



LEGISLATIVE ASSEMBLY OF MANITOBA

VOTES AND PROCEEDINGS No. 56

THIRD SESSION, THIRTY-NINTH LEGISLATURE

PRAYER

1:30 O'CLOCK P.M.

On motion of Mr. GOERTZEN, Bill (No. 239) – The Highway Traffic Amendment Act (Seizure of Vehicles and Suspension of Drivers' Licences Arising from Drug Offences)/Loi modifiant le Code de la route (saisie de véhicules et suspension de permis de conduire découlant d'infractions relatives aux drogues), was read a First Time and had its purposes outlined.

The following petitions were presented and read:

Mr. LAMOUREUX – Legislative Assembly of Manitoba to request that the Premier of Manitoba consider how important it is to have the Seven Oaks Hospital provide full emergency services seven days a week 24 hours a day. (J. Coronia, L. Dela Cruz, M. Ramos and others)

Mr. BRIESE – Legislative Assembly of Manitoba to urge the Minister of Health to consider working with the Parkland Regional Health Authority to provide a centrally located ambulance and station in the area of Eddystone, Bacon Ridge and Ebb and Flow First Nation. (F. Roucette, J. Campbell, F. Beaulieu and others)

Mr. DYCK – Legislative Assembly of Manitoba to urge the Minister of Health to ensure that patients who are awaiting placement in a personal care home are not moved to distant communities and to consider working with the RHA and the community to speed construction and expansion of long term care facilities in the region. (H. Hamm, I. Fehr, C. Neufeld and others)

Mr. SCHULER – Legislative Assembly of Manitoba to request that the Minister of Transportation consider the immediate installation of traffic signals at the intersection of PTH #15 and Highway #206 in Dugald and to recognize the value of the lives and well-being of the students and citizens of Manitoba. (G. Williams, C. King, S. King and others)

Mrs. DRIEDGER – Legislative Assembly of Manitoba to urge the Minister of Health to consider rethinking her refusal to allow an ophthalmologist to practice in Swan River and to consider working with the community to provide this service without further delay. (N. Macdonald, J. Macdonald, A. Acorn and others)

Mr. BOROTSIK – Legislative Assembly of Manitoba to request that the Attorney General consider refunding all monies collected from photo radar tickets given to motorists driving the regular posted speed limit in construction zones where no workers were present. (J. Lapointe, S. Lapointe, D. Lapointe and others)

Mrs. TAILLIEU –Legislative Assembly of Manitoba to request the Minister of Infrastructure and Transportation consider meeting as soon as possible with his federal counterparts to finalize the cost-sharing arrangements needed to move the twinning of the Trans Canada Highway forward in order to ensure that the federal monies available for this important project do not lapse and consider making the completion of the dividing of the Trans Canada Highway in Headingley in 2009 an urgent Provincial Government priority. (V. McGuckin, M. Froese, R. McGuckin and others)

Hon. Mr. STRUTHERS presented:

Annual Report of the Clean Environment Commission for the fiscal year ending March 31, 2009.
(Sessional Paper No. 85)

Annual Report of the Manitoba Association for Resource Recovery Corp. for the fiscal year ending December 31, 2008.
(Sessional Paper No. 86)

Pursuant to Rule 26(1), Mr. MAGUIRE, Ms. BLADY, Mrs. ROWAT, Mr. MARTINDALE and Hon. Mr. GERRARD made Members' Statements.

Prior to Grievances, Mr. MCFADYEN rose on a Matter of Urgent Public Importance and moved:

THAT under Rule 36(1) the regularly scheduled business of the House be set aside to discuss a Matter of Urgent Public Importance, namely, the need to call a meeting of the Standing Committee on Legislative Affairs on or before Friday, June 19, 2009 to discuss the Annual Report of Elections Manitoba for the year ending December 31, 2003.

