

## SIXTY-FIRST DAY

St. Paul, Minnesota, Thursday, May 3, 2007

The Senate met at 1:30 p.m. and was called to order by the President.

**CALL OF THE SENATE**

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

Prayer was offered by Senator Michael J. Jungbauer.

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

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

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.

April 23, 2007

The Honorable James P. Metzen  
President of the Senate

Dear Senator Metzen:

The following appointments are hereby respectfully submitted to the Senate for confirmation as required by law:

## MINNESOTA HIGHER EDUCATION FACILITIES AUTHORITY

Gary Benson, 2064 Pleasantview Dr., New Brighton, in the county of Ramsey, effective April 30, 2007, for a term that expires on January 3, 2011.

Kathryn Balstad Brewer, 380 Jackson St., Suite 450, Saint Paul, in the county of Ramsey, effective April 30, 2007, for a term that expires on January 3, 2011.

Janet Withoff, 870 Willow View Dr., Orono, in the county of Hennepin, effective April 30, 2007, to complete a term that expires on January 4, 2010.

(Referred to the Committee on Higher Education.)

April 26, 2007

The Honorable James P. Metzen  
President of the Senate

Dear Senator Metzen:

The following appointments are hereby respectfully submitted to the Senate for confirmation as required by law:

## EMERGENCY MEDICAL SERVICES REGULATORY BOARD

Dawn G. Bidwell, 1118 Lake St., P.O. Box 443, Alexandria, in the county of Douglas, effective May 1, 2007, for a term that expires on January 3, 2011.

Bonnie Engen, 44052 Maplewood Rd., Clearbrook, in the county of Clearwater, effective May 1, 2007, for a term that expires on January 3, 2011.

Susan Jacobson, 2150 James Ave., Saint Paul, in the county of Ramsey, effective May 1, 2007, for a term that expires on January 3, 2011.

Lee Pyles, M.D., 5215 Green Farms Ct., Edina, in the county of Hennepin, effective May 1, 2007, to complete a term that expires on January 7, 2008.

James Rieber, 220 - 5th Ave. N.E., Perham, in the county of Otter Tail, effective May 1, 2007, for a term that expires on January 3, 2011.

Mari C. Thomas, M.D., 45 N. Main St., Sauk Centre, in the county of Stearns, effective May 1, 2007, for a term that expires on January 3, 2011.

(Referred to the Committee on Health, Housing and Family Security.)

Sincerely,  
Tim Pawlenty, Governor

## MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith

returned: S.F. No. 372.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 2, 2007

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 1078 and 1409.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 2, 2007

### FIRST READING OF HOUSE BILLS

The following bills were read the first time.

**H.F. No. 1078:** A bill for an act relating to health; modifying the hospital public interest review; modifying the alternative approval process; amending Minnesota Statutes 2006, sections 144.50, by adding subdivisions; 144.552; 144.553, subdivision 3; 144.699, by adding a subdivision.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 967, now on General Orders.

**H.F. No. 1409:** A bill for an act relating to health; changing provisions for well contractor's license; amending Minnesota Statutes 2006, sections 103I.525, subdivision 5; 103I.531, subdivision 6.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1229, now on General Orders.

### REPORTS OF COMMITTEES

Senator Betzold moved that the Committee Reports at the Desk be now adopted, with the exception of the report on S.F. No. 1701 and the report pertaining to appointments. The motion prevailed.

#### **Senator Moua from the Committee on Judiciary, to which was re-referred**

**S.F. No. 1701:** A bill for an act relating to health; establishing the Health Records Act; providing penalties; proposing coding for new law in Minnesota Statutes, chapter 144; repealing Minnesota Statutes 2006, section 144.335.

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

Delete everything after the enacting clause and insert:

"Section 1. [144.291] MINNESOTA HEALTH RECORDS ACT.

Subdivision 1. **Short title.** Sections 144.291 to 144.298 may be cited as the Minnesota Health Records Act.

Subd. 2. **Definitions.** For the purposes of sections 144.291 to 144.298, the following terms have the meanings given.

(a) **Group purchaser.** "Group purchaser" has the meaning given in section 62J.03, subdivision 6.

(b) **Health information exchange.** "Health information exchange" means a legal arrangement between health care providers and group purchasers to enable and oversee the business and legal issues involved in the electronic exchange of health records between the entities for the delivery of patient care.

(c) **Health record.** "Health record" means any information, whether oral or recorded in any form or medium, that relates to the past, present, or future physical or mental health or condition of a patient; the provision of health care to a patient; or the past, present, or future payment for the provision of health care to a patient.

(d) **Identifying information.** "Identifying information" means the patient's name, address, date of birth, gender, parent's or guardian's name regardless of the age of the patient, and other nonclinical data which can be used to uniquely identify a patient.

(e) **Individually identifiable form.** "Individually identifiable form" means a form in which the patient is or can be identified as the subject of the health records.

(f) **Medical emergency.** "Medical emergency" means medically necessary care which is immediately needed to preserve life, prevent serious impairment to bodily functions, organs, or parts, or prevent placing the physical or mental health of the patient in serious jeopardy.

(g) **Patient.** "Patient" means a natural person who has received health care services from a provider for treatment or examination of a medical, psychiatric, or mental condition, the surviving spouse and parents of a deceased patient, or a person the patient appoints in writing as a representative, including a health care agent acting according to chapter 145C, unless the authority of the agent has been limited by the principal in the principal's health care directive. Except for minors who have received health care services under sections 144.341 to 144.347, in the case of a minor, patient includes a parent or guardian, or a person acting as a parent or guardian in the absence of a parent or guardian.

