upon the responsible governmental unit and by promptly filing the proof of service in the Office of the Clerk of the Appellate Courts and the matter will

proceed in the manner provided by the Rules of Civil Appellate Procedure. A copy of the petition must be provided to the attorney general at the time of service. Copies of the writ must be served, personally or by certified mail, upon the responsible governmental unit and the project proposer. The filing of the writ of certiorari does not stay the enforcement of any other governmental action, provided that the responsible governmental unit may stay enforcement or the Court of Appeals may order a stay upon terms it deems proper. 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 petitioner-relator has shown that the claim has sufficient possibility of success is likely to succeed 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 the board or a project proposer may intervene as of right in any proceeding brought under this subdivision.

Application. This section applies to matters in which the final decision that is subject to judicial review is made on or after the effective date."

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

Senator Limmer from the Committee on Judiciary and Public Safety, to which was re-referred

S.F. No. 33: A bill for an act relating to health; providing a statement of public policy declaring that every resident of Minnesota has the freedom of choice in health care; making appropriation adjustments in fiscal years 2010 and 2011; amending Minnesota Statutes 2010, section 8.31, subdivision 1; Laws 2010, First Special Session chapter 1, article 25, section 3, subdivisions 2, 5, 6, 7; proposing coding for new law in Minnesota Statutes, chapter 1; repealing Minnesota Statutes 2010, sections 256B.055, subdivision 15; 256B.0756; Laws 2010, First Special Session chapter 1, article 16, sections 6; 7; 18; 46; 47.

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

Page 3, after line 11, insert:

"Sec. 3. Minnesota Statutes 2010, section 8.31, subdivision 3a, is amended to read:

Subd. 3a. **Private remedies.** In addition to the remedies otherwise provided by law, any person injured by a violation of any of the laws referred to in subdivision 1 or a violation of the public policy in section 1.06 may bring a civil action and recover damages, together with costs and disbursements, including costs of investigation and reasonable attorney's fees, and receive other equitable relief as determined by the court. The court may, as appropriate, enter a consent judgment or decree without the finding of illegality. In any action brought by the attorney general pursuant to this section, the court may award any of the remedies allowable under this subdivision. An action under this subdivision for any violation of section 1.06 is in the public interest."

Renumber the sections in sequence

Amend the title numbers accordingly

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

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time.

Senators Skoe and Ingebrigtsen introduced–

S.F. No. 232: A bill for an act relating to natural resources; allowing for lakewide invasive species control on public waters; exempting lakewide invasive species control from certain permit fees; amending Minnesota Statutes 2010, section 103G.615, subdivisions 2, 3.

Referred to the Committee on Environment and Natural Resources.

Senator Jungbauer introduced–

S.F. No. 233: A bill for an act relating to capital investment; appropriating money for the Oliver H. Kelley Farm Historical Site; authorizing the sale and issuance of state bonds.

Referred to the Committee on Capital Investment.

Senators Jungbauer and Ingebrigtsen introduced–

S.F. No. 234: A bill for an act relating to game and fish; requiring certain meetings between Department of Natural Resources, Ojibwe bands, and Great Lakes Indian Fish and Wildlife Commission to be subject to open meeting law; proposing coding for new law in Minnesota Statutes, chapter 97A.

Referred to the Committee on Environment and Natural Resources.

Senator Jungbauer introduced–

S.F. No. 235: A bill for an act relating to environment; repealing state goals for greenhouse gas emission reductions; amending Minnesota Statutes 2010, sections 3.8851, subdivision 3; 116J.437, subdivision 1; 216H.021, subdivision 1; repealing Minnesota Statutes 2010, sections 216C.055; 216H.02; 216H.07.

Referred to the Committee on Environment and Natural Resources.

Senators Magnus, Jungbauer, Metzen, Rosen and Stumpf introduced–

S.F. No. 236: A bill for an act relating to public safety; 911 telephone service; providing for collection of 911 fees from prepaid wireless telecommunications services; amending Minnesota Statutes 2010, sections 403.02, by adding a subdivision; 403.11, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 403.