And Mr. MCFADYEN, Hon. Mr. CHOMIAK and by leave, Mr. LAMOUREUX having spoken to the urgency of the motion,

WHEREUPON Mr. Speaker ruled as follows:

I thank the Honourable Members for their advice to the Chair on whether the motion proposed by the Honourable Leader of the Official Opposition should be debated today. The notice required by Rule 36(1) was provided. Under our Rules and Practices, the subject matter requiring urgent consideration must be so pressing that the public interest will suffer if the matter is not given immediate attention. There must also be no other reasonable opportunities to raise the matter.

I have listened very carefully to the arguments put forward, however I was not persuaded that the ordinary business of the House should be set aside to deal with this issue today. Although this is an issue that some Members may have a concern about, I do not believe that the public interest will be harmed if the business of the House is not set aside to debate the motion today.

Additionally, I would like to note that other avenues exist for Members to raise this issue, including Question Period, Members' Statements and Grievances.

Therefore, with the greatest of respect, I must rule that this matter does not meet the criteria set by our Rules and Precedents and I rule the motion out of order as a Matter of Urgent Public Importance.

Subsequently, by leave, prior to Grievances Hon. Mr. GERRARD rose on a Matter of Urgent Public Importance and moved:

THAT under Rule 36(1) the regularly scheduled business of the House be set aside to discuss a Matter of Urgent Public Importance, namely, concern about the spread of the H1N1 Flu in Manitoba and the number of people severely ill on respirators.

And Hon. Messrs. GERRARD and CHOMIAK and Mr. HAWRANIK having spoken to the urgency of the motion,

WHEREUPON Mr. Speaker ruled as follows:

I thank the Honourable Members for their advice to the Chair on whether the motion proposed by the Honourable Member for River Heights should be debated today. The notice required by Rule 36(1) was provided. Under our Rules and Practices, the subject matter requiring urgent consideration must be so pressing that the public interest will suffer if the matter is not given immediate attention. There must also be no other reasonable opportunities to raise the matter.

I have listened very carefully to the arguments put forward, however I was not persuaded that the ordinary business of the House should be set aside to deal with this issue today. Although this is an issue that some Members may have a concern about, I do not believe that the public interest will be harmed if the business of the House is not set aside to debate the motion today.

Additionally, I would like to note that other avenues exist for Members to raise this issue, including Question Period, Members' Statements and Grievances.

Therefore, with the greatest of respect, I must rule that this matter does not meet the criteria set by our Rules and Precedents and I rule the motion out of order as a Matter of Urgent Public Importance.

However, despite the procedural shortcomings, there does appear to be a willingness to debate the issue. I shall then put the question to the House, shall the debate proceed? If the House is in agreement, the debate lasts for two hours, and as a reminder to Members the speaking time limit is 10 minutes and there is no vote on a MUPI.

"Shall the debate proceed?" It was agreed to.

By leave, it was agreed that the debate will consist of two Government Members, two Official Opposition Members and one Independent Member.

And a debate arising,

And Hon. Mr. GERRARD, Mrs. DRIEDGER, Hon. Ms. OSWALD, Mr. MCFADYEN and Hon. Mr. ASHTON having spoken,

The debate was terminated in accordance with Rule 36(6).

The Order of the Day having been read for consideration of Report Stage Amendment of Bill (No. 30) – The Budget Implementation and Tax Statutes Amendment Act, 2009/Loi d'exécution du budget de 2009 et modifiant diverses dispositions législatives en matière de fiscalité), as amended and reported from the Standing Committee on Human Resources:

Mr. BOROTSIK moved:

THAT Bill 30 be amended by repealing Clause 1.