(h) **Provider.** "Provider" means:

(1) any person who furnishes health care services and is regulated to furnish the services under chapter 147, 147A, 147B, 147C, 147D, 148, 148B, 148C, 148D, 150A, 151, 153, or 153A;

(2) a home care provider licensed under section 144A.46;

(3) a health care facility licensed under this chapter or chapter 144A;

(4) a physician assistant registered under chapter 147A; and

(5) an unlicensed mental health practitioner regulated under sections 148B.60 to 148B.71.

(i) **Record locator service.** "Record locator service" means an electronic index of patient identifying information that directs providers in a health information exchange to the location of patient health records held by providers and group purchasers.

(j) **Related health care entity.** "Related health care entity" means an affiliate, as defined in section 144.6521, subdivision 3, paragraph (b), of the provider releasing the health records.

**Sec. 2. [144.292] PATIENT RIGHTS.**

Subdivision 1. **Scope.** Patients have the rights specified in this section regarding the treatment the patient receives and the patient's health record.

Subd. 2. **Patient access.** Upon request, a provider shall supply to a patient complete and current information possessed by that provider concerning any diagnosis, treatment, and prognosis of the patient in terms and language the patient can reasonably be expected to understand.

Subd. 3. **Additional patient rights.** A patient's right specified in this section and sections 144.293 to 144.298 are in addition to the rights specified in sections 144.651 and 144.652 and any other provision of law relating to the access of a patient to the patient's health records.

Subd. 4. **Notice of rights; information on release.** A provider shall provide to patients, in a clear and conspicuous manner, a written notice concerning practices and rights with respect to access to health records. The notice must include an explanation of:

(1) disclosures of health records that may be made without the written consent of the patient, including the type of records and to whom the records may be disclosed; and

(2) the right of the patient to have access to and obtain copies of the patient's health records and other information about the patient that is maintained by the provider.

The notice requirements of this subdivision are satisfied if the notice is included with the notice and copy of the patient and resident bill of rights under section 144.652 or if it is displayed prominently in the provider's place of business. The commissioner of health shall develop the notice required in this subdivision and publish it in the State Register.

Subd. 5. **Copies of health records to patients.** Except as provided in section 144.296, upon a patient's written request, a provider, at a reasonable cost to the patient, shall promptly furnish to the patient:

(1) copies of the patient's health record, including but not limited to laboratory reports, x-rays, prescriptions, and other technical information used in assessing the patient's health conditions; or

(2) the pertinent portion of the record relating to a condition specified by the patient.

With the consent of the patient, the provider may instead furnish only a summary of the record. The provider may exclude from the health record written speculations about the patient's health condition, except that all information necessary for the patient's informed consent must be provided.

Subd. 6. **Cost.** (a) When a patient requests a copy of the patient's record for purposes of reviewing current medical care, the provider must not charge a fee.

(b) When a provider or its representative makes copies of patient records upon a patient's

request under this section, the provider or its representative may charge the patient or the patient's representative no more than 75 cents per page, plus \$10 for time spent retrieving and copying the records, unless other law or a rule or contract provide for a lower maximum charge. This limitation does not apply to x-rays. The provider may charge a patient no more than the actual cost of reproducing x-rays, plus no more than \$10 for the time spent retrieving and copying the x-rays.

(c) The respective maximum charges of 75 cents per page and \$10 for time provided in this subdivision are in effect for calendar year 1992 and may be adjusted annually each calendar year as provided in this subdivision. The permissible maximum charges shall change each year by an amount that reflects the change, as compared to the previous year, in the Consumer Price Index for all Urban Consumers, Minneapolis-St. Paul (CPI-U), published by the Department of Labor.

(d) A provider or its representative must not charge a fee to provide copies of records requested by a patient or the patient's authorized representative if the request for copies of records is for purposes of appealing a denial of Social Security disability income or Social Security disability benefits under title II or title XVI of the Social Security Act. For the purpose of further appeals, a patient may receive no more than two medical record updates without charge, but only for medical record information previously not provided. For purposes of this paragraph, a patient's authorized representative does not include units of state government engaged in the adjudication of Social Security disability claims.

Subd. 7. **Withholding health records from patient.** (a) If a provider, as defined in section 144.291, subdivision 2, paragraph (h), clause (1), reasonably determines that the information is detrimental to the physical or mental health of the patient, or is likely to cause the patient to inflict self harm, or to harm another, the provider may withhold the information from the patient and may supply the information to an appropriate third party or to another provider, as defined in section 144.291, subdivision 2, paragraph (h), clause (1). The other provider or third party may release the information to the patient.

(b) A provider, as defined in section 144.291, subdivision 2, paragraph (h), clause (3), shall release information upon written request unless, prior to the request, a provider, as defined in section 144.291, subdivision 2, paragraph (h), clause (1), has designated and described a specific basis for withholding the information as authorized by paragraph (a).

Subd. 8. **Form.** By January 1, 2008, the Department of Health must develop a one-page form that may be used by a patient to request access to health records under this section. A form developed by the commissioner must be accepted by a provider as a legally enforceable request under this section.

### Sec. 3. [144.293] **RELEASE OR DISCLOSURE OF HEALTH RECORDS.**

Subdivision 1. **Release or disclosure of health records.** Health records can be released or disclosed as specified in subdivisions 2 to 9 and sections 144.294 and 144.295.