Referred to the Committee on Judiciary and Public Safety.

Senator Skoe introduced—

S.F. No. 237: A bill for an act relating to natural resources; transferring certain responsibilities to Board of Water and Soil Resources from Pollution Control Agency and Department of Natural Resources.

Referred to the Committee on Environment and Natural Resources.

Senator Skoe introduced—

S.F. No. 238: A bill for an act relating to the environment; modifying responsibilities of Pollution Control Agency; providing for state environmental permit coordination and management; abolishing Environmental Quality Board; specifying transfer of responsibilities from abolished board; amending Minnesota Statutes 2010, section 116.02, subdivision 6; proposing coding for new law in Minnesota Statutes, chapter 116C; repealing Minnesota Statutes 2010, sections 116.02, subdivision 8; 116C.01; 116C.02; 116C.03, subdivisions 1, 2, 2a, 3a, 4, 5, 6; 116C.04, subdivisions 1, 2, 3, 4, 7, 10, 11; 116C.06; 116C.08.

Referred to the Committee on Environment and Natural Resources.

Senators Kruse, Scheid, Nelson and Limmer introduced—

S.F. No. 239: A bill for an act relating to education; authorizing a transfer from the reserved for operating capital account to the undesignated general fund; proposing coding for new law in Minnesota Statutes, chapter 123B.

Referred to the Committee on Education.

Senator Nienow introduced—

S.F. No. 240: A bill for an act relating to health; modifying the definition of optometry; amending Minnesota Statutes 2010, section 148.56, subdivision 1.

Referred to the Committee on Health and Human Services.

Senator Pogemiller introduced—

S.F. No. 241: A bill for an act relating to real property; allowing common interest community unit owners to obtain copies of association records; amending Minnesota Statutes 2010, section 515B.3-118.

Referred to the Committee on Judiciary and Public Safety.

Senators Bonoff and Wiger introduced—

S.F. No. 242: A bill for an act relating to education finance; repealing requirement that Department of Management and Budget require school district state-aid payments to be reduced prior to state of Minnesota undertaking short-term borrowing for cash flow needs; repealing Minnesota Statutes 2010, section 127A.46.

Referred to the Committee on Education.

Senators Gazelka, Scheid, Dahms, Brown and Kruse introduced–

S.F. No. 243: A bill for an act relating to insurance; establishing the Fairness for Responsible Drivers Act; limiting certain remedies of uninsured motorists; increasing the amount of certain criminal fines; amending Minnesota Statutes 2010, sections 65B.51, subdivision 3; 169.797, subdivision 4.

Referred to the Committee on Commerce and Consumer Protection.

Senator Gazelka introduced–

S.F. No. 244: A bill for an act relating to taxation; increasing the permitted holding period for exempt property held for economic development for certain cities; amending Minnesota Statutes 2010, section 272.02, subdivision 39.

Referred to the Committee on Taxes.

Senator Goodwin introduced–

S.F. No. 245: A bill for an act relating to family law; modifying provisions governing grandparent visitation; amending Minnesota Statutes 2010, section 257C.08, subdivisions 2, 3; repealing Minnesota Statutes 2010, section 257C.08, subdivision 7.

Referred to the Committee on Judiciary and Public Safety.

Senator Vandever introduced–

S.F. No. 246: A bill for an act relating to taxation; property; limiting growth in market value; amending Minnesota Statutes 2010, section 273.11, subdivision 1a.

Referred to the Committee on Taxes.

Senators Dahms, Gerlach and Sheran introduced–

S.F. No. 247: A bill for an act relating to insurance; requiring local government employees to approve participation in or withdrawal from the public employees insurance program; amending Minnesota Statutes 2010, sections 43A.316, subdivision 5; 471.61, subdivision 2b; 471.611, subdivision 2.