And a debate arising,

And Hon. Mr. BOROTSIK having spoken,

And the Question being put. It was negatived, on the following division:

YEA

BOROTSIK	GRAYDON
BRIESE	HAWRANIK
CULLEN	MAGUIRE
DERKACH	MCFADYEN
DRIEDGER	PEDERSEN
DYCK	ROWAT
EICHLER	SCHULER
FAURSCHOU	STEFANSON
GERRARD	TAILLIEU..... 19
GOERTZEN	

NAY

ALLAN	MACKINTOSH
ALTEMEYER	MARCELINO
BLADY	MARTINDALE
BLAIKIE	MCGIFFORD
BJORNSON	MELNICK
BRAUN	NEVAKSHONOFF
BRICK	OSWALD
CHOMIAK	REID
DEWAR	RONDEAU
DOER	SARAN
HOWARD	SELBY
IRVIN-ROSS	SELINGER
JENNISSEN	STRUTHERS
JHA	WHITEHEAD
KORZENIOWSKI	WOWCHUK..... 31
LEMIEUX	

Mr. BOROTSIK then moved:

THAT Bill 30 be amended by replacing Clause 1 with the following:

1 ***The Balanced Budget, Fiscal Management and Taxpayer Accountability Act is amended by adding the following after subsection 13(2):***

Exception for 2009 10 and 2010 11

13(2.1) Subsection (2) does not apply to the 2009 10 and 2010 11 fiscal years. However, in each of those years the minister must transfer a minimum of \$110,495,180 plus 7% of all debt repayments made under section 14 to the debt retirement account.

And a debate arising,

And Mr. BOROTSTIK having spoken,

And the Question being put. It was negatived, on division.

By leave, it was agreed to withdraw the previously distributed Report Stage Amendment to Bill (No. 18), proposed by the Honourable Member for River Heights.

By leave, the Order of the Day having been read for consideration of Report Stage Amendment of Bill (No. 18) – The Regulated Health Professions Act/Loi sur les professions de la santé réglementées, as amended and reported from the Standing Committee on Human Resources:

Hon. Mr. GERRARD moved:

THAT Bill 18 be amended

(a) in Clause 128(4),

(i) by adding "or the complainant" after "member", and

(ii) by adding "However, if any part of a hearing was held in private and in the absence of the complainant, the complainant may not examine the record of proceedings, or receive a copy of the transcript, relating to that part of the hearing." at the end; and

(b) by adding the following after Clause 128(4):

Protecting privacy and personal health information

128(5) Before making the transcript available to the complainant under subsection (4), the college may edit it for the purpose of protecting

(a) the personal health information of the investigated member; and

(b) the privacy (including the personal health information) of any person, other than the investigated member or the complainant.

And a debate arising,

And Hon. Mr. GERRARD having spoken,

And the Question being put. It was agreed to.

The Order of the Day having been read for consideration of Report Stage Amendment of Bill (No. 5) – The Highway Traffic Amendment Act (Promoting Safer and Healthier Conditions in Motor Vehicles)/Loi modifiant le Code de la route (promotion de la santé et de la sécurité dans les véhicules automobiles), as amended and reported from the Standing Committee on Social and Economic Development:

Hon. Ms. IRVIN-ROSS moved:

THAT Bill 5 be amended in Clause 3 by adding the following after the proposed subsection 215.1(3.1):

Exception — certain radios and other equipment

215.1(3.2) Subsection (2) does not apply to the use of

(a) a radio apparatus, as defined in section 2 of the *Radiocommunication Act* (Canada), that

- (i) is operated under the authority of a radio operator certificate issued under that Act,
 - (ii) must, in order for its operator to communicate with another person, transmit radio signals to another radio apparatus that is operated under the authority of a radio licence issued under that Act, other than a radio licence issued to a cellular telephone network provider, or
 - (iii) is the type of radio apparatus commonly known as citizen's band radio or family band radio; or
- (b) a mobile data terminal that
- (i) is used for dispatch or other business related communications in a vehicle used for business purposes, and
 - (ii) is not held in the driver's hand when the vehicle is moving.

And a debate arising,

And Ms. IRVIN-ROSS and Messrs. MAGUIRE and LAMOUREUX having spoken,

And the Question being put. It was agreed to, on division.

The Order of the Day having been read for consideration of Report Stage Amendment of Bill (No. 5) – The Highway Traffic Amendment Act (Promoting Safer and Healthier Conditions in Motor Vehicles)/Loi modifiant le Code de la route (promotion de la santé et de la sécurité dans les véhicules automobiles), as amended and reported from the Standing Committee on Social and Economic Development, and subsequently amended:

Hon. Mr. LAMOUREUX moved:

THAT Bill 5 be amended in Clause 3 by adding the following after the proposed subsection 215.1(3.1):

Exception: transportation tracking system used by taxis, school buses, etc.