Subd. 2. **Patient consent to release of records.** A provider, or a person who receives health records from a provider, may not release a patient's health records to a person without:

(1) a signed and dated consent from the patient or the patient's legally authorized representative authorizing the release; or

(2) specific authorization in law.

Subd. 3. **Release from one provider to another.** A patient's health record, including, but not limited to, laboratory reports, x-rays, prescriptions, and other technical information used in assessing the patient's condition, or the pertinent portion of the record relating to a specific condition, or a summary of the record, shall promptly be furnished to another provider upon the written request of the patient. The written request shall specify the name of the provider to whom the health record is to be furnished. The provider who furnishes the health record or summary may retain a copy of the materials furnished. The patient shall be responsible for the reasonable costs of furnishing the information.

Subd. 4. **Duration of consent.** Except as provided in this section, a consent is valid for one year or for a lesser period specified in the consent or for a different period provided by law.

Subd. 5. **Exceptions to consent requirement.** This section does not prohibit the release of health records:

(1) for a medical emergency when the provider is unable to obtain the patient's consent due to the patient's condition or the nature of the medical emergency;

(2) to other providers within related health care entities when necessary for the current treatment of the patient; or

(3) to a health care facility licensed by this chapter, chapter 144A, or to the same types of health care facilities licensed by this chapter and chapter 144A that are licensed in another state when a patient:

(i) is returning to the health care facility and unable to provide consent; or

(ii) who resides in the health care facility, has services provided by an outside resource under Code of Federal Regulations, title 42, section 483.75(h), and is unable to provide consent.

Subd. 6. **Consent does not expire.** Notwithstanding subdivision 4, if a patient explicitly gives informed consent to the release of health records for the purposes and restrictions in clauses (1) and (2), the consent does not expire after one year for:

(1) the release of health records to a provider who is being advised or consulted with in connection with the releasing provider's current treatment of the patient;

(2) the release of health records to an accident and health insurer, health service plan corporation, health maintenance organization, or third-party administrator for purposes of payment of claims, fraud investigation, or quality of care review and studies, provided that:

(i) the use or release of the records complies with sections 72A.49 to 72A.505;

(ii) further use or release of the records in individually identifiable form to a person other than the patient without the patient's consent is prohibited; and

(iii) the recipient establishes adequate safeguards to protect the records from unauthorized disclosure, including a procedure for removal or destruction of information that identifies the patient.

Subd. 7. **Exception to consent.** Subdivision 2 does not apply to the release of health records to the commissioner of health or the Health Data Institute under chapter 62J, provided that the

commissioner encrypts the patient identifier upon receipt of the data.

Subd. 8. **Record locator service.** (a) A provider or group purchaser may release patient identifying information and information about the location of the patient's health records to a record locator service without consent from the patient, unless the patient has elected to be excluded from the service under paragraph (d). Only a provider may have access to patient identifying information in a record locator service. Except in the case of a medical emergency, a provider participating in a health information exchange using a record locator service does not have access to patient identifying information and information about the location of the patient's health records unless the patient specifically consents to the access. A consent does not expire but may be revoked by the patient at any time by providing written notice of the revocation to the provider.

(b) A health information exchange maintaining a record locator service must maintain an audit log of providers accessing information in a record locator service that at least contains information on:

- (1) the identity of the provider accessing the information;
- (2) the identity of the patient whose information was accessed by the provider; and
- (3) the date the information was accessed.

(c) No group purchaser may in any way require a provider to participate in a record locator service as a condition of payment or participation.

(d) A provider or an entity operating a record locator service must provide a mechanism under which patients may exclude their identifying information and information about the location of their health records from a record locator service. At a minimum, a consent form that permits a provider to access a record locator service must include a conspicuous check-box option that allows a patient to exclude all of the patient's information from the record locator service. A provider participating in a health information exchange with a record locator service who receives a patient's request to exclude all of the patient's information from the record locator service or to have a specific provider contact excluded from the record locator service is responsible for removing that information from the record locator service.

Subd. 9. **Documentation of release.** In cases where a provider releases health records without patient consent as authorized by law, the release must be documented in the patient's health record. In the case of a release under section 144.294, subdivision 2, the documentation must include the date and circumstances under which the release was made, the person or agency to whom the release was made, and the records that were released.

Subd. 10. **Warranties regarding consents, requests, and disclosures.** (a) When requesting health records using consent, a person warrants that the consent:

- (1) contains no information known to the person to be false; and
- (2) accurately states the patient's desire to have health records disclosed or that there is specific authorization in law.

(b) When requesting health records using consent, a provider warrants that the request:

- (1) contains no information known to the provider to be false;



(2) accurately states the patient's desire to have health records disclosed or that there is specific authorization in law; and

(3) does not exceed any limits imposed by the patient in the consent.

(c) When disclosing health records, a person releasing health records warrants that the person:

(1) has complied with the requirements of this section regarding disclosure of health records;

(2) knows of no information related to the request that is false; and

(3) has complied with the limits set by the patient in the consent.

**Sec. 4. [144.294] RECORDS RELATING TO MENTAL HEALTH.**

Subdivision 1. **Provider inquiry.** Upon the written request of a spouse, parent, child, or sibling of a patient being evaluated for or diagnosed with mental illness, a provider shall inquire of a patient whether the patient wishes to authorize a specific individual to receive information regarding the patient's current and proposed course of treatment. If the patient so authorizes, the provider shall communicate to the designated individual the patient's current and proposed course of treatment. Section 144.293, subdivisions 2 and 4, apply to consents given under this subdivision.