Referred to the Committee on State Government Innovation and Veterans.

Senators Fischbach, Rosen, Marty, Berglin and Nienow introduced–

S.F. No. 248: A bill for an act relating to health; extending moratorium on radiation therapy facility construction in certain counties; amending Minnesota Statutes 2010, section 144.5509.

Referred to the Committee on Health and Human Services.

Senators Kruse, Scheid, Gazelka, Carlson and Dahms introduced–

S.F. No. 249: A bill for an act relating to commerce; regulating the provision of certain goods and services of residential contractors; providing enforcement; amending Minnesota Statutes 2010, section 325E.66.

Referred to the Committee on Commerce and Consumer Protection.

Senators Rosen, Hann, Thompson and Chamberlain introduced–

S.F. No. 250: A bill for an act relating to education; providing for a qualified economic offer in teacher contracts; amending Minnesota Statutes 2010, sections 122A.40, by adding a subdivision; 122A.41, by adding a subdivision.

Referred to the Committee on Education.

Senators Jungbauer, Nienow and Hann introduced–

S.F. No. 251: A bill for an act relating to education; providing for five-year continuing teacher contracts; amending Minnesota Statutes 2010, sections 122A.40, subdivision 7, by adding a subdivision; 122A.41, subdivision 4, by adding a subdivision.

Referred to the Committee on Education.

Senators Jungbauer and Hall introduced–

S.F. No. 252: A bill for an act relating to commerce; authorizing use and sale of incandescent light bulbs manufactured in Minnesota; proposing coding for new law in Minnesota Statutes, chapter 325E.

Referred to the Committee on Commerce and Consumer Protection.

Senator Jungbauer introduced–

S.F. No. 253: A bill for an act relating to higher education; regulating compensation for faculty in the Minnesota State Colleges and Universities for the biennium ending June 30, 2013.

Referred to the Committee on Higher Education.

Senators Vandever, Nienow, Benson and Rosen introduced–

S.F. No. 254: A bill for an act relating to human services; modifying license requirements for adult foster care and family adult day services; directing commissioner to apply for federal waiver for medical assistance reimbursement; amending Minnesota Statutes 2010, sections 245A.11, subdivision 2b; 245A.143, subdivision 1; 256B.49, subdivision 16a.

Referred to the Committee on Health and Human Services.

Senator Wiger introduced–

S.F. No. 255: A bill for an act relating to drivers' licenses; requiring school attendance as a condition of obtaining instruction permits and drivers' licenses for applicants under 18; amending Minnesota Statutes 2010, sections 13.32, subdivision 3; 171.02, subdivision 3; 171.04, subdivision 1; 171.05, subdivisions 2, 3; proposing coding for new law in Minnesota Statutes, chapter 171.

Referred to the Committee on Transportation.

Senators Bakk and Saxhaug introduced–

S.F. No. 256: A bill for an act relating to natural resources; appropriating money for an all-terrain vehicle trail in Lake County.

Referred to the Committee on Environment and Natural Resources.

Senators Kelash, Langseth and Bakk introduced–

S.F. No. 257: A bill for an act relating to capital improvements; appropriating money for the Lindau Lane Corridor; authorizing the sale and issuance of state bonds.

Referred to the Committee on Capital Investment.

Senators Saxhaug, Bakk and Skoe introduced–

S.F. No. 258: A bill for an act relating to taxation; property; exempting property owned and operated by a veterans organization; amending Minnesota Statutes 2010, section 272.02, by adding a subdivision.

Referred to the Committee on Taxes.

Senators Saxhaug and Ingebrigtsen introduced–

S.F. No. 259: A bill for an act relating to game and fish; allowing scopes on muzzleloaders; amending Minnesota Statutes 2010, section 97B.031, subdivision 5.

Referred to the Committee on Environment and Natural Resources.