215.1(3.2) As an exception to subsection (2), a person may use a hand-operated electronic device by hand if it is part of a logistical transportation tracking system that is being used

- (a) for commercial purposes to track vehicle location, driver status or the delivery of packages or other goods; or
- (b) to track the location of school buses.

Exception: use of amateur radio

215.1(3.3) As an exception to subsection (2), a person may use a hand-operated electronic device by hand if he or she is licensed, certified or otherwise authorized to operate radio apparatus under the *Radiocommunication Act* (Canada).

WHEREUPON Mr. Speaker made the following ruling:

I must advise the House that the Report Stage Amendment proposed by the Honourable Member for Inkster is out of order.

The House has just adopted a Report Stage Amendment proposed by the Honourable Minister of Healthy Living that amends the same section of Bill 5 as the Report Stage Amendment proposed by the Honourable Member for Inkster and seeks the same results and intent although the wording used is somewhat different.

Given that the Report Stage Amendment of the Honourable Minister of Healthy Living has been adopted by the House, the Report Stage Amendment proposed by the Honourable Member for Inkster is now procedurally unacceptable and cannot be proceeded with.

With the greatest of respect I must therefore rule the Report Stage Amendment for the Member for Inkster out of order.

The Order of the Day having been read for consideration of Report Stage Amendment of Bill (No. 5) – The Highway Traffic Amendment Act (Promoting Safer and Healthier Conditions in Motor Vehicles)/Loi modifiant le Code de la route (promotion de la santé et de la sécurité dans les véhicules automobiles), as amended and reported from the Standing Committee on Social and Economic Development, and subsequently amended:

Hon. Mr. MAGUIRE moved:

THAT Bill 5 be amended in Clause 3 by adding the following after the proposed subsection 215.1(3.1):

Exception — taxicabs, semi trucks, school buses and amateur radio operators

215.1(3.2) Subsection (2) does not apply to the following:

- (a) in respect of a taxicab, a person licensed to drive a taxicab who uses a mobile data terminal in carrying out his or her duties as the driver of a taxicab;
- (b) in respect of a class 1 vehicle as defined under *The Drivers and Vehicles Act*, a person licensed to drive a class 1 vehicle who uses a mobile data terminal or a push to talk device in carrying out his or her duties as the driver of a class 1 vehicle;

(c) in respect of a school bus as defined under *The Public Schools Act*, a school bus driver who uses a hand operated electronic device that is not normally held in the driver's hand during use in carrying out his or her duties as a driver of a school bus;

(d) in respect of any other motor vehicle, a person who holds a radio operator certificate issued under the *Radiocommunication Act* (Canada), who uses radio apparatus, as defined in that Act, while driving a motor vehicle.

WHEREUPON Mr. Speaker made the following ruling:

I must advise the House that the Report Stage Amendment proposed by the Honourable Member for Arthur-Virden is out of order.

The House has just adopted a Report Stage Amendment proposed by the Honourable Minister of Healthy Living that amends the same section of Bill 5 as the Report Stage Amendment proposed by the Honourable Member for Arthur-Virden and seeks the same results and intent although the wording used is somewhat different.

Given that the Report Stage Amendment of the Honourable Minister of Healthy Living has been adopted by the House, the Report Stage amendment proposed by the Honourable Member for Arthur-Virden is now procedurally unacceptable and cannot be proceeded with

With the greatest of respect I must therefore rule the Report Stage Amendment for the member for Arthur-Virden out of order.

