

STATE OF MINNESOTA

Journal of the Senate

EIGHTY-FIRST LEGISLATURE

THIRTY-NINTH DAY

St. Paul, Minnesota, Thursday, April 8, 1999

The Senate met at 8:00 a.m. and was called to order by the President.

CALL OF THE SENATE

Senator Janezich 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. Wanda R. Copeland.

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

Anderson	Hottinger	Langseth	Ourada	Solon
Belanger	Janezich	Larson	Pappas	Spear
Berg	Johnson, D.E.	Lesewski	Pariseau	Stevens
Berglin	Johnson, D.H.	Lessard	Piper	Stumpf
Betzold	Johnson, D.J.	Limmer	Pogemiller	Ten Eyck
Cohen	Johnson, J.B.	Lourey	Price	Terwilliger
Day	Junge	Marty	Ranum	Vickerman
Dille	Kelley, S.P.	Metzen	Robertson	Wiener
Fischbach	Kelly, R.C.	Moe, R.D.	Robling	Wiger
Flynn	Kiscaden	Murphy	Runbeck	Ziegler
Foley	Kleis	Neuville	Sams	
Frederickson	Knutson	Novak	Samuelson	
Hanson	Krentz	Oliver	Scheevel	
Higgins	Laidig	Olson	Scheid	

The President declared a quorum present.

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communication was received and referred to the committee indicated.

March 4, 1999

The Honorable Allan H. Spear
President of the Senate

Dear Sir:

The following appointment is hereby respectfully submitted to the Senate for confirmation as required by law:

COMMISSIONER OF THE MINNESOTA DEPARTMENT OF ADMINISTRATION

David Fisher, 5047 Gladstone Avenue South, Minneapolis, Minnesota 55419, in the county of Hennepin, effective March 15, 1999, for a four-year term expiring on Monday, January 6, 2003.

(Referred to the Committee on Governmental Operations and Veterans.)

Sincerely,
Jesse Ventura, Governor

REPORTS OF COMMITTEES

Senator Junge moved that the Committee Reports at the Desk be now adopted, with the exception of the report on H.F. No. 92 and the report pertaining to appointments. The motion prevailed.

Senator Spear from the Committee on Crime Prevention, to which was re-referred

H.F. No. 92: A bill for an act relating to drivers' licenses; modifying required content of petition for seeking judicial review of driver's license revocation for violating implied consent law; limiting scope of discovery in that proceeding under implied consent law; amending Minnesota Statutes 1998, section 169.123, subdivision 5c.

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

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

Senator Novak from the Committee on Jobs, Energy and Community Development, to which was referred

S.F. No. 1357: A bill for an act relating to utilities; modifying conservation improvement program provisions; amending Minnesota Statutes 1998, sections 216B.16, subdivision 6b; and 216B.241, subdivisions 1a, 1b, and 2b.

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 1998, section 216B.16, subdivision 6b, is amended to read:

Subd. 6b. [ENERGY CONSERVATION IMPROVEMENT.] (a) Except as otherwise provided in this subdivision, all investments and expenses of a public utility as defined in section 216B.241, subdivision 1, paragraph (d) (e), incurred in connection with energy conservation improvements shall be recognized and included by the commission in the determination of just and reasonable rates as if the investments and expenses were directly made or incurred by the utility in furnishing utility service.

(b) After December 31, 1999, investments and expenses for energy conservation improvements shall not be included by the commission in the determination of just and reasonable electric and gas rates for retail electric and gas service provided to large electric customer facilities that have been exempted by the commissioner of the department of public service pursuant to section 216B.241, subdivision 1a, paragraph (b). However, no public utility shall be prevented from recovering its investment in energy conservation improvements from all customers that were made on or before December 31, 1999, in compliance with the requirements of section 216B.241.

(c) The commission may permit a public utility to file rate schedules providing for annual recovery of the costs of energy conservation improvements. These rate schedules may be applicable to less than all the customers in a class of retail customers if necessary to reflect the differing minimum spending requirements of section 216B.241, subdivision 1a. After December 31, 1999, the commission shall allow a public utility, without requiring a general rate filing under this section, to reduce the electric and gas rates applicable to large electric customer facilities by an amount that reflects the elimination of energy conservation improvement investments or

expenditures for those facilities required on or before December 31, 1999. In the event that the commission has set electric or gas rates based on the use of an accounting methodology that results in the cost of conservation improvements being recovered from utility customers over a period of years, the rate reduction may occur in a series of steps to coincide with the recovery of balances due to the utility for conservation improvements made by the utility on or before December 31, 1999.

Sec. 2. Minnesota Statutes 1998, section 216B.241, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of this section and section 216B.16, subdivision 6b, the terms defined in this subdivision have the meanings given them.

(a) "Commission" means the public utilities commission.

(b) "Commissioner" means the commissioner of public service.

(c) "Customer facility" means all buildings, structures, equipment, and installations at a single site.

(d) "Department" means the department of public service.

~~(d)~~ (e) "Energy conservation improvement" means the purchase or installation of a device, method, or material, or project that:

(1) reduces consumption of or increases efficiency in the use of electricity or natural gas, including, but not limited to:

~~(1)~~ (1) insulation and ventilation;

~~(2)~~ (2) storm or thermal doors or windows;

~~(3)~~ (3) caulking and weatherstripping;

~~(4)~~ (4) furnace efficiency modifications;

~~(5)~~ (5) thermostat or lighting controls;

~~(6)~~ (6) awnings; or

~~(7)~~ (7) systems to turn off or vary the delivery of energy. ~~The term "energy conservation improvement" includes a device or method that:~~

(2) creates, converts, or actively uses energy from renewable sources such as solar, wind, and biomass, provided that the device or method conforms with national or state performance and quality standards whenever applicable;

(3) seeks to provide energy savings through reclamation or recycling and that is used as part of the infrastructure of an electric generation, transmission, or distribution system within the state or a natural gas distribution system within the state; or

(4) provides research or development of new means of increasing energy efficiency or conserving energy or research or development of improvement of existing means of increasing energy efficiency or conserving energy.

~~(e)~~ (f) "Investments and expenses of a public utility" includes the investments and expenses incurred by a public utility in connection with an energy conservation improvement including, but not limited to:

(1) the differential in interest cost between the market rate and the rate charged on a no interest or below market interest loan made by a public utility to a customer for the purchase or installation of an energy conservation improvement;

(2) the difference between the utility's cost of purchase or installation of energy conservation improvements and any price charged by a public utility to a customer for such improvements.

(g) "Large electric customer facility" means a customer facility that imposes a peak electrical demand on an electric utility's system of not less than 20,000 kilowatts, measured in the same way as the utility that serves the customer facility measures electrical demand for billing purposes, and for which electric services are provided at retail on a single bill by a utility operating in the state.

Sec. 3. Minnesota Statutes 1998, section 216B.241, subdivision 1a, is amended to read:

Subd. 1a. ~~[INVESTMENT, EXPENDITURE, AND CONTRIBUTION; REGULATED UTILITIES PUBLIC UTILITY.]~~ (a) For purposes of this subdivision and subdivision 2, "public utility" has the meaning given it in section 216B.02, subdivision 4. Each public utility shall spend and invest for energy conservation improvements under this subdivision and subdivision 2 the following amounts:

(1) for a utility that furnishes gas service, .5 percent of its gross operating revenues from service provided in the state;

(2) for a utility that furnishes electric service, 1.5 percent of its gross operating revenues from service provided in the state; and

(3) for a utility that furnishes electric service and that operates a nuclear-powered electric generating plant within the state, two percent of its gross operating revenues from service provided in the state.

For purposes of this paragraph (a), "gross operating revenues" do not include revenues from large electric customer facilities exempted by the commissioner of the department of public service pursuant to paragraph (b).

(b) The owner of a large electric customer facility may petition the commissioner of the department of public service to exempt both electric and gas utilities serving the large energy customer facility from the investment and expenditure requirements of paragraph (a) with respect to retail revenues attributable to the facility. At a minimum, the petition must be supported by evidence relating to competitive or economic pressures on the customer and a showing by the customer of reasonable efforts to identify, evaluate, and implement cost-effective conservation improvements at the facility. If a petition is filed on or before October 1 of any year, the order of the commissioner to exempt revenues attributable to the facility can be effective no earlier than January 1 of the following year. The commissioner shall not grant an exemption if the commissioner determines that granting the exemption is contrary to the public interest. The commissioner may, after investigation, rescind any exemption granted under this paragraph upon a determination that cost-effective energy conservation improvements are available at the large electric customer facility. For the purposes of this paragraph, cost-effective means that the projected total cost of the energy conservation improvement at the large electric customer facility is less than the projected present value of the energy and demand savings resulting from the energy conservation improvement. For the purposes of investigations by the commissioner under this paragraph, the owner of any large electric customer facility shall, upon request, provide the commissioner with updated information comparable to that originally supplied in or with the owner's original petition under this paragraph.

(c) The commissioner may require investments or spending greater than the amounts required under this subdivision for a public utility whose most recent advance forecast required under section 216B.2422 or 216C.17 projects a peak demand deficit of 100 megawatts or greater within five years under mid-range forecast assumptions.

(d) A public utility or owner of a large electric customer facility may appeal a decision of the commissioner under this paragraph (b) or (c) to the commission under subdivision 2. In reviewing a decision of the commissioner under this paragraph (b) or (c), the commission shall rescind the decision if it finds that the required investments or spending will:

(1) not result in cost-effective programs energy conservation improvements; or

(2) otherwise not be in the public interest.

(e) (e) Each utility shall determine what portion of the amount it sets aside for conservation improvement will be used for conservation improvements under subdivision 2 and what portion it will contribute to the energy and conservation account established in subdivision 2a. A public utility may propose to the commissioner to designate that all or a portion of funds contributed to the account established in subdivision 2a be used for research and development projects. Contributions must be remitted to the commissioner of public service by February 1 of each year. Nothing in this subdivision prohibits a public utility from spending or investing for energy conservation improvement more than required in this subdivision.

Sec. 4. Minnesota Statutes 1998, section 216B.241, subdivision 1b, is amended to read:

Subd. 1b. [CONSERVATION IMPROVEMENTS; COOPERATIVES; MUNICIPALITIES IMPROVEMENT BY COOPERATIVE ASSOCIATION OR MUNICIPALITY.] (a) This subdivision applies to:

(1) a cooperative electric association that generates and transmits electricity to associations that provide electricity at retail including a cooperative electric association not located in this state that serves associations or others in the state;

(2) a municipality that provides electric service to retail customers; and

(3) a municipality with gross operating revenues in excess of \$5,000,000 from sales of natural gas to retail customers.