Subd. 2. **Disclosure to law enforcement agency.** Notwithstanding section 144.293, subdivisions 2 and 4, a provider must disclose health records relating to a patient's mental health to a law enforcement agency if the law enforcement agency provides the name of the patient and communicates that the:

(1) patient is currently involved in an emergency interaction with the law enforcement agency; and

(2) disclosure of the records is necessary to protect the health or safety of the patient or of another person.

The scope of disclosure under this subdivision is limited to the minimum necessary for law enforcement to respond to the emergency. A law enforcement agency that obtains health records under this subdivision shall maintain a record of the requestor, the provider of the information, and the patient's name. Health records obtained by a law enforcement agency under this subdivision are private data on individuals as defined in section 13.02, subdivision 12, and must not be used by law enforcement for any other purpose.

Subd. 3. **Records release for family and caretaker; mental health care.** (a) Notwithstanding section 144.293, a provider providing mental health care and treatment may disclose health record information described in paragraph (b) about a patient to a family member of the patient or other person who requests the information if:

(1) the request for information is in writing;

(2) the family member or other person lives with, provides care for, or is directly involved in monitoring the treatment of the patient;

(3) the involvement under clause (2) is verified by the patient's mental health care provider, the patient's attending physician, or a person other than the person requesting the information, and is

documented in the patient's medical record;

(4) before the disclosure, the patient is informed in writing of the request, the name of the person requesting the information, the reason for the request, and the specific information being requested;

(5) the patient agrees to the disclosure, does not object to the disclosure, or is unable to consent or object, and the patient's decision or inability to make a decision is documented in the patient's medical record; and

(6) the disclosure is necessary to assist in the provision of care or monitoring of the patient's treatment.

(b) The information disclosed under this paragraph is limited to diagnosis, admission to or discharge from treatment, the name and dosage of the medications prescribed, side effects of the medication, consequences of failure of the patient to take the prescribed medication, and a summary of the discharge plan.

(c) If a provider reasonably determines that providing information under this subdivision would be detrimental to the physical or mental health of the patient or is likely to cause the patient to inflict self harm or to harm another, the provider must not disclose the information.

(d) This subdivision does not apply to disclosures for a medical emergency or to family members as authorized or required under subdivision 1 or section 144.293, subdivision 5, clause (1).

#### **Sec. 5. [144.295] DISCLOSURE OF HEALTH RECORDS FOR EXTERNAL RESEARCH.**

Subdivision 1. **Methods of release.** (a) Notwithstanding section 144.293, subdivisions 2 and 4, health records may be released to an external researcher solely for purposes of medical or scientific research only as follows:

(1) health records generated before January 1, 1997, may be released if the patient has not objected or does not elect to object after that date;

(2) for health records generated on or after January 1, 1997, the provider must:

(i) disclose in writing to patients currently being treated by the provider that health records, regardless of when generated, may be released and that the patient may object, in which case the records will not be released; and

(ii) use reasonable efforts to obtain the patient's written general authorization that describes the release of records in item (i), which does not expire but may be revoked or limited in writing at any time by the patient or the patient's authorized representative;

(3) the provider must advise the patient of the rights specified in clause (4); and

(4) the provider must, at the request of the patient, provide information on how the patient may contact an external researcher to whom the health record was released and the date it was released.

(b) Authorization may be established if an authorization is mailed at least two times to the patient's last known address with a postage prepaid return envelope and a conspicuous notice that the patient's medical records may be released if the patient does not object, and at least 60 days have

expired since the second notice was sent.

Subd. 2. **Duties of researcher.** In making a release for research purposes, the provider shall make a reasonable effort to determine that:

(1) the use or disclosure does not violate any limitations under which the record was collected;

(2) the use or disclosure in individually identifiable form is necessary to accomplish the research or statistical purpose for which the use or disclosure is to be made;

(3) the recipient has established and maintains adequate safeguards to protect the records from unauthorized disclosure, including a procedure for removal or destruction of information that identifies the patient; and

(4) further use or release of the records in individually identifiable form to a person other than the patient without the patient's consent is prohibited.

**Sec. 6. [144.296] COPIES OF VIDEOTAPES.**

A provider may not release a copy of a videotape of a child victim or alleged victim of physical or sexual abuse without a court order under section 13.03, subdivision 6, or as provided in section 611A.90. This section does not limit the right of a patient to view the videotape.

**Sec. 7. [144.297] INDEPENDENT MEDICAL EXAMINATION.**

This section applies to the subject and provider of an independent medical examination requested by or paid for by a third party. Notwithstanding section 144.293, a provider may release health records created as part of an independent medical examination to the third party who requested or paid for the examination.

**Sec. 8. [144.298] PENALTIES.**

Subdivision 1. **Licensing action.** A violation of sections 144.291 to 144.298 may be grounds for disciplinary action against a provider by the appropriate licensing board or agency.

Subd. 2. **Liability of provider or other person.** A person who does any of the following is liable to the patient for compensatory damages caused by an unauthorized release, plus costs and reasonable attorney fees:

(1) negligently or intentionally requests or releases a health record in violation of sections 144.291 to 144.297;

(2) forges a signature on a consent form or materially alters the consent form of another person without the person's consent; or

(3) obtains a consent form or the health records of another person under false pretenses.

Subd. 3. **Liability for a record locator service.** A patient is entitled to receive compensatory damages plus costs and reasonable attorney fees if a health information exchange maintaining a record locator service, or an entity maintaining a record locator service for a health information exchange, negligently or intentionally violates the provisions of section 144.293, subdivision 8.