The Order of the Day having been read for consideration of Report Stage Amendment of Bill (No. 14) – The Consumer Protection Amendment Act (Payday Loans)/Loi modifiant la Loi sur la protection du consommateur (prêts de dépannage), reported from the Standing Committee on Legislative Affairs:

Mr. FAURSCHOU moved:

THAT Bill 14 be amended

(a) by replacing the proposed clause 163(1)(f.1), as set out in Clause 9(1)(e) of the Bill, with the following:

(f.1) for the purpose of section 147, and for the purpose of protecting borrowers and the financial health of payday lenders, fixing, at just and reasonable levels,

(i) the maximum cost of credit for a payday loan, or establishing a rate, formula or tariff for determining it, and

(ii) the maximum amounts for components of the cost of credit, or establishing rates, formulas or tariffs for determining them;

(b) by replacing the proposed clause 163(1)(i), as set out in Clause 9(1)(h) of the Bill, with the following:

(i) for the purpose of section 152, and for the purpose of protecting borrowers and the financial health of payday lenders, prescribing just and reasonable fees or costs — or establishing rates, formulas or tariffs for determining just and reasonable fees or costs — that may be charged, required or accepted in relation to a replacement loan or an extension or renewal of a payday loan;

And a debate arising,

And Mr. FAURSCHOU having spoken,

And the Question being put. It was negatived, on division.

Mr. FAURSCHOU then moved:

THAT Bill 14 be amended in Clause 10 by replacing the proposed subsection 164(6) with the following:

Participant's costs

164(6) On the application of a participant in the consultation, the board must

(a) determine the participant's reasonable costs relating to the consultation; and

(b) require the government to reimburse the participant for those costs.

And a debate arising,

And Mr. FAURSCHOU having spoken,

And the Question being put. It was negatived, on the following division:

YEA

BRIESE
CULLEN
DERKACH
DRIEDGER
DYCK
EICHLER
FAURSCHOU
GERRARD
GOERTZEN
GRAYDON

HAWRANIK
LAMOUREUX
MAGUIRE
MCFADYEN
PEDERSEN
ROWAT
SCHULER
STEFANSON
TAILLIEU..... 19

NAY

ALLAN	MACKINTOSH
ALTEMEYER	MARCELINO
ASHTON	MARTINDALE
BLADY	MCGIFFORD
BLAIKIE	MELNICK
BJORNSON	NEVAKSHONOFF
BRAUN	OSWALD
BRICK	REID
CHOMIAK	ROBINSON
DEWAR	RONDEAU
DOER	SARAN
HOWARD	SELBY
IRVIN-ROSS	SELINGER
JENNISSON	STRUTHERS
KORZENIOWSKI	WHITEHEAD
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In accordance with the Sessional Order agreed to by the House on June 1, 2009, the remaining necessary steps and the Question were put to conclude the Report Stage Amendment on Bill (No. 20).

The Order of the Day having been read for consideration of Report Stage Amendment of Bill (No. 20) – The Manitoba Hydro Amendment and Public Utilities Board Amendment Act (Electricity Reliability)/Loi modifiant la Loi sur l'Hydro-Manitoba et la Loi sur la Régie des services publics (fiabilité du réseau électrique), reported from the Standing Committee on Social and Economic Development:

Mr. CULLEN moved:

THAT Bill 20 be amended in Clause 8 by replacing the proposed subsection 134(5) with the following:

Use of money from monetary penalties

134(5) The government may only use money received from monetary penalties to fund

- (a) programs to enhance electricity reliability;
- (b) programs to produce electricity by non traditional means; or
- (c) research and development about electricity reliability, the production of electricity by non traditional means or technology to incorporate electricity produced by non traditional means into the conventional electricity grid.

Report about use of funds

134(6) A person, institution or organization that receives funds under subsection (5) must, without delay after the end of a fiscal year in which it uses any of the funds, provide the minister with a report on how it used the funds.

Tabling of reports in the Assembly

134(7) The minister must table a copy of the report in the Assembly within 15 days after receiving it if the Assembly is sitting or, if it is not, within 15 days after the next sitting begins.

And a debate arising,

And Mr. CULLEN having spoken,

And the Question being put. It was negatived, on division.

The House then adjourned at 5:10 p.m. until 10:00 a.m., Thursday, June 11, 2009.

Hon. George HICKES,
Speaker