(b) Each cooperative electric association and municipality subject to this subdivision shall spend and invest for energy conservation improvements under this subdivision the following amounts:

(1) for a municipality, 5 0.5 percent of its gross operating revenues from the sale of gas and one percent of its gross operating revenues from the sale of electricity not purchased from a public utility governed by subdivision 1a or a cooperative electric association governed by this subdivision, excluding gross operating revenues from electric and gas service provided in the state to large electric customer facilities; and

(2) for a cooperative electric association, 1.5 percent of its gross operating revenues from service provided in the state, excluding gross operating revenues from service provided in the state to large electric customer facilities indirectly through a distribution cooperative electric association.

(c) Each municipality and cooperative association subject to this subdivision shall identify and implement energy conservation improvement spending and investments that are appropriate for the municipality or association, except that a municipality or association may not spend or invest for energy conservation improvements that directly benefit a large electric customer facility. Each municipality and cooperative electric association subject to this subdivision may spend and invest annually up to 15 percent of the total amount required to be spent and invested on energy conservation improvements under this subdivision on research and development projects that meet the definition of energy conservation improvement in subdivision 1 and that are funded directly by the municipality or cooperative electric association. Load management may be used to meet the requirements of this subdivision if it reduces the demand for or increases the efficiency of electric services. A generation and transmission cooperative electric association may include as spending and investment required under this subdivision conservation improvement spending and investment by cooperative electric associations that provide electric service at retail to consumers and that are served by the generation and transmission association. By February 1 of each year, each municipality or cooperative shall report to the commissioner its energy conservation improvement spending and investments with a brief analysis of effectiveness in reducing consumption of electricity or gas. The commissioner shall review each report and make recommendations, where appropriate, to the municipality or association to increase the effectiveness of conservation improvement activities. The commissioner shall also review each report for whether a portion of the money spent on residential conservation improvement programs is devoted to programs that directly address the needs of renters and low-income persons

unless an insufficient number of appropriate programs are available. For the purposes of this subdivision and subdivision 2, "low-income" means an income of less than 185 percent of the federal poverty level.

(d) As part of its spending for conservation improvement, a municipality or association may contribute to the energy and conservation account. A municipality or association may propose to the commissioner to designate that all or a portion of funds contributed to the account be used for research and development projects. Any amount contributed must be remitted to the commissioner of public service by February 1 of each year.

Sec. 5. Minnesota Statutes 1998, section 216B.241, subdivision 2, is amended to read:

Subd. 2. [PROGRAMS.] The commissioner may by rule require public utilities to make investments and expenditures in energy conservation improvements, explicitly setting forth the interest rates, prices, and terms under which the improvements must be offered to the customers. The required programs must cover a two-year period. The commissioner shall require at least one public utility to establish a pilot program to make investments in and expenditures for energy from renewable resources such as solar, wind, or biomass and shall give special consideration and encouragement to programs that bring about significant net savings through the use of energy-efficient lighting. The commissioner shall evaluate the program on the basis of cost-effectiveness and the reliability of technologies employed. The rules of the department must provide to the extent practicable for a free choice, by consumers participating in the program, of the device, method, or material, or project constituting the energy conservation improvement and for a free choice of the seller, installer, or contractor of the energy conservation improvement, provided that the device, method, material, or project seller, installer, or contractor is duly licensed, certified, approved, or qualified, including under the residential conservation services program, where applicable. The commissioner may require a utility to make an energy conservation improvement investment or expenditure whenever the commissioner finds that the improvement will result in energy savings at a total cost to the utility less than the cost to the utility to produce or purchase an equivalent amount of new supply of energy. The commissioner shall nevertheless ensure that every public utility operate one or more programs under periodic review by the department. Load management may be used to meet the requirements for energy conservation improvements under this section if it results in a demonstrable reduction in consumption of energy. Each public utility subject to subdivision 1a may spend and invest annually up to 15 percent of the total amount required to be spent and invested on energy conservation improvements under this section by the utility on research and development projects that meet the definition of energy conservation improvement in subdivision 1 and that are funded directly by the public utility. The commissioner shall consider and may require a utility to undertake a program suggested by an outside source, including a political subdivision or a nonprofit or community organization. No utility may make an energy conservation improvement under this section to a building envelope unless:

- (1) it is the primary supplier of energy used for either space heating or cooling in the building;
- (2) the commissioner determines that special circumstances, which that would unduly restrict the availability of conservation programs, warrant otherwise; or
- (3) the utility has been awarded a contract under subdivision 2a.

The commissioner shall ensure that a portion of the money spent on residential conservation improvement programs is devoted to programs that directly address the needs of renters and low-income persons unless an insufficient number of appropriate programs are available.

A utility, a political subdivision, or a nonprofit or community organization that has suggested a program, the attorney general acting on behalf of consumers and small business interests, or a utility customer that has suggested a program and is not represented by the attorney general under section 8.33 may petition the commission to modify or revoke a department decision under this section, and the commission may do so if it determines that the program is not cost-effective, does not adequately address the residential conservation improvement needs of low-income persons, has a long-range negative effect on one or more classes of customers, or is otherwise not in the

public interest. The person petitioning for commission review has the burden of proof. The commission shall reject a petition that, on its face, fails to make a reasonable argument that a program is not in the public interest.

Sec. 6. Minnesota Statutes 1998, section 216B.241, subdivision 2a, is amended to read:

Subd. 2a. [ENERGY AND CONSERVATION ACCOUNT.] The commissioner must deposit money contributed under subdivisions 1a and 1b in the energy and conservation account in the general fund. Money in the account is appropriated to the department for programs designed to meet the energy conservation needs of low-income persons and to make energy conservation improvements in areas not adequately served under subdivision 2, including research and development projects included in the definition of energy conservation improvement in subdivision 1. Money in the account contributed by a utility and designated by the utility for use on research and development projects must be spent by the commissioner for that purpose. Interest on money in the account accrues to the account. Using information collected under section 216C.02, subdivision 1, paragraph (b), the commissioner must, to the extent possible, allocate enough money to programs for low-income persons to assure that their needs are being adequately addressed. The commissioner must request the commissioner of finance to transfer money from the account to the commissioner of children, families, and learning for an energy conservation program for low-income persons. In establishing programs, the commissioner must consult political subdivisions and nonprofit and community organizations, especially organizations engaged in providing energy and weatherization assistance to low-income persons. At least one program must address the need for energy conservation improvements in areas in which a high percentage of residents use fuel oil or propane to fuel their source of home heating. The commissioner may contract with a political subdivision, a nonprofit or community organization, a public utility, a municipality, or a cooperative electric association to implement its programs. The commissioner may provide grants to any person to conduct research and development projects in accordance with this section.

Sec. 7. Minnesota Statutes 1998, section 216B.241, subdivision 2b, is amended to read:

Subd. 2b. [RECOVERY OF EXPENSES FOR FEES, TAXES, PERMITS.] The commission shall allow a utility to recover expenses resulting from a conservation improvement program required by the department and contributions to the energy and conservation account, unless the recovery would be inconsistent with a financial incentive proposal approved by the commission. In addition, a utility may file annually, or the public utilities commission may require the utility to file, and the commission may approve, rate schedules containing provisions for the automatic adjustment of charges for utility service in direct relation to changes in the expenses of the utility for real and personal property taxes, fees, and permits, the amounts of which the utility cannot control. A public utility is eligible to file for adjustment for real and personal property taxes, fees, and permits under this subdivision only if, in the year previous to the year in which it files for adjustment, it has spent or invested at least 1.75 percent of its gross revenues from provision of electric service, excluding gross operating revenues from electric service provided in the state to large electric customer facilities, and .6 0.6 percent of its gross revenues from provision of gas service, excluding gross operating revenues from gas services provided in the state to large electric customer facilities, for that year for energy conservation improvements under this section.

Sec. 8. [REPORT ON CONSERVATION IMPROVEMENT PROGRAM.]

The commissioner of the department of public service shall consult with representatives from public utilities, cooperative and municipal utilities, environmental and energy conservation groups, office of the attorney general, and state agencies to evaluate possible changes in the conservation improvement program. The commissioner shall report to the chairs of the house and senate committees and subcommittees with jurisdiction over energy utilities by January 15, 2001, on the work and findings of the department of public service and any recommendations.

Sec. 9. [EFFECTIVE DATE.]

Section 3 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to utilities; modifying conservation improvement provisions; amending Minnesota Statutes 1998, sections 216B.16, subdivision 6b; and 216B.241, subdivisions 1, 1a, 1b, 2, 2a, and 2b."

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

Senator Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 14 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
14	574				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 14 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 14 and insert the language after the enacting clause of S.F. No. 574, the second engrossment; further, delete the title of H.F. No. 14 and insert the title of S.F. No. 574, the second engrossment.

And when so amended H.F. No. 14 will be identical to S.F. No. 574, and further recommends that H.F. No. 14 be given its second reading and substituted for S.F. No. 574, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

Senator Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 67 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
67	32				

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

Senator Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 142 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS**CONSENT CALENDAR****CALENDAR**

H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
142	1634				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 142 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 142 and insert the language after the enacting clause of S.F. No. 1634, the first engrossment; further, delete the title of H.F. No. 142 and insert the title of S.F. No. 1634, the first engrossment.

And when so amended H.F. No. 142 will be identical to S.F. No. 1634, and further recommends that H.F. No. 142 be given its second reading and substituted for S.F. No. 1634, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

Senator Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 793 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS**CONSENT CALENDAR****CALENDAR**

H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
793	1497				

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

Senator Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 868 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS**CONSENT CALENDAR****CALENDAR**

H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
868	866				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 868 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 868 and insert the language after the enacting clause of S.F. No. 866, the first engrossment; further, delete the title of H.F. No. 868 and insert the title of S.F. No. 866, the first engrossment.

And when so amended H.F. No. 868 will be identical to S.F. No. 866, and further recommends that H.F. No. 868 be given its second reading and substituted for S.F. No. 866, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

Senator Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 1125 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
1125	1087				

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

Senator Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 1359 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
1359	1023				

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

Senator Marty from the Committee on Election Laws, to which were referred the following appointments as reported in the Journal for January 7, 1999:

CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD

Wilbur Fluegel
Thomas Heffelfinger

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

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

Senator Berglin from the Committee on Human Resources Finance, to which was re-referred

S.F. No. 1269: A bill for an act relating to health; providing for disposition of tobacco settlement money; establishing the Minnesota families foundation; creating health-related endowment funds; appropriating money; proposing coding for new law in Minnesota Statutes, chapters 10; 16A; 137; 144; and 145.