**Sec. 9. REPEALER.**

Minnesota Statutes 2006, section 144.335, is repealed.

Sec. 10. **REVISOR'S INSTRUCTION.**

In the next bound volume of Minnesota Statutes and Minnesota Rules, the revisor shall change the references in column A with the references in column B.

<u>Column A</u>	<u>Column B</u>
<u>section 144.335</u>	<u>sections 144.291 to 144.298</u>
<u>section 144.335, subdivision 1</u>	<u>section 144.291, subdivision 2</u>
<u>section 144.335, subdivision 1, paragraph (b)</u>	<u>section 144.291, subdivision 2, paragraph (h)</u>
<u>section 144.335, subdivision 2, paragraphs (a) and (b)</u>	<u>section 144.292, subdivisions 2 and 5</u>
<u>section 144.335, subdivision 2</u>	<u>section 144.292</u>
<u>section 144.335, subdivision 3a</u>	<u>section 144.294, subdivision 2</u>
<u>section 144.335, subdivision 3a, paragraph (d)</u>	<u>section 144.295</u>
<u>section 144.335, subdivision 3a, paragraph (f)</u>	<u>section 144.294</u>
<u>section 144.335, subdivision 3b</u>	<u>section 144.293, subdivision 7"</u>

And when so amended the bill do pass.

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

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

**S.F. No. 1215:** A bill for an act relating to health; making technical changes; eliminating radioactive material license renewal fee; establishing fees for ionizing radiation-producing equipment; modifying requirements for operating x-ray equipment; changing provisions in the lead abatement program; extending the expiration date for a task force; amending Minnesota Statutes 2006, sections 144.1205, subdivision 1; 144.121, subdivisions 1a, 5; 144.9512, subdivisions 1, 2, 3, 10; 145.881, subdivision 1; repealing Minnesota Statutes 2006, sections 144.121, subdivisions 1c, 4; 144.146, subdivision 1; 144.9512, subdivisions 4, 6, 7, 8.

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

Pages 2 to 4, delete sections 4 to 7

Page 5, line 6, delete "sections" and insert "section" and delete everything after "4" and insert a comma

Page 5, line 7, delete everything before "are"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, delete "changing provisions"

Page 1, line 5, delete everything before "extending"

Amend the title numbers accordingly

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

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

**S.F. No. 303:** A bill for an act relating to local government; extending the municipal boundary adjustment advisory task force; amending Laws 2006, chapter 270, article 2, section 1.

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

Page 2, delete subdivision 3 and insert:

"Subd. 3. ~~Funds available~~ **Expenses.** Any funds ~~remaining in the committee budgets for the house local government committee or the senate state and local government operations committee as of the 2006 adjournment of the legislature will be available to pay for the administrative expenses of the task force, including per diems and expenses of members and the services of a facilitator from the management analysis division of the Department of Administration.~~ The cost of preparing the report must be divided among the League of Minnesota Cities, the Coalition of Greater Minnesota Cities, and the Minnesota Association of Townships."

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

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

**S.F. No. 827:** A bill for an act relating to health; requiring coverage for interpreter services; establishing an interpreter services work group; requiring reports; proposing coding for new law in Minnesota Statutes, chapter 62Q.

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

Page 1, line 9, before "health" insert "covered"

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

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

**S.F. No. 445:** A bill for an act relating to occupations and professions; modifying provisions for individuals operating x-ray equipment; amending Minnesota Statutes 2006, section 144.121, subdivision 5, by adding subdivisions.

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 2006, section 144.121, subdivision 5, is amended to read:

Subd. 5. **Examination for individual operating x-ray equipment.** ~~After January 1, 1997, an individual in a facility with x-ray equipment for use on humans that is registered under subdivision 1 may not operate, nor may the facility allow the individual to operate, x-ray equipment unless the~~

individual has passed an examination approved by the commissioner of health, or an examination determined to the satisfaction of the commissioner of health to be an equivalent national, state, or regional examination, that demonstrates the individual's knowledge of basic radiation safety, proper use of x-ray equipment, darkroom and film processing, and quality assurance procedures. The commissioner shall establish by rule criteria for the approval of examinations required for an individual operating an x-ray machine in Minnesota (a) After January 1, 2008, an individual in a facility with x-ray equipment for use on humans that is registered under subdivision 1 may not operate, nor may the facility allow the individual to operate, x-ray equipment unless the individual has passed a national examination for limited x-ray machine operators that meets the requirements of paragraphs (b) and (c) and is approved by the commissioner of health.

(b) The commissioner shall establish criteria for the approval of examinations based on national standards, such as the examination in radiography from the American Registry of Radiologic Technologists, the examination for limited scope of practice in radiography from the American Registry of Radiologic Technologists for limited x-ray machine operators, and the American Registry of Chiropractic Radiography Technologists for limited radiography in spines and extremities; or equivalent examinations approved by other states. Equivalent examinations may be approved by the commissioner, if the examination is consistent with the standards for educational and psychological testing as recommended by the American Education Research Association, the American Psychological Association, the National Council on Measurement in Education, or the National Commission for Certifying Agencies. The organization proposing the use of an equivalent examination shall submit a fee to the commissioner of \$1,000 per examination to cover the cost of determining the extent to which the examination meets the examining standards. The collected fee shall be deposited in the state treasury and credited to the state government special revenue fund.