Senators Saxhaug and Kubly introduced–

S.F. No. 260: A bill for an act relating to county and agricultural society lands; clarifying authority of county boards and county agricultural societies to exchange lands; amending Minnesota Statutes 2010, sections 38.01; 373.01, subdivision 1.

Referred to the Committee on Agriculture and Rural Economies.

Senators Senjem, Newman and Parry introduced–

S.F. No. 261: A bill for an act relating to regulatory reform; providing that certain rules take effect only upon legislative approval; amending Minnesota Statutes 2010, section 14.19; proposing

coding for new law in Minnesota Statutes, chapter 14; repealing Minnesota Statutes 2010, section 14.127.

Referred to the Committee on State Government Innovation and Veterans.

Senators Senjem and Nelson introduced—

S.F. No. 262: A bill for an act relating to capital investment; appropriating money for improvements related to Trunk Highway 52 in Rochester; authorizing sale and issuance of state bonds.

Referred to the Committee on Capital Investment.

Senators Dahms, Sheran, DeKruif and Kubly introduced—

S.F. No. 263: A bill for an act relating to capital investment; appropriating money to the Minnesota Valley Regional Rail Authority; authorizing sale and issuance of general obligation bonds.

Referred to the Committee on Capital Investment.

Senators Limmer, Carlson, Stumpf, Rosen and Gazelka introduced—

S.F. No. 264: A bill for an act relating to health; limiting use of funds for state-sponsored health programs for funding abortions.

Referred to the Committee on Health and Human Services.

Senators DeKruif, Benson, Nienow, Kruse and Gimse introduced—

S.F. No. 265: A bill for an act relating to health; limiting use of funds for state-sponsored health programs for funding abortions.

Referred to the Committee on Health and Human Services.

Senators Howe, DeKruif, Parry, Sheran and Skoe introduced—

S.F. No. 266: A bill for an act relating to traffic regulations; modifying provision exempting road equipment preparing for winter storm from certain highway restrictions; amending Minnesota Statutes 2010, section 169.035, subdivision 1.

Referred to the Committee on Transportation.

Senators Dahms, Rosen, Ortman, Sheran and Skoe introduced—

S.F. No. 267: A bill for an act relating to taxation; sales and use; expanding exemption for public safety radio communication system; amending Minnesota Statutes 2010, sections 297A.70, subdivision 8; 297A.75, subdivisions 1, 2, 3.

Referred to the Committee on Taxes.

MOTIONS AND RESOLUTIONS

Senator Pogemiller moved that the name of Senator Reinert be added as a co-author to S.F. No. 5. The motion prevailed.

Senator Reinert moved that the name of Senator Miller be added as a co-author to S.F. No. 197. The motion prevailed.

Senator Ortman moved that the name of Senator Nelson be added as a co-author to S.F. No. 217. The motion prevailed.

Senator Reinert moved that the name of Senator Rest be added as a co-author to S.F. No. 220. The motion prevailed.

Senator Scheid moved that the name of Senator Rest be added as a co-author to S.F. No. 227. The motion prevailed.

Senator Nelson introduced –

Senate Resolution No. 37: A Senate resolution honoring Luke A. Rosedahl for receiving the General Billy Mitchell Award.

Referred to the Committee on Rules and Administration.

Senator Nelson introduced –

Senate Resolution No. 38: A Senate resolution honoring Elias J. Rosedahl for receiving the General Billy Mitchell Award.

Referred to the Committee on Rules and Administration.

Senator Sieben introduced –

Senate Resolution No. 39: A Senate resolution commending MSgt (Ret) Gerry Ellis for 23 years of dedicated service to the Air Force Junior ROTC program at Park High School.

Referred to the Committee on Rules and Administration.

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. 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.

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 63 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

MEMBERS EXCUSED

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

ADJOURNMENT

Senator Koch moved that the Senate do now adjourn until 11:30 a.m., Wednesday, February 9, 2011. The motion prevailed.

Cal R. Ludeman, Secretary of the Senate