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

Delete everything after the enacting clause and insert:

"Section 1. [10.57] [MINNESOTA FAMILIES FOUNDATION.]

Subdivision 1. [ESTABLISHMENT.] The legislature finds that the Minnesota families foundation will foster a public-private partnership that will provide improved services to clients, a more effective coordination of services, and a more efficient allocation of resources. The Minnesota families foundation is a nonprofit foundation established to support self-sufficiency and reduce long-term dependency on government. The foundation shall operate as a supporting organization under the Internal Revenue Code, section 509(a), and chapter 317A. The foundation is not subject to chapters 13, 14, 16A, 16B, 16C, 43A, and 179A.

Subd. 2. [BOARD MEMBERSHIP.] The foundation shall be governed by a 15-member board of directors consisting of:

- (1) four members, who are not state employees, appointed by the governor;
- (2) four members, who are not members of the legislature, two of whom are appointed by the senate and two of whom are appointed by the house of representatives; and
- (3) seven members appointed by the board itself.

Subd. 3. [TERMS; COMPENSATION; REMOVAL.] (a) Board members appointed by the governor and the legislature shall serve during the term of the appointing authority. The governor and the legislature shall make initial appointments of board members, as specified in subdivision 2, as soon as possible after the effective date of this section. Initially appointed board members' terms shall begin on July 1, 1999. Two of the governor's initial appointments shall be for two-year terms. Subsequent appointments shall be made at the beginning of each regular session of the legislature. The board members appointed by the governor and the legislature shall appoint seven board members no later than January 1, 2000. Board members appointed by the board shall serve four-year terms. A vacancy on the board shall be filled for the unexpired portion of the term in the same manner as the original appointment.

(b) Board members shall be reimbursed for reasonable out-of-pocket expenses actually incurred.

(c) Board members must disclose fully to the board of directors whenever they may have a conflict of interest within the meaning of section 317A.255, subdivision 2. Liability of board members shall be governed by section 317A.257.

Subd. 4. [ORGANIZATION.] The board of directors shall adopt bylaws necessary for the conduct of the business of the foundation. The board shall select a chairperson from its members, and any other officers the board deems necessary. Board meetings shall be open to the public, and all grants, contracts, and meeting minutes of the foundation shall be available to the public.

Subd. 5. [EXECUTIVE DIRECTOR; EMPLOYEES OF THE FOUNDATION.] (a) The board members appointed by the governor and the legislature shall convene prior to January 1, 2000, and hire an executive director. The executive director shall serve at the pleasure of the board of directors. The executive director shall serve as a nonvoting member of the board. The executive director's compensation shall be capped at 95 percent of the governor's salary.

(b) The executive director shall oversee the daily operations of the foundation, including the hiring of necessary staff. Employees of the foundation are not state employees.

(c) The executive director shall prepare an annual budget for the foundation for review and approval by the board of directors.

(d) To the extent that the board of directors makes funds available, the commissioner of finance shall provide administrative support to the foundation until June 30, 2000, including but not limited to processing of payroll for the executive director and foundation staff, payment of expenses to board members, and payment of rent. The board of directors shall make up to \$200,000 available to the commissioner of finance to cover payroll, expenses of board members, rent, and other administrative expenses incurred to support the foundation in fiscal year 2000.

Subd. 6. [FOUNDATION FUNDS.] (a) The board of directors shall be responsible for managing the investment of the foundation funds as follows:

(1) the foundation funds shall be audited annually by an independent certified public accountant in accordance with generally accepted accounting principles;

(2) the foundation funds shall be invested and managed according to rules applicable to trust investments, as provided in the Minnesota Prudent Investor Act, sections 501B.151 and 501B.152;

(3) reasonable and necessary administrative and investment expenses directly associated with the management and investment of the foundation funds may be paid from the foundation trusts; and

(4) according to limits established by the board and consistent with the limitations in the Uniform Management of Institutional Funds Act, sections 309.62 to 309.71, earnings on foundation funds shall be expended to cover administrative expenses of the foundation and grant awards under subdivision 7.

(b) The board may contract with a third party, including the state board of investment, to carry out the provisions of paragraph (a).

(c) The foundation may accept gifts from private donors. Such gifts to the foundation must be accounted for and expended in a manner consistent with this section.

Subd. 7. [FOUNDATION GRANTS.] (a) Beginning July 1, 2000, the foundation shall provide grants to nonprofit, community-based organizations for activities that:

(1) are flexible and innovative and that close the gap between dependence on government and independence from government programs;

(2) support the efforts of working families and working individuals to remain self-sufficient by building assets that promote healthy family functioning and stability;

(3) will ensure that core public sector efforts to encourage self-sufficiency have every opportunity to succeed;

(4) focus resources in a way that can demonstrate impact on a single goal or a single set of goals;

(5) have demonstrated success in reducing future government expenditures;

(6) contribute to increasing the understanding of the development of young children's brains or to developing new methods to increase the effectiveness of stimulation and educational activities that will improve brain development in young children; or

(7) enhance public education, awareness, and understanding necessary for the promotion and encouragement of activities and decisions that protect and stimulate young children's development.

(b) All grantees must match funds received from the foundation, dollar for dollar. The match may include up to 25 percent in-kind. The match cannot be made with federal, state, or local government funds except in collaborative projects between governmental entities and the private sector.

(c) The foundation grants must not be used as a substitute for traditional state or local sources of funding activities for families and young children, but the endowment fund may be used to supplement traditional state or local sources, including sources used to support the activities described in this subdivision.

Subd. 8. [REPORTS TO THE LEGISLATURE.] (a) The foundation shall annually report to the governor and the legislature on January 15th of each year. The report must include:

(1) a financial report that details the foundation's earnings;

(2) an expense report detailing the amounts and purposes for which funds were expended;

- (3) a list of grant awards;
- (4) a report on the performance results of these grants; and
- (5) a copy of the independent audit reports for the two previous years.

(b) The foundation shall also report to the governor and the legislature on January 15, 2000. This report shall include a copy of the foundation's mission statement, bylaws, and policies adopted by the board of directors; and a financial report that details the foundation's returns and the amounts and purposes for which funds were expended.

Subd. 9. [DISSOLUTION OF THE FOUNDATION.] On June 30, 2009, the foundation shall sunset and all foundation assets shall be liquidated and returned to the tobacco settlement fund as soon as possible. If the legal status of the foundation or the foundation funds are successfully challenged in state or federal court, the foundation is automatically dissolved and the assets shall be liquidated and returned to the general fund.

Sec. 2. Minnesota Statutes 1998, section 62J.69, is amended to read:

62J.69 [MEDICAL EDUCATION AND RESEARCH TRUST FUND.]

Subdivision 1. [DEFINITIONS.] For purposes of this section, the following definitions apply:

(a) "Medical education" means the accredited clinical training of physicians (medical students and residents), doctor of pharmacy practitioners, doctors of chiropractic, dentists, advanced practice nurses (clinical nurse specialist, certified registered nurse anesthetists, nurse practitioners, and certified nurse midwives), and physician assistants.

(b) "Clinical training" means accredited training for the health care practitioners listed in paragraph (a) that is funded in part by patient care revenues and that occurs in either an inpatient or ambulatory patient care training site.

(c) "Trainee" means students involved in an accredited clinical training program for medical education as defined in paragraph (a).

(d) "Eligible trainee" means a student involved in an accredited training program for medical education as defined in paragraph (a), which meets the definition of clinical training in paragraph (b), who is in a training site that is located in Minnesota and which has a medical assistance provider number.

~~(e) "Health care research" means approved clinical, outcomes, and health services investigations that are funded by patient out-of-pocket expenses or a third-party payer.~~

(f) "Commissioner" means the commissioner of health.

~~(g)~~ (f) "Teaching institutions" means any hospital, medical center, clinic, or other organization that currently sponsors or conducts accredited medical education programs or clinical research in Minnesota.

~~(h)~~ (g) "Accredited training" means training provided by a program that is accredited through an organization recognized by the department of education or the health care financing administration as the official accrediting body for that program.

~~(i)~~ (h) "Sponsoring institution" means a hospital, school, or consortium located in Minnesota that sponsors and maintains primary organizational and financial responsibility for an accredited medical education program in Minnesota and which is accountable to the accrediting body.

Subd. 1a. [ADVISORY COMMITTEE.] The commissioner shall appoint an advisory committee to provide advice and oversight on the distribution of funds from the medical education and research endowment fund. If a committee is appointed, the commissioner shall:

- (1) consider the interest of all stakeholders when selecting committee members;

(2) select members that represent both urban and rural interest; and

(3) select members that include ambulatory care as well as inpatient perspectives.

The commissioner shall appoint to the advisory committee representatives of the following groups: medical researchers, public and private academic medical centers, including a representative from each academic center offering an accredited training program for physicians, pharmacists, chiropractors, dentists, and nurses, managed care organizations, Blue Cross and Blue Shield of Minnesota, commercial carriers, Minnesota Medical Association, Minnesota Nurses Association, Minnesota Chiropractic Association, medical product manufacturers, employers, and other relevant stakeholders, including consumers. The advisory committee is governed by section 15.059, for membership terms and removal of members and expires on June 30, 2001.