(c) The examination for limited x-ray machine operators must include:

(1) radiation protection, equipment maintenance and operation, image production and evaluation, and patient care and management; and

(2) at least one of the following regions of the human anatomy: chest, extremities, skull and sinus, spine, or ankle and foot. The examinations must include the anatomy of, and positioning for, the specific regions.

(d) A limited x-ray operator who is required to take an examination under this subdivision must submit to the commissioner an application for the examination, a \$25 processing fee, and the required examination fee set by the national organization offering the examination. The processing fee and the examination fee shall be deposited in the state treasury and credited to the state government special revenue fund. The commissioner shall submit the fee to the national organization providing the examination.

Sec. 2. Minnesota Statutes 2006, section 144.121, is amended by adding a subdivision to read:

Subd. 5a. **Limited x-ray machine operator practice.** (a) A limited x-ray operator may only practice medical radiography on limited regions of the human anatomy for which the operator has successfully passed an examination identified in subdivision 5, unless the operator meets one of the exemptions described in paragraph (b). The operator may practice using only routine radiographic procedures, for the interpretation by and under the direction of a licensed practitioner, excluding computed tomography, the use of contrast media, and the use of fluoroscopic or mammographic equipment.

(b) This subdivision does not apply to:

(1) limited x-ray machine operators who passed the examination that was required before January 1, 2008;

(2) certified radiologic technologists, licensed dental hygienists, registered dental assistants, certified registered nurse anesthetists, and registered physician assistants;

(3) individuals who are licensed in Minnesota to practice medicine, osteopathy, chiropractic, podiatry, or dentistry; and

(4) individuals who are participating in a training course in any of the occupations listed in clause (2) or (3) for the duration and within the scope of the training course.

Sec. 3. Minnesota Statutes 2006, section 144.121, is amended by adding a subdivision to read:

Subd. 5b. **Variance of scope of practice.** The commissioner may grant a variance according to Minnesota Rules, parts 4717.7000 to 4717.7050, to a facility for the scope of practice of an x-ray operator in cases where the delivery of health care would otherwise be compromised if a variance were not granted. The request for a variance must be in writing, state the circumstances that constitute hardship, state the period of time the facility wishes to have the variance for the scope of practice in place, and state the alternative measures that will be taken if the variance is granted. The commissioner shall set forth in writing the reasons for granting or denying the variance. Variances granted by the commissioner specify in writing the time limitation and required alternative measures to be taken by the facility. A request for the variance shall be denied if the commissioner finds the circumstances stated by the facility do not support a claim of hardship, the requested time period for the variance is unreasonable, the alternative measures proposed by the facility are not equivalent to the scope of practice, or the request for the variance is not submitted to the commissioner in a timely manner.

Sec. 4. **APPROPRIATIONS.**

\$10,000 is appropriated in fiscal year 2008 and \$5,000 is appropriated in fiscal year 2009 from the state government special revenue fund to the commissioner of health for the purpose of the examination procedures for individuals operating x-ray equipment.

Sec. 5. **EFFECTIVE DATE.**

Sections 1 to 4 are effective January 1, 2008."

Delete the title and insert:

"A bill for an act relating to occupations and professions; modifying provisions for individuals operating x-ray equipment; appropriating money; amending Minnesota Statutes 2006, section 144.121, subdivision 5, by adding subdivisions."

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

**Senator Cohen from the Committee on Finance, to which was referred**

**S.F. No. 2236:** A bill for an act relating to capital investment; providing relief for public and private property damaged by the Browns Valley flooding of March 2007; authorizing flood

mitigation projects in Browns Valley; appropriating money; amending Laws 2005, chapter 20, article 1, section 7, subdivision 2; Laws 2006, chapter 258, section 7, subdivision 3.

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

**Senator Rest from the Committee on State and Local Government Operations and Oversight, to which were referred the following appointments:**

**BOARD OF THE ARTS**

Judson Bemis, Jr.  
Andrew Berryhill

**MINNESOTA RACING COMMISSION**

William Kozitza  
Lynn Leegard  
Camille McArdle

Reports the same back with the recommendation that the appointments be confirmed.

Senator Betzold moved that the foregoing committee report be laid on the table. The motion prevailed.

**SECOND READING OF SENATE BILLS**

S.F. Nos. 1215, 303, 827, 445 and 2236 were read the second time.

**MOTIONS AND RESOLUTIONS**

Senator Dibble moved that the name of Senator Pappas be added as a co-author to Senate Resolution No. 87. The motion prevailed.

Senator Vandever moved that S.F. No. 2162 be withdrawn from the Committee on State and Local Government Operations and Oversight and returned to its author. The motion prevailed.

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

**INTRODUCTION AND FIRST READING OF SENATE BILLS**

The following bills were read the first time.

**Senators Murphy, Prettner Solon, Erickson Ropes, Cohen and Frederickson introduced—**

**S.F. No. 2278:** A bill for an act relating to capital improvements; appropriating money for port development assistance; authorizing the sale of state bonds.

Referred to the Committee on Finance.



**Senator Ortman introduced—**

**S.F. No. 2279:** A bill for an act relating to agriculture; allowing the expiration of a metropolitan agricultural preserve under certain conditions.

Referred to the Committee on Agriculture and Veterans.

**MOTIONS AND RESOLUTIONS - CONTINUED**

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate proceeded to the Order of Business of the Calendar.

**CALENDAR**

**S.F. No. 345:** A bill for an act relating to health; providing for the medical use of marijuana; providing civil and criminal penalties; appropriating money; amending Minnesota Statutes 2006, section 13.3806, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 152.