~~Subd. 2. [ALLOCATION AND FUNDING FOR MEDICAL EDUCATION AND RESEARCH.] (a) The commissioner may establish a trust fund for the purposes of funding medical education and research activities in the state of Minnesota.~~

~~(b) By January 1, 1997, the commissioner may appoint an advisory committee to provide advice and oversight on the distribution of funds from the medical education and research trust fund. If a committee is appointed, the commissioner shall: (1) consider the interest of all stakeholders when selecting committee members; (2) select members that represent both urban and rural interest; and (3) select members that include ambulatory care as well as inpatient perspectives. The commissioner shall appoint to the advisory committee representatives of the following groups: medical researchers, public and private academic medical centers, managed care organizations, Blue Cross and Blue Shield of Minnesota, commercial carriers, Minnesota Medical Association, Minnesota Nurses Association, medical product manufacturers, employers, and other relevant stakeholders, including consumers. The advisory committee is governed by section 15.059, for membership terms and removal of members and will sunset on June 30, 1999.~~

~~(e) Eligible applicants for funds are accredited medical education teaching institutions, consortia, and programs operating in Minnesota. Applications must be submitted by the sponsoring institution on behalf of the teaching program, and must be received by September 30 of each year for distribution in January of the following year. An application for funds must include the following:~~

~~(1) the official name and address of the sponsoring institution and the official name and address of the facility or programs on whose behalf the institution is applying for funding;~~

~~(2) the name, title, and business address of those persons responsible for administering the funds;~~

~~(3) for each accredited medical education program for which funds are being sought the type and specialty orientation of trainees in the program, the name, address, and medical assistance provider number of each training site used in the program, the total number of trainees at each site, and the total number of eligible trainees at each training site;~~

~~(4) audited clinical training costs per trainee for each medical education program where available or estimates of clinical training costs based on audited financial data;~~

~~(5) a description of current sources of funding for medical education costs including a description and dollar amount of all state and federal financial support, including Medicare direct and indirect payments;~~

~~(6) other revenue received for the purposes of clinical training; and~~

~~(7) other supporting information the commissioner, with advice from the advisory committee, determines is necessary for the equitable distribution of funds.~~

~~(b) The commissioner shall distribute medical education funds to all qualifying applicants based on the following basic criteria: (1) total medical education funds available; (2) total eligible trainees in each eligible education program; and (3) the statewide average cost per trainee, by type~~

of trainee, in each medical education program; (4) the degree to which the applicant's training programs are funded with patient care revenues; (5) the degree to which the training of eligible trainees takes place in patient care settings that face increased financial pressure as a result of competition with nonteaching patient care entities; and (6) whether the eligible education program emphasizes primary care or specialties that are in undersupply in Minnesota. Funds distributed shall not be used to displace current funding appropriations from federal or state sources. Funds shall be distributed to the sponsoring institutions indicating the amount to be paid to each of the sponsor's medical education programs based on the criteria in this paragraph. Sponsoring institutions which receive funds from the trust fund must distribute approved funds to the medical education program according to the commissioner's approval letter. Further, programs must distribute funds among the sites of training as specified in the commissioner's approval letter. Any funds not distributed as directed by the commissioner's approval letter shall be returned to the medical education and research trust fund within 30 days of a notice from the commissioner. The commissioner shall distribute returned funds to the appropriate entities in accordance with the commissioner's approval letter.

(e) (c) Medical education programs receiving funds from the trust fund must submit a medical education and research grant verification report (GVR) through the sponsoring institution based on criteria established by the commissioner. If the sponsoring institution fails to submit the GVR by the stated deadline, or to request and meet the deadline for an extension, the sponsoring institution is required to return the full amount of the medical education and research trust fund grant to the medical education and research trust fund within 30 days of a notice from the commissioner. The commissioner shall distribute returned funds to the appropriate entities in accordance with the commissioner's approval letter. The reports must include:

- (1) the total number of eligible trainees in the program;
- (2) the programs and residencies funded, the amounts of trust fund payments to each program, and within each program, the dollar amount distributed to each training site; and
- (3) other information the commissioner, with advice from the advisory committee, deems appropriate to evaluate the effectiveness of the use of funds for clinical training.

The commissioner, with advice from the advisory committee, will provide an annual summary report to the legislature on program implementation due February 15 of each year.

(f) (d) The commissioner is authorized to distribute funds made available through:

- (1) voluntary contributions by employers or other entities;
- (2) allocations for the department of human services to support medical education and research; and
- (3) other sources as identified and deemed appropriate by the legislature for inclusion in the trust fund.

(g) ~~The advisory committee shall continue to study and make recommendations on:~~

- ~~(1) the funding of medical research consistent with work currently mandated by the legislature and under way at the department of health; and~~
- ~~(2) the costs and benefits associated with medical education and research.~~

~~Subd. 3. [MEDICAL ASSISTANCE AND GENERAL ASSISTANCE SERVICE.] The commissioner of health, in consultation with the medical education and research costs advisory committee, shall develop a system to recognize those teaching programs which serve higher numbers or high proportions of public program recipients and shall report to the legislative commission on health care access by January 15, 1998, on an allocation formula to implement this system.~~

Subd. 4. [TRANSFERS FROM THE COMMISSIONER OF HUMAN SERVICES.] (a) The

amount transferred according to section 256B.69, subdivision 5c, shall be distributed by the commissioner to qualifying applicants based on a distribution formula that reflects a summation of two factors:

(1) an education factor, which is determined by the total number of eligible trainees and the total statewide average costs per trainee, by type of trainee, in each program; and

(2) a public program volume factor, which is determined by the total volume of public program revenue received by each training site as a percentage of all public program revenue received by all training sites in the trust fund pool.

In this formula, the education factor shall be weighted at 50 percent and the public program volume factor shall be weighted at 50 percent.

(b) Public program revenue for the formula in paragraph (a) shall include revenue from medical assistance, prepaid medical assistance, general assistance medical care, and prepaid general assistance medical care.

(c) Training sites that receive no public program revenue shall be ineligible for payments from the prepaid medical assistance program transfer pool.

Subd. 5. [REVIEW OF ELIGIBLE PROVIDERS.] ~~(a) Provider groups added after January 1, 1998, to the list of providers eligible for the trust fund shall not receive funding from the trust fund without prior evaluation by the commissioner and the medical education and research costs advisory committee. The evaluation shall consider the degree to which the training of the provider group:~~

~~(1) takes place in patient care settings, which are consistent with the purposes of this section;~~

~~(2) is funded with patient care revenues;~~

~~(3) takes place in patient care settings, which face increased financial pressure as a result of competition with nonteaching patient care entities; and~~

~~(4) emphasizes primary care or specialties, which are in undersupply in Minnesota.~~

~~Results of this evaluation shall be reported to the legislative commission on health care access. The legislative commission on health care access must approve funding for the provider group prior to their receiving any funding from the trust fund. In the event that a reviewed provider group is not approved by the legislative commission on health care access, trainees in that provider group shall be considered ineligible trainees for the trust fund distribution.~~

~~(b) The commissioner and the medical education and research costs advisory committee may also review the eligible list of provider groups, which were added to the eligible list of provider groups prior to January 1, 1998, to assure that the trust fund money continues to be is distributed consistent with the purpose of this section. The results of any such reviews must be reported to the legislative commission on health care access. Trainees in provider groups, which were added prior to January 1, 1998, and which are reviewed by the commissioner and the medical education and research costs advisory committee, shall be considered eligible trainees for purposes of the trust fund distribution unless and until the legislative commission on health care access disapproves their eligibility, in which case they shall be considered ineligible trainees.~~

Sec. 3. [62J.691] [MEDICAL EDUCATION AND RESEARCH ENDOWMENT FUND.]

Subdivision 1. [CREATION.] The medical education and research endowment fund is created as an account in the state treasury. The commissioner of finance shall credit to the fund 27 percent of the tobacco settlement payments received by the state on January 3, 2000, January 2, 2001, January 2, 2002, and January 2, 2003, as a result of the settlement of the lawsuit styled as State v. Philip Morris Incorporated, No. C1-94-8565. The state board of investment shall invest the fund under section 11A.24. All earnings of the fund must be credited to the fund. The principle of the fund must be maintained inviolate.

Subd. 2. [ENDOWMENT FUND EXPENDITURES.] (a) Up to five percent of the fair market value of the fund on the preceding July 1 shall be spent for medical education and research activities in the state of Minnesota.

(b) Beginning July 1, 2000, and on July 1 of each year thereafter, 50 percent of the amount in paragraph (a) is appropriated from the fund to the commissioner of health to be distributed for medical education in accordance with section 62J.69.

(c) Beginning July 1, 2000, and July 1 of each year thereafter, 25 percent of the amount in paragraph (a) is appropriated from the fund to the commissioner of health to be distributed for medical research in accordance with the recommendations submitted in accordance with section 62J.692.

(d) Beginning July 1, 2000, and on July 1 of each year thereafter, 25 percent of the amount in paragraph (a) is to be appropriated for the instructional costs of health professional programs at publicly funded academic health centers. These earnings shall not be spent except under appropriation by law.

Subd. 3. [AUDITS REQUIRED.] The legislative auditor shall audit endowment fund expenditures to ensure that the money is spent for the purposes set out in this section.

Subd. 4. [SUNSET.] The medical education and research endowment fund expires June 30, 2015. Upon expiration, the commissioner of finance shall transfer the principal and any remaining interest to the general fund.

Sec. 4. [62J.692] [MEDICAL RESEARCH.]

The commissioner of health, in consultation with the medical education and research costs advisory committee, shall make recommendations for a process for the submission, review, and approval of research grant applications. The process shall give priority for grants to applications that are intended to gather preliminary data for submission for a subsequent proposal for funding from a federal agency or foundation, which awards research money on a competitive, peer reviewed basis. Grant recipients must be able to demonstrate the ability to comply with federal regulations on human subjects research in accordance with Code of Federal Regulations, title 45, section 46, and shall conduct the proposed research. Grants may be awarded to the University of Minnesota, the Mayo clinic, or any other public or private organization in the state involved in medical research. The commissioner shall report to the legislature by January 15, 2000, with recommendations.

Sec. 5. [62J.82] [HEALTH CARE FUND.]

The health care fund is created as an account in the state treasury. The commissioner of finance shall credit to the fund \$38,000,000 of each tobacco settlement payment received by the state in the month of December beginning December of 2003 as a result of the settlement of the lawsuit styled as State of Minnesota v. Philip Morris Incorporated, No. C1-94-8565. The state board of investment shall invest the fund under section 11A.24. All earnings of the fund must be credited to the fund.

Sec. 6. [137.44] [HEALTH PROFESSIONAL EDUCATION BUDGET PLAN.]

The board of regents is requested to adopt a biennial budget plan for making expenditures from the medical education and research endowment fund dedicated for the instructional costs of health professional programs at publicly funded academic health centers. The budget plan may be submitted as part of the University of Minnesota's biennial budget request.

Sec. 7. [144.395] [TOBACCO PREVENTION ENDOWMENT FUND.]

Subdivision 1. [CREATION.] The tobacco prevention endowment fund is created as an account in the state treasury. The commissioner of finance shall credit to the fund 50 percent of the tobacco settlement payments received by the state on January 3, 2000, January 2, 2001, January 2, 2002, and January 2, 2003, as a result of the settlement of the lawsuit styled as State v. Philip

Morris Incorporated, No. C1-94-8565. The state board of investment shall invest the fund under section 11A.24. All earnings of the fund must be credited to the fund. The principle of the fund must be maintained inviolate.

Subd. 2. [ENDOWMENT FUND EXPENDITURES.] Earnings from the fund shall be spent to reduce the human and economic consequences of tobacco use through tobacco prevention measures. Beginning July 1, 2000, and on July 1 of each year thereafter, up to five percent of the fair market value of the fund on the preceding July 1 and up to a prorated five percent of deposits received during the preceding year are appropriated from the fund to the commissioner of health, who shall pay that amount to the Minnesota partnership for action against tobacco. Minnesota partnership for action against tobacco shall use the amounts received for tobacco use prevention measures, except that a maximum of \$..... of each annual appropriation may be used for staffing and other expenses relating to this section. Members of the board of directors of the partnership, and members of any advisory committees appointed by the board to make recommendations for implementing tobacco use prevention efforts, may be reimbursed for reasonable expenses actually incurred in connection with activities relating to carrying out this section, but not for expenses reimbursed from any other source.

Subd. 3. [AUDITS REQUIRED.] The legislative auditor shall audit endowment fund expenditures to ensure that the money is spent for tobacco prevention measures.

Subd. 4. [REPORT.] (a) The Minnesota partnership for action against tobacco must submit an annual report to the legislature by January 15 of each year, beginning in 2001, on prevention measures and initiatives undertaken during the preceding year. The report must include:

- (1) an accounting of expenses, detailing the amounts and purposes for which money was spent;
- (2) a list of grant awards;
- (3) a report on the results of the tobacco prevention measures; and
- (4) a copy of the legislative auditor's report.

(b) The initial report submitted under this subdivision must include a copy of the partnership's bylaws and tobacco prevention policies or plans adopted by the board of directors.

Subd. 5. [SUNSET.] The tobacco prevention endowment fund expires on June 30, 2015. Upon expiration, the commissioner of finance shall transfer the principal and any remaining interest to the general fund.

Sec. 8. [APPROPRIATIONS.]

\$124,416,000 is appropriated from the general fund to the commissioner of finance for transfer to the medical education and research endowment fund in the fiscal year ending June 30, 1999.

\$105,984,000 is appropriated from the general fund to the Minnesota families foundation in the fiscal year ending June 30, 1999.

\$230,400,000 is appropriated from the general fund to the commissioner of finance for transfer to the tobacco prevention endowment fund in the fiscal year ending June 30, 1999.

The commissioner of finance shall appropriate to the Minnesota families foundation 23 percent of the tobacco settlement payments received by the state on January 3, 2000, January 2, 2001, January 2, 2002, and January 2, 2003, as a result of the settlement of the lawsuit styled as State v. Philip Morris Incorporated, No. C1-94-8565.

Sec. 9. [EFFECTIVE DATE.]

Sections 1 to 8 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to health; creating a medical education and research endowment fund, the Minnesota families foundation, a tobacco prevention endowment fund, and a health care fund; appropriating money; amending Minnesota Statutes 1998, section 62J.69; proposing coding for new law in Minnesota Statutes, chapters 10; 62J; 137; and 144."

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

SECOND READING OF SENATE BILLS

S.F. Nos. 1357 and 1269 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 14, 67, 142, 793, 868, 1125 and 1359 were read the second time.

MOTIONS AND RESOLUTIONS

Senator Higgins moved that her name be stricken as chief author and the name of Senator Murphy be added as chief author to S.F. No. 838. The motion prevailed.

Senator Metzen moved that H.F. No. 7 be withdrawn from the Committee on Environment and Natural Resources and re-referred to the Committee on Rules and Administration for comparison with S.F. No. 18, now on General Orders. The motion prevailed.

Senator Berglin moved that S.F. No. 1219 be withdrawn from the Committee on Health and Family Security and re-referred to the Committee on State Government Finance. The motion prevailed.

SPECIAL ORDERS

Pursuant to Rule 10, Senator Junge, designee of the Chair of the Committee on Rules and Administration, designated the following bills a Special Orders Calendar to be heard immediately.

S.F. Nos. 2, 299, 1262, 983, 1618, 551 and 486.

SPECIAL ORDER

S.F. No. 2: A bill for an act relating to the year 2000 problem; providing immunity for certain activities; clarifying the mutual aid authority of local government units; providing authority to local government units to address the year 2000 problem; requiring reports by certain utilities and health care and nursing home providers; requiring the department of health to collect and disseminate certain information; appropriating money; amending Minnesota Statutes 1998, sections 12.31, subdivision 2; and 12.37; proposing coding for new law as Minnesota Statutes, chapter 604B.

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 51 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Cohen	Fischbach	Frederickson	Johnson, D.H.
Belanger	Day	Flynn	Hanson	Johnson, D.J.
Betzold	Dille	Foley	Johnson, D.E.	Johnson, J.B.

Junge	Lessard	Ourada	Runbeck	Vickerman
Kelley, S.P.	Limmer	Pappas	Sams	Wiener
Kiscaden	Lourey	Pariseau	Scheevel	Wiger
Kleis	Marty	Piper	Solon	Ziegler
Knutson	Metzen	Price	Spear	
Langseth	Neuville	Ranum	Stevens	
Larson	Oliver	Robertson	Ten Eyck	
Lesewski	Olson	Robling	Terwilliger	

So the bill passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 299: A bill for an act relating to civil actions; limiting the liability of the state and municipalities for certain claims involving Year 2000 problems; amending Minnesota Statutes 1998, section 466.03, subdivision 15; proposing coding for new law in Minnesota Statutes, chapter 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 53 and nays 0, as follows:

Those who voted in the affirmative were:

Belanger	Johnson, D.E.	Langseth	Ourada	Solon
Berg	Johnson, D.H.	Lesewski	Pariseau	Spear
Betzold	Johnson, D.J.	Lessard	Piper	Stevens
Day	Johnson, J.B.	Limmer	Pogemiller	Stumpf
Dille	Junge	Lourey	Price	Ten Eyck
Fischbach	Kelley, S.P.	Marty	Ranum	Terwilliger
Flynn	Kiscaden	Metzen	Robertson	Wiener
Foley	Kleis	Murphy	Robling	Wiger
Frederickson	Knutson	Neuville	Sams	Ziegler
Hanson	Krentz	Oliver	Samuelson	
Hottinger	Laidig	Olson	Scheevel	

So the bill passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 1262: A bill for an act relating to civil actions; limiting liability from year 2000 failures; proposing coding for new law as Minnesota Statutes, chapter 604B.

Senator Neuville moved to amend S.F. No. 1262 as follows:

Page 1, delete line 21 and insert:

"Subd. 3. [PERSON.] "Person" means a natural person or a small business as defined in section 645.445."

Page 2, line 3, delete "INDIVIDUAL'S"

Page 2, line 5, delete "An individual" and insert "A person"

Page 2, line 6, delete "individual if the individual" and insert "person if the person"

Page 2, line 7, delete "individual's" and insert "person's"

Page 2, lines 9, 11, 12, and 18, delete "individual" and insert "person"

Page 2, line 15, delete "an individual" and insert "a person"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 54 and nays 4, as follows:

Those who voted in the affirmative were:

Anderson	Johnson, D.H.	Lesewski	Pappas	Solon
Belanger	Johnson, D.J.	Lessard	Pariseau	Spear
Berg	Johnson, J.B.	Limmer	Piper	Stevens
Cohen	Junge	Lourey	Pogemiller	Stumpf
Day	Kelley, S.P.	Marty	Price	Ten Eyck
Dille	Kiscaden	Metzen	Ranum	Terwilliger
Fischbach	Kleis	Murphy	Robertson	Vickerman
Frederickson	Knutson	Neuville	Robling	Wiener
Hanson	Krentz	Novak	Sams	Wiger
Hottinger	Laidig	Olson	Samuelson	Ziegler
Johnson, D.E.	Langseth	Ourada	Scheevel	

Those who voted in the negative were:

Berglin	Betzold	Flynn	Foley
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The motion prevailed. So the amendment was adopted.

S.F. No. 1262 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 59 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Hanson	Krentz	Olson	Scheevel
Belanger	Hottinger	Laidig	Ourada	Solon
Berg	Johnson, D.E.	Langseth	Pappas	Spear
Berglin	Johnson, D.H.	Lesewski	Pariseau	Stevens
Betzold	Johnson, D.J.	Lessard	Piper	Stumpf
Cohen	Johnson, J.B.	Limmer	Pogemiller	Ten Eyck
Day	Junge	Lourey	Price	Terwilliger
Dille	Kelley, S.P.	Marty	Ranum	Vickerman
Fischbach	Kelly, R.C.	Metzen	Robertson	Wiener
Flynn	Kiscaden	Murphy	Robling	Wiger
Foley	Kleis	Neuville	Sams	Ziegler
Frederickson	Knutson	Novak	Samuelson	

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

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Langseth moved that S.F. No. 854 be taken from the table. The motion prevailed.

S.F. No. 854: A bill for an act relating to land use; precluding the termination of lawful land uses by amortization; authorizing the city of St. Louis Park to continue to enforce a certain ordinance; amending Minnesota Statutes 1998, sections 394.21, by adding a subdivision; and 462.357, by adding a subdivision.

CALL OF THE SENATE

Senator Langseth imposed a call of the Senate for the balance of the proceedings on S.F. No. 854. The Sergeant at Arms was instructed to bring in the absent members.

Senator Hottinger moved to amend S.F. No. 854 as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1998, section 394.21, is amended by adding a subdivision to read:

Subd. 1a. [AMORTIZATION.] A county must not enact or amend a zoning ordinance providing for the termination of a nonconforming use by amortization that does not allow the owner to reasonably recoup the investment in the use prior to its termination. In determining a reasonable amortization period for a particular use, the ordinance must provide for consideration of the following factors:

- (1) information relating to the structure located on the property;
- (2) nature of the use;
- (3) location of the property in relation to the surrounding uses;
- (4) the character of and uses in the surrounding neighborhood;
- (5) cost of the property and improvements to the property;
- (6) benefit to the public by requiring the termination of the nonconforming use;
- (7) burden on the property owner by requiring the termination of the nonconforming use;
- (8) the length of time the use has been in existence; and
- (9) the length of time the use has been nonconforming.