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 35 and nays 29, as follows:

Those who voted in the affirmative were:

Anderson	Clark	Johnson	Michel	Saltzman
Bakk	Cohen	Koering	Moua	Scheid
Berglin	Dibble	Larson	Murphy	Sieben
Betzold	Doll	Latz	Pappas	Sparks
Bonoff	Erickson Ropes	Lourey	Pogemiller	Tomassoni
Carlson	Foley	Marty	Prettner Solon	Torres Ray
Chaudhary	Higgins	Metzen	Rest	Wiger

Those who voted in the negative were:

Day	Ingebrigtsen	Lynch	Robling	Skoe
Fischbach	Jungbauer	Neuville	Rosen	Skogen
Frederickson	Koch	Olseen	Rummel	Vandever
Gerlach	Kubly	Olson, G.	Saxhaug	Vickerman
Gimse	Langseth	Olson, M.	Senjem	Wergin
Hann	Limmer	Pariseau	Sheran	

So the bill passed and its title was agreed to.

**MOTIONS AND RESOLUTIONS - CONTINUED**

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

**MESSAGES FROM THE HOUSE**

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 829, and repassed said bill in accordance with the report of the Committee, so adopted.

**H.F. No. 829:** A bill for an act relating to state government; appropriating money for public safety and corrections initiatives, courts, public defenders, tax court, Uniform Laws Commission and Board on Judicial Standards; providing certain general criminal and sentencing provisions; regulating DWI and driving provisions; modifying or establishing various provisions relating to public safety; providing for residency documentation; regulating corrections, the courts, and emergency communications; regulating scrap metal dealers; modifying certain law enforcement, insurance, human services, and public defense provisions; providing immunity from certain civil liability; establishing reduced ignition propensity standards for cigarettes; providing conditional repeals of certain laws; providing penalties; amending Minnesota Statutes 2006, sections 2.722, subdivision 1; 3.732, subdivision 1; 3.736, subdivision 1; 13.87, subdivision 1; 15A.083, subdivision 4; 16A.72; 16B.181, subdivision 2; 16C.23, subdivision 2; 168.012, subdivision 1; 169.13, by adding a subdivision; 169.471, subdivision 2; 169A.275, by adding a subdivision; 169A.51, subdivision 7; 171.09, subdivision 1; 171.12, by adding a subdivision; 171.55; 241.016, subdivision 1; 241.018; 241.27, subdivisions 1, 2, 3, 4; 241.278; 241.69, subdivisions 3, 4; 243.167, subdivision 1; 243.55, subdivision 1; 244.05, by adding a subdivision; 245.041; 253B.09, subdivision 3a; 260B.007, by adding a subdivision; 260B.125, subdivision 1; 260B.130, subdivision 1; 260B.141, subdivision 4; 260B.198, subdivision 6; 260C.193, subdivision 6; 270A.03, subdivision 5; 299A.641, subdivision 2; 299C.65, subdivisions 2, 5; 302A.781, by adding a subdivision; 325E.21; 352D.02, subdivision 1; 363A.06, subdivision 1; 383A.08, subdivisions 6, 7; 401.15, subdivision 1; 403.07, subdivision 4; 403.11, subdivision 1, by adding subdivisions; 403.31, subdivision 1; 484.54, subdivision 2; 484.83; 504B.361, subdivision 1; 518.165, subdivisions 1, 2; 518A.35, subdivision 3; 518B.01, subdivisions 6a, 22; 548.091, subdivision 1a; 549.09, subdivision 1; 563.01, by adding a subdivision; 590.05; 595.02, subdivision 1; 609.02, subdivision 16; 609.055; 609.135, subdivision 8, by adding a subdivision; 609.15, subdivision 1; 609.21, subdivisions 1, 4a, 5, by adding subdivisions; 609.221, subdivision 2; 609.2232; 609.341, subdivision 11; 609.344, subdivision 1; 609.345, subdivision 1; 609.3451, subdivision 3; 609.3455, subdivision 4, by adding a subdivision; 609.352; 609.505, subdivision 2; 609.581, by adding subdivisions; 609.582, subdivision 2; 609.595, subdivisions 1, 2; 609.748, subdivisions 1, 5; 609.75, subdivision 8, by adding subdivisions; 611.14; 611.20, subdivision 6; 611.215, subdivisions 1, 1a; 611.23; 611.24; 611.25, subdivision 1; 611.26, subdivisions 2, 7; 611.27, subdivisions 3, 13, 15; 611.35; 611A.036, subdivisions 2, 7; 611A.675, subdivisions 1, 2, 3, 4, by adding a subdivision; 626.5572, subdivision 21; 634.15, subdivisions 1, 2; 641.05; 641.15, by adding a subdivision; 641.265, subdivision 2; Laws 2001, First Special Session chapter 8, article 4, section 4; Laws 2003, First Special Session chapter 2, article 1, section 2; proposing coding for new law in Minnesota Statutes, chapters 72A; 171; 241; 299A; 299F; 357; 484; 504B; 540; 604; 609; 611A; repealing Minnesota Statutes 2006, sections 169.796, subdivision 3; 241.021, subdivision 5; 241.85, subdivision 2; 260B.173; 403.31, subdivision 6; 480.175, subdivision 3; 609.21, subdivisions 2, 2a, 2b, 3, 4; 609.805; 611.20, subdivision 5; Laws 2005, First Special Session chapter 6, article 3, section 91.