Prior to its consideration of an amortization ordinance, a county must have in its comprehensive municipal plan provisions specifically addressing how amortization would further the policy goals and policies of the plan. In addition to other requirements relating to the amendment of a zoning ordinance, an amortization ordinance must contain a procedure for an individualized assessment of the amortization period for each use being amortized, allow the owner and all other interested parties a minimum of 60 days after the close of the public hearing to submit additional information to the governing body, and be supported by specific findings of fact based upon evidence in the record. No amortization ordinance may be adopted or amended except upon a two-thirds vote of all members of the governing body.

Sec. 2. Minnesota Statutes 1998, section 462.357, is amended by adding a subdivision to read:

Subd. 1c. [AMORTIZATION.] A municipality must not enact or amend a zoning ordinance providing for the termination of a nonconforming use by amortization that does not allow the owner to reasonably recoup the investment in the use prior to its termination. In determining a reasonable amortization period for a particular use, the ordinance must provide for consideration of the following factors:

- (1) information relating to the structure located on the property;
- (2) nature of the use;
- (3) location of the property in relation to the surrounding uses;
- (4) the character of and uses in the surrounding neighborhood;
- (5) cost of the property and improvements to the property;
- (6) benefit to the public by requiring the termination of the nonconforming use;
- (7) burden on the property owner by requiring the termination of the nonconforming use;
- (8) the length of time the use has been in existence; and
- (9) the length of time the use has been nonconforming.

Prior to its consideration of an amortization ordinance, a municipality must have in its comprehensive municipal plan provisions specifically addressing how amortization would further the policy goals and policies of the plan. In addition to other requirements relating to the amendment of a zoning ordinance, an amortization ordinance must contain a procedure for an individualized assessment of the amortization period for each use being amortized, allow the owner and all other interested parties a minimum of 60 days after the close of the public hearing to submit additional information to the governing body, and be supported by specific findings of fact based upon evidence in the record. No amortization ordinance may be adopted or amended except upon a two-thirds vote of all members of the governing body.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective the day after their final enactment."

Delete the title and insert:

"A bill for an act relating to land use; providing standards for the termination of lawful land uses by amortization; amending Minnesota Statutes 1998, sections 394.21, by adding a subdivision; and 462.357, by adding a subdivision."

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 19 and nays 47, as follows:

Those who voted in the affirmative were:

Anderson	Flynn	Kelley, S.P.	Moe, R.D.	Price
Berglin	Higgins	Krentz	Pappas	Ranum
Betzold	Hottinger	Lourey	Piper	Spear
Cohen	Junge	Marty	Pogemiller	

Those who voted in the negative were:

Belanger	Johnson, D.H.	Lesewski	Pariseau	Stumpf
Berg	Johnson, D.J.	Lessard	Robertson	Ten Eyck
Day	Johnson, J.B.	Limmer	Robling	Terwilliger
Dille	Kelly, R.C.	Metzen	Runbeck	Vickerman
Fischbach	Kiscaden	Murphy	Sams	Wiener
Foley	Kleis	Neuville	Samuelson	Wiger
Frederickson	Knutson	Novak	Scheevel	Ziegler
Hanson	Laidig	Oliver	Scheid	
Janezich	Langseth	Olson	Solon	
Johnson, D.E.	Larson	Ourada	Stevens	

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

Senator Marty moved to amend S.F. No. 854 as follows:

Page 1, lines 11 and 20, before "A" insert "Except as otherwise provided in this subdivision,"

Page 1, lines 17 and 25, after the period, insert "This subdivision does not apply to billboards or adults-only bookstores, theaters, or similar adults-only businesses, as defined by ordinance."

Senator Stevens moved to amend the Marty amendment to S.F. No. 854 follows:

Page 1, line 5, delete "billboards or"

The question was taken on the adoption of the Stevens amendment to the Marty amendment.

The roll was called, and there were yeas 43 and nays 22, as follows:

Those who voted in the affirmative were:

Belanger	Fischbach	Johnson, D.E.	Knutson	Lesewski
Berg	Flynn	Johnson, D.H.	Laidig	Lessard
Day	Hanson	Johnson, J.B.	Langseth	Limmer
Dille	Janezich	Kleis	Larson	Metzen

Murphy	Ourada	Sams	Stevens	Wiener
Neuville	Pariseau	Samuelson	Stumpf	Wiger
Novak	Robertson	Scheevel	Ten Eyck	Ziegler
Oliver	Robling	Scheid	Terwilliger	
Olson	Runbeck	Solon	Vickerman	

Those who voted in the negative were:

Anderson	Frederickson	Kelley, S.P.	Moe, R.D.	Ranum
Berglin	Higgins	Kiscaden	Pappas	Spear
Betzold	Hottinger	Krentz	Piper	
Cohen	Johnson, D.J.	Lourey	Pogemiller	
Foley	Junge	Marty	Price	

The motion prevailed. So the amendment to the amendment was adopted.

Senator Limmer moved to amend the Marty amendment to S.F. No. 854 as follows:

Page 1, line 6, before "theaters" insert "adults-only"

The motion prevailed. So the amendment to the amendment was adopted.

The question recurred on the Marty amendment, as amended.

The roll was called, and there were yeas 65 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Higgins	Laidig	Oliver	Samuelson
Belanger	Hottinger	Langseth	Olson	Scheevel
Berg	Janezich	Larson	Ourada	Scheid
Berglin	Johnson, D.E.	Lesewski	Pappas	Solon
Betzold	Johnson, D.H.	Lessard	Pariseau	Spear
Cohen	Johnson, D.J.	Limmer	Piper	Stevens
Day	Johnson, J.B.	Lourey	Pogemiller	Stumpf
Dille	Junge	Marty	Price	Ten Eyck
Fischbach	Kelley, S.P.	Metzen	Ranum	Terwilliger
Flynn	Kiscaden	Moe, R.D.	Robertson	Vickerman
Foley	Kleis	Murphy	Robling	Wiener
Frederickson	Knutson	Neuville	Runbeck	Wiger
Hanson	Krentz	Novak	Sams	Ziegler

The motion prevailed. So the Marty amendment, as amended, was adopted.

Senator Junge moved to amend S.F. No. 854 as follows:

Page 2, line 8, after the period, insert "Sections 1 and 2 do not apply to cases pending on the effective date regarding enforcement of an amortization ordinance."

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 23 and nays 41, as follows:

Those who voted in the affirmative were:

Anderson	Foley	Junge	Moe, R.D.	Ranum
Berglin	Higgins	Kelley, S.P.	Pappas	Spear
Betzold	Hottinger	Krentz	Piper	Ten Eyck
Cohen	Johnson, D.H.	Lourey	Pogemiller	
Flynn	Johnson, J.B.	Marty	Price	

Those who voted in the negative were:

Belanger	Janezich	Langseth	Neuville	Runbeck
Berg	Johnson, D.E.	Larson	Novak	Sams
Day	Johnson, D.J.	Lesewski	Oliver	Samuelson
Dille	Kiscaden	Lessard	Olson	Scheevel
Fischbach	Kleis	Limmer	Ourada	Scheid
Frederickson	Knutson	Metzen	Robertson	Solon
Hanson	Laidig	Murphy	Robling	Stevens

Stumpf
Terwilliger

Vickerman

Wiener

Wiger

Ziegler

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

Senator Pappas moved to amend S.F. No. 854 as follows:

Page 1, line 20, after "municipality" insert "that is not a city of the first class"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 14 and nays 48, as follows:

Those who voted in the affirmative were:

Anderson	Flynn	Lourey	Pappas	Ranum
Berglin	Higgins	Marty	Piper	Spear
Cohen	Kelley, S.P.	Moe, R.D.	Pogemiller	

Those who voted in the negative were:

Belanger	Janezich	Larson	Ourada	Stevens
Berg	Johnson, D.E.	Lesewski	Price	Stumpf
Betzold	Johnson, D.H.	Lessard	Robertson	Ten Eyck
Day	Junge	Limmer	Robling	Terwilliger
Dille	Kiscaden	Metzen	Runbeck	Vickerman
Fischbach	Kleis	Murphy	Sams	Wiener
Foley	Knutson	Neuville	Samuelson	Wiger
Frederickson	Krentz	Novak	Scheevel	Ziegler
Hanson	Laidig	Oliver	Scheid	
Hottinger	Langseth	Olson	Solon	

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

Senator Marty moved to amend S.F. No. 854 as follows:

Page 1, after line 8, insert:

"Section 1. [16A.90] [LOCAL GOVERNMENT REIMBURSEMENT ACCOUNT; APPROPRIATION.]

Upon application by a local government, the commissioner of finance shall reimburse a local government an amount equal to the costs incurred by the local government in acquiring property that has been determined by the local government to be a nonconforming use that must be eliminated or terminated to protect the health, safety, or public welfare of the community, and that would have been subject to amortization but for the provisions of section 394.21, subdivision 1a, or section 462.357, subdivision 1c. An amount sufficient to pay the reimbursement requests of local governments made during the previous year is appropriated annually from the general fund to the commissioner of finance for the local government reimbursement account, established in the state treasury for the purposes of this section."

Page 2, line 7, before "Sections" insert "Section 1 is effective July 1, 1999." and delete "1 and 2" and insert "2 and 3"

Page 2, line 8, delete "3" and insert "4"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 27 and nays 36, as follows:

Those who voted in the affirmative were:

Anderson	Berglin	Betzold	Cohen	Fischbach
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Flynn	Johnson, J.B.	Marty	Pogemiller	Samuelson
Foley	Junge	Metzen	Price	Spear
Hanson	Kelley, S.P.	Moe, R.D.	Ranum	
Higgins	Kleis	Pappas	Robertson	
Hottinger	Lourey	Piper	Sams	

Those who voted in the negative were:

Belanger	Knutson	Murphy	Runbeck	Vickerman
Berg	Krentz	Neuville	Scheevel	Wiener
Day	Laidig	Novak	Scheid	Wiger
Dille	Langseth	Oliver	Solon	Ziegler
Frederickson	Larson	Olson	Stevens	
Johnson, D.E.	Lesewski	Ourada	Stumpf	
Johnson, D.H.	Lessard	Pariseau	Ten Eyck	
Kiscaden	Limmer	Robling	Terwilliger	

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

Senator Pappas moved to amend S.F. No. 854 as follows:

Page 1, lines 17 and 25, after the period, insert "This subdivision does not apply to an ordinance that is approved by the majority of voters voting on the question at a general or special election."

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 8 and nays 54, as follows:

Those who voted in the affirmative were:

Anderson	Cohen	Kelley, S.P.	Pogemiller	Ranum
Berglin	Higgins	Pappas		

Those who voted in the negative were:

Belanger	Johnson, D.E.	Lessard	Ourada	Solon
Berg	Johnson, D.H.	Limmer	Pariseau	Spear
Betzold	Johnson, J.B.	Lourey	Piper	Stevens
Day	Junge	Marty	Price	Stumpf
Dille	Kiscaden	Metzen	Robertson	Ten Eyck
Fischbach	Kleis	Moe, R.D.	Robling	Terwilliger
Flynn	Knutson	Murphy	Runbeck	Vickerman
Foley	Krentz	Neuville	Sams	Wiener
Frederickson	Laidig	Novak	Samuelson	Wiger
Hanson	Langseth	Oliver	Scheevel	Ziegler
Hottinger	Lesewski	Olson	Scheid	

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

S.F. No. 854 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 45 and nays 19, as follows:

Those who voted in the affirmative were:

Belanger	Johnson, D.E.	Lesewski	Ourada	Solon
Berg	Johnson, D.H.	Lessard	Pariseau	Stevens
Day	Johnson, D.J.	Limmer	Robertson	Stumpf
Dille	Johnson, J.B.	Metzen	Robling	Ten Eyck
Fischbach	Kiscaden	Murphy	Runbeck	Terwilliger
Flynn	Kleis	Neuville	Sams	Vickerman
Frederickson	Knutson	Novak	Samuelson	Wiener
Hanson	Laidig	Oliver	Scheevel	Wiger
Janezich	Langseth	Olson	Scheid	Ziegler

Those who voted in the negative were:

Anderson	Betzold	Foley	Hottinger	Kelley, S.P.
Berglin	Cohen	Higgins	Junge	Krentz

Lourey	Moe, R.D.	Piper	Price	Spear
Marty	Pappas	Pogemiller	Ranum	

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

SPECIAL ORDER

S.F. No. 983: A bill for an act relating to professions; modifying provisions relating to psychologists' licensing; amending Minnesota Statutes 1998, sections 148.89, subdivisions 2a, 4, 5, and by adding a subdivision; 148.915; 148.925, subdivision 7; 148.941, subdivisions 2 and 6; and 148.96, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 148.

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 60 and nays 1, as follows:

Those who voted in the affirmative were:

Anderson	Hanson	Krentz	Neuville	Samuelson
Belanger	Higgins	Laidig	Oliver	Scheevel
Berg	Hottinger	Langseth	Olson	Scheid
Berglin	Johnson, D.E.	Larson	Ourada	Solon
Betzold	Johnson, D.H.	Lesewski	Pappas	Spear
Cohen	Johnson, D.J.	Lessard	Pariseau	Stevens
Day	Johnson, J.B.	Limmer	Piper	Ten Eyck
Dille	Junge	Lourey	Pogemiller	Terwilliger
Fischbach	Kelley, S.P.	Marty	Ranum	Vickerman
Flynn	Kiscaden	Metzen	Robertson	Wiener
Foley	Kleis	Moe, R.D.	Robling	Wiger
Frederickson	Knutson	Murphy	Sams	Ziegler

Those who voted in the negative were:

Runbeck

So the bill passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 1618: A bill for an act relating to liquor; modifying judicial remedies pertaining to brewers and wholesalers; providing for a right to jury trials; amending Minnesota Statutes 1998, section 325B.08.

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 65 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Higgins	Laidig	Oliver	Samuelson
Belanger	Hottinger	Langseth	Olson	Scheevel
Berg	Janezich	Larson	Ourada	Scheid
Berglin	Johnson, D.E.	Lesewski	Pappas	Solon
Betzold	Johnson, D.H.	Lessard	Pariseau	Spear
Cohen	Johnson, D.J.	Limmer	Piper	Stevens
Day	Johnson, J.B.	Lourey	Pogemiller	Stumpf
Dille	Junge	Marty	Price	Ten Eyck
Fischbach	Kelley, S.P.	Metzen	Ranum	Terwilliger
Flynn	Kiscaden	Moe, R.D.	Robertson	Vickerman
Foley	Kleis	Murphy	Robling	Wiener
Frederickson	Knutson	Neuville	Runbeck	Wiger
Hanson	Krentz	Novak	Sams	Ziegler

So the bill passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 551: A bill for an act relating to domestic abuse; requiring battered women programs to coordinate services with child protection agencies; authorizing service of short form notification in lieu of personal service for orders for protection; expanding the definition of first degree murder in situations involving domestic abuse; providing enhanced penalties based upon a previous conviction or adjudication for malicious punishment of a child and other laws; adding assault in the fifth degree and domestic assault to definition of "crimes of violence"; increasing the cash bail for individuals charged with malicious punishment of a child; clarifying when evidence of similar prior conduct of an accused related to domestic abuse is admissible; changing a definition in the law related to the order of disposition of issues on a court's calendar; providing criminal penalties; amending Minnesota Statutes 1998, sections 260.133, subdivisions 1 and 2; 260.191, subdivision 1b; 518B.01, subdivisions 5, 8, and by adding subdivisions; 609.185; 609.224, subdivisions 2 and 4; 609.2242, subdivisions 2 and 4; 609.342, subdivision 3; 609.343, subdivision 3; 609.344, subdivision 3; 609.345, subdivision 3; 609.377; 609.749, subdivisions 3 and 4; 611A.32, subdivision 2; 611A.34, subdivision 3; 624.712, subdivision 5; 626.556, subdivision 2; 626.558, subdivision 1; 629.471, subdivision 3; 630.36; and 634.20.

Senator Kiscaden moved to amend S.F. No. 551 as follows:

Page 20, line 17, after the semicolon, insert "or"

Page 20, line 30, delete "that is" and insert "because of actions of an abuser that are"

The motion prevailed. So the amendment was adopted.

S.F. No. 551 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 60 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Hanson	Laidig	Olson	Samuelson
Belanger	Higgins	Larson	Ourada	Scheevel
Berg	Hottinger	Lesewski	Pappas	Scheid
Berglin	Janezich	Lessard	Pariseau	Spear
Betzold	Johnson, D.H.	Limmer	Piper	Stevens
Cohen	Johnson, J.B.	Lourey	Pogemiller	Stumpf
Day	Junge	Marty	Price	Ten Eyck
Dille	Kelley, S.P.	Metzen	Ranum	Terwilliger
Fischbach	Kiscaden	Moe, R.D.	Robertson	Vickerman
Flynn	Kleis	Neuville	Robling	Wiener
Foley	Knutson	Novak	Runbeck	Wiger
Frederickson	Krentz	Oliver	Sams	Ziegler

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

SPECIAL ORDER

S.F. No. 486: A bill for an act relating to firefighters; authorizing certain background investigations; requiring disclosures of certain employment information; providing civil and criminal penalties; providing employers immunity for certain disclosures; modifying probationary period rules for city of Rochester firefighters; amending Minnesota Statutes 1998, section 604A.31, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 299F.

Senator Kiscaden moved to amend S.F. No. 486 as follows:

Page 3, line 25, after "of" insert "the department"

Page 3, line 26, delete "I and II" and delete "courses and state certification" and insert "and having served at least six months in a fire station or other assignment"

The motion prevailed. So the amendment was adopted.

Senator Runbeck moved to amend S.F. No. 486 as follows:

Page 1, after line 11, insert:

"Section 1. Minnesota Statutes 1998, section 181.960, subdivision 2, is amended to read:

Subd. 2. [EMPLOYEE.] "Employee" means a person who performs services for hire for an employer, provided that the services have been performed predominately within this state. The term includes any person who has been separated from employment ~~for less than one year~~. The term does not include an independent contractor.

Sec. 2. Minnesota Statutes 1998, section 181.961, subdivision 1, is amended to read:

Subdivision 1. [RIGHT TO REVIEW; FREQUENCY.] Upon written request by an employee, the employer shall provide the employee with an opportunity to review the employee's personnel record. An employer is not required to provide an employee with an opportunity to review the employee's personnel record if the employee has reviewed the personnel record during the previous six months; except that, upon separation from employment, an employee may review the employee's personnel record ~~only once at any time within one year after separation, and at any time after that if it has been at least one year since the employee previously reviewed the record.~~ Nothing in this subdivision requires an employer to maintain a personnel record for more than one year after an employee is separated from employment."

Page 3, after line 9, insert:

"Sec. 4. [604A.302] [EMPLOYMENT REFERENCES.]

Subdivision 1. [CAUSES OF ACTION.] No action may be maintained by a current or former employee against an employer, designated employee, or agent who discloses information listed in subdivision 2 about a current or former employee to a prospective employer or employment agency as provided under this section, unless the employee or former employee demonstrates by clear and convincing evidence that:

- (1) the information was false and defamatory; and
- (2) the employer knew or should have known the information was false and acted with malicious intent to injure the current or former employee.

Subd. 2. [EMPLOYMENT REFERENCE INFORMATION DISCLOSURE.] (a) Upon written request, an employer may disclose the following information about one of its current or former employees to a prospective employer:

- (1) dates of employment;
- (2) compensation and wage history;
- (3) job description and duties;
- (4) training and education provided by the employer; and
- (5) all acts of violence, theft, harassment, or illegal conduct documented in the personnel record that resulted in disciplinary action or resignation; when making any disclosure pursuant to this clause, the employer must provide the employee or former employee with a copy of the information disclosed and to whom it was disclosed.

(b) Upon request, a public employer may disclose public personnel data on an individual listed

in section 13.43, subdivision 2, about one of its current or former employees, to a prospective employer.

(c) With the written authorization of the current or former employee, an employer may also disclose the following information in writing to a prospective employer:

(1) written job performance evaluations conducted prior to the employee's separation from the employer, and the employee's written response, if any, contained in the employee's personnel record;

(2) written disciplinary warnings and actions in the five years before the date of the authorization, and the employee's written response, if any, contained in the employee's personnel record; and

(3) reasons for separation from employment.

(d) An employer must provide a current or former employee with a copy of a disclosure made under paragraph (c) and to whom it was disclosed.

(e) A prospective employer may not disclose written information received under this section without the written authorization of the employee.

Subd. 3. [DEFINITION.] For purposes of this section personnel record has the meaning given in section 181.960."

Page 3, after line 30, insert:

"Sec. 7. [EFFECTIVE DATE.]

Section 4 is effective August 1, 1999, and applies to causes of action arising on or after that date."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Betzold questioned whether the amendment was germane.