House File No. 829 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 3, 2007

Senator Higgins moved that the recommendations and Conference Committee Report on H.F. No. 829 be now adopted, and that the bill be repassed as amended by the Conference Committee.

Senator Neuville moved that the recommendations and Conference Committee Report on H.F. No. 829 be rejected and that the bill be re-referred to the Conference Committee as formerly constituted for further consideration.

### CALL OF THE SENATE

Senator Higgins imposed a call of the Senate for the balance of the proceedings on H.F. No. 829. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the Neuville motion.

The roll was called, and there were yeas 32 and nays 33, as follows:

Those who voted in the affirmative were:

Bakk	Hann	Larson	Pariseau	Sparks
Day	Ingebrigtsen	Limmer	Robling	Vandever
Doll	Johnson	Metzen	Rosen	Vickerman
Fischbach	Jungbauer	Michel	Scheid	Wergin
Frederickson	Koch	Neuville	Senjem	
Gerlach	Koering	Olson, G.	Skoe	
Gimse	Kubly	Ortman	Skogen	

Those who voted in the negative were:

Anderson	Cohen	Lourey	Pappas	Sheran
Berglin	Dibble	Lynch	Pogemiller	Sieben
Betzold	Erickson Ropes	Marty	Prettner Solon	Tomassoni
Bonoff	Foley	Moua	Rest	Torres Ray
Carlson	Higgins	Murphy	Rummel	Wiger
Chaudhary	Langseth	Olseen	Saltzman	
Clark	Latz	Olson, M.	Saxhaug	

The motion did not prevail.

Senator Pogemiller moved that H.F. No. 829 and the Conference Committee Report thereon be laid on the table. The motion prevailed.

### RECESS

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

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

**CALL OF THE SENATE**

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

**MOTIONS AND RESOLUTIONS - CONTINUED**

Senator Pogemiller moved that H.F. No. 829 and the Conference Committee Report thereon be taken from the table. The motion prevailed.

**RECONSIDERATION**

Having voted on the prevailing side, Senator Pogemiller moved that the vote whereby the Neuville motion to reject the Conference Committee Report and re-refer H.F. No. 829 to the Conference Committee as formerly constituted for further consideration, failed to pass the Senate on May 3, 2007, be now reconsidered. The motion prevailed.

The question recurred on the motion of Senator Neuville that the recommendations and Conference Committee Report on H.F. No. 829 be rejected and that the bill be re-referred to the Conference Committee as formerly constituted for further consideration. The motion prevailed.

**MOTIONS AND RESOLUTIONS - CONTINUED****SUSPENSION OF RULES**

Senator Pogemiller moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to S.F. No. 2236 and that the rules of the Senate be so far suspended as to give S.F. No. 2236, now on General Orders, its third reading and place it on its final passage. The motion prevailed.

**S.F. No. 2236:** A bill for an act relating to capital investment; providing relief for public and private property damaged by the Browns Valley flooding of March 2007; authorizing flood mitigation projects in Browns Valley; appropriating money; amending Laws 2005, chapter 20, article 1, section 7, subdivision 2; Laws 2006, chapter 258, section 7, subdivision 3.

Senator Langseth moved to amend S.F. No. 2236 as follows:

Page 1, line 12, after the period, insert "This appropriation is available until June 30, 2008."

The motion prevailed. So the amendment was adopted.

Senator Limmer moved to amend S.F. No. 2236 as follows:

Page 1, line 9, before "\$2,000,000" insert:

"Subdivision 1. Browns Valley flood."

Page 1, after line 12, insert:

"Subd. 2. **Rogers tornado.** \$600,000 is appropriated from the general fund to the commission of public safety for a grant to the city of Rogers. Grant money may be used for relief for damages caused by the September 16, 2006, tornado."

Page 1, line 17, after the comma, insert "and the tornado through the city of Rogers on September 16, 2006,"

Amend the title accordingly

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

S.F. No. 2236 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

### MOTIONS AND RESOLUTIONS - CONTINUED

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

### MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 272, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 272 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 3, 2007

**CONFERENCE COMMITTEE REPORT ON H. F. NO. 272**

A bill for an act relating to the military and veterans; clarifying that a statute ensuring the continuation of state licenses and certificates of registration for any trade, employment, occupation, or profession while soldiers and certain essential employees are engaged in active military service applies to licenses and certificates of registration requiring firearms and use of force training; amending Minnesota Statutes 2006, section 326.56, subdivision 2.

The Honorable Margaret Anderson Kelliher  
Speaker of the House of Representatives

The Honorable James P. Metzen  
President of the Senate

We, the undersigned conferees for H. F. No. 272 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H. F. No. 272 be further amended as follows:

Page 2, line 14, after the period, insert "Any compensatory job-related education or training considered necessary by the licensee's or registrant's employer must be provided and paid for by the employer and must not be permitted to delay the licensee's or registrant's reemployment."

We request the adoption of this report and repassage of the bill.

House Conferees: (Signed) Larry Haws, Al Doty, Dan Severson

Senate Conferees: (Signed) Dan Skogen, Sharon L. Erickson Ropes, Bill G. Ingebrigtsen

Senator Skogen moved that the foregoing recommendations and Conference Committee Report on H.F. No. 272 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 272 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 61 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

**MEMBERS EXCUSED**

Senators Dille and Stumpf were excused from the Session of today. Senators Hann, Johnson and Pariseau were excused from the Session of today at 5:55 p.m.

**ADJOURNMENT**

Senator Pogemiller moved that the Senate do now adjourn until 1:00 p.m., Friday, May 4, 2007. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate





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