The President ruled that the amendment was not germane.

Senator Runbeck appealed the decision of the President.

CALL OF THE SENATE

Senator Junge imposed a call of the Senate for the balance of the proceedings on S.F. No. 486. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on "Shall the decision of the President be the judgment of the Senate?"

The roll was called, and there were yeas 33 and nays 25, as follows:

Those who voted in the affirmative were:

Berglin	Johnson, D.H.	Lourey	Price	Stumpf
Betzold	Johnson, D.J.	Marty	Ranum	Ten Eyck
Flynn	Johnson, J.B.	Metzen	Sams	Vickerman
Foley	Junge	Moe, R.D.	Samuelson	Wiener
Higgins	Kelley, S.P.	Murphy	Scheid	Wiger
Hottinger	Krentz	Piper	Solon	
Janezich	Langseth	Pogemiller	Spear	

Those who voted in the negative were:

Belanger	Berg	Day	Dille	Fischbach
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Johnson, D.E.	Laidig	Neuville	Pariseau	Scheevel
Kiscaden	Larson	Oliver	Robertson	Stevens
Kleis	Lesewski	Olson	Robling	Terwilliger
Knutson	Limmer	Ourada	Runbeck	Ziegler

So the decision of the President was sustained.

S.F. No. 486 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 52 and nays 7, as follows:

Those who voted in the affirmative were:

Belanger	Johnson, D.H.	Larson	Ourada	Solon
Berg	Johnson, D.J.	Lesewski	Piper	Stumpf
Betzold	Johnson, J.B.	Lessard	Pogemiller	Ten Eyck
Day	Junge	Limmer	Price	Terwilliger
Dille	Kelley, S.P.	Lourey	Ranum	Vickerman
Fischbach	Kiscaden	Marty	Robertson	Wiener
Foley	Kleis	Metzen	Robling	Wiger
Higgins	Knutson	Moe, R.D.	Sams	Ziegler
Hottinger	Krentz	Murphy	Samuelson	
Janezich	Laidig	Oliver	Scheevel	
Johnson, D.E.	Langseth	Olson	Scheid	

Those who voted in the negative were:

Berglin	Neuville	Runbeck	Spear	Stevens
Flynn	Pariseau			

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

Pursuant to Rule 10, Senator Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 653 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 653: A bill for an act relating to government data practices; clarifying electronic access to data; modifying notice requirements for students and employees; classifying data; clarifying the status of data on parents held by educational entities; authorizing access to medical records by adult children of a deceased patient; eliminating inconsistent language; authorizing dissemination of personnel data; authorizing sharing of certain data for tax administration purposes; changing deadlines for providing data; clarifying and modifying access to data on employees reporting violations of law; making certain rideshare program data on individuals private; amending Minnesota Statutes 1998, sections 13.03, subdivision 3; 13.04, subdivisions 2 and 3; 13.32, subdivisions 2 and 3; 13.43, by adding a subdivision; 13.47; 15.17, subdivisions 1 and 2; 141.30; 144.335, subdivision 1; 181.932, subdivision 2; 270B.03, subdivisions 1 and 5; 270B.14, by adding a subdivision; and 273.124, subdivision 13; proposing coding for new law in Minnesota Statutes, chapter 13; repealing Minnesota Statutes 1998, sections 13.72, subdivision 2; 504.23; and 504A.595.

Senator Kiscaden moved to amend S.F. No. 653 as follows:

Page 9, after line 2, insert:

"Sec. 10. [13.612] [MUNICIPAL UTILITY CUSTOMER DATA.]

Data on customers of municipal electric utilities are private data on individuals or nonpublic data, but may be released to:

(1) a law enforcement agency that requests access to the data in connection with an investigation;

- (2) a school for purposes of compiling pupil census data;
 (3) the metropolitan council for use in studies or analyses required by law; or
(4) a person where use of the data directly advances the general welfare, health, or safety of the public."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Betzold moved to amend S.F. No. 653 as follows:

Page 5, lines 23 and 24, strike "which are in effect on July 1, 1993"

Page 5, lines 28 and 29, strike "which are in effect on July 1, 1993"

Page 6, lines 2 and 3, strike ", in effect on July 1, 1993"

The motion prevailed. So the amendment was adopted.

Senator Limmer moved to amend S.F. No. 653 as follows:

Pages 3 and 4, delete section 2

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 18 and nays 42, as follows:

Those who voted in the affirmative were:

Berg	Kleis	Neuville	Pariseau	Scheid
Day	Lesewski	Oliver	Runbeck	Ziegler
Fischbach	Lessard	Olson	Samuelson	
Hanson	Limmer	Ourada	Scheevel	

Those who voted in the negative were:

Belanger	Hottinger	Knutson	Pappas	Stumpf
Berglin	Johnson, D.E.	Krentz	Pogemiller	Ten Eyck
Betzold	Johnson, D.H.	Laidig	Price	Terwilliger
Cohen	Johnson, D.J.	Langseth	Ranum	Vickerman
Dille	Johnson, J.B.	Larson	Robertson	Wiener
Flynn	Junge	Lourey	Robling	Wiger
Foley	Kelley, S.P.	Marty	Sams	
Frederickson	Kelly, R.C.	Metzen	Spear	
Higgins	Kiscaden	Moe, R.D.	Stevens	

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

S.F. No. 653 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 56 and nays 5, as follows:

Those who voted in the affirmative were:

Belanger	Cohen	Flynn	Hottinger	Johnson, D.J.
Berg	Day	Foley	Janezich	Johnson, J.B.
Berglin	Dille	Frederickson	Johnson, D.E.	Junge
Betzold	Fischbach	Higgins	Johnson, D.H.	Kelley, S.P.

Kelly, R.C.	Lesewski	Olson	Runbeck	Vickerman
Kiscaden	Lessard	Pappas	Sams	Wiener
Kleis	Lourey	Pariseau	Scheevel	Wiger
Knutson	Marty	Pogemiller	Spear	Ziegler
Krentz	Metzen	Price	Stevens	
Laidig	Moe, R.D.	Ranum	Stumpf	
Langseth	Neuville	Robertson	Ten Eyck	
Larson	Oliver	Robling	Terwilliger	

Those who voted in the negative were:

Hanson	Limmer	Ourada	Samuelson	Scheid
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So the bill, as amended, was passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Laidig moved that his name be stricken as chief author, shown as a co-author and the name of Senator Krentz be shown as chief author to S.F. No. 1543. The motion prevailed.

Senator Moe, R.D., with the concurrence of the first author, moved that H.F. No. 1415 be withdrawn from the Committee on Environment and Natural Resources and re-referred to the Committee on Rules and Administration. The motion prevailed.

Senators Moe, R.D. and Day introduced--

Senate Resolution No. 64: A Senate resolution relating to mileage; setting the miles traveled by members of the Senate in going to and returning from the Capitol.

BE IT RESOLVED, by the Senate of the State of Minnesota:

That Senate Resolution No. 26 relating to mileage, Senate Daily Journal pages 69-70, be amended as follows:

Page 1, line 13, delete:

BECKMAN, Tracy L. 260

Page 2, after line 12, insert:

ZIEGLER, Don 298

Senator Moe, R.D. moved the adoption of the foregoing resolution.

The question was taken on the adoption of the resolution.

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

Belanger	Hottinger	Krentz	Oliver	Scheevel
Berg	Janezich	Laidig	Olson	Scheid
Betzold	Johnson, D.E.	Langseth	Ourada	Spear
Cohen	Johnson, D.H.	Larson	Pappas	Stevens
Day	Johnson, D.J.	Lesewski	Pariseau	Stumpf
Fischbach	Johnson, J.B.	Limmer	Pogemiller	Ten Eyck
Flynn	Junge	Lourey	Price	Terwilliger
Foley	Kelley, S.P.	Marty	Robertson	Vickerman
Frederickson	Kelly, R.C.	Metzen	Robling	Wiener
Hanson	Kleis	Moe, R.D.	Runbeck	Wiger
Higgins	Knutson	Neuville	Samuelson	Ziegler

The motion prevailed. So the resolution was adopted.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time and referred to the committees indicated.

Senator Runbeck introduced--

S.F. No. 2187: A bill for an act relating to human services; providing funding to one ICF/MR for costs related to field audit disallowances and providing exemptions from the spend-up limit; appropriating money.

Referred to the Committee on Health and Family Security.

Senator Langseth introduced--

S.F. No. 2188: A bill for an act relating to highways; authorizing issuance of trunk highway bonds for bridge repair, construction, and reconstruction and for acquisition of right-of-way; appropriating money.

Referred to the Committee on Transportation.

Senator Olson introduced--

S.F. No. 2189: A bill for an act relating to tax increment financing; reducing the local contribution rate for housing districts; amending Minnesota Statutes 1998, section 273.1399, subdivision 6.

Referred to the Committee on Local and Metropolitan Government.

Senator Johnson, D.J. introduced--

S.F. No. 2190: A bill for an act relating to taxation; providing a transitional period for the change in taxation of ready-mixed concrete; amending Laws 1998, chapter 389, article 8, section 48.

Referred to the Committee on Taxes.

Senator Johnson, D.J. introduced--

S.F. No. 2191: A bill for an act relating to taxation; sales and use; exempting vitamin and mineral supplements; amending Minnesota Statutes 1998, section 297A.25, subdivision 3.

Referred to the Committee on Taxes.

Senators Terwilliger, Belanger and Oliver introduced--

S.F. No. 2192: A bill for an act relating to education; authorizing a lease levy for independent school district No. 272, Eden Prairie.

Referred to the Committee on Children, Families and Learning.

Senator Sams introduced--

S.F. No. 2193: A bill for an act relating to commerce; regulating contracts for the sale of wood; defining a term; amending Minnesota Statutes 1998, section 239.33.

Referred to the Committee on Jobs, Energy and Community Development.

Senator Johnson, J.B. introduced--

S.F. No. 2194: A bill for an act relating to municipalities; providing conditions for authorizing the refunding of certain indoor ice area debt; amending Minnesota Statutes 1998, section 475.58, by adding a subdivision.

Referred to the Committee on Local and Metropolitan Government.

Senators Frederickson and Vickerman introduced--

S.F. No. 2195: A bill for an act relating to taxation; sales and use; exempting the purchase of construction materials used in construction of the Springfield community center; amending Minnesota Statutes 1998, section 297A.25, by adding a subdivision.

Referred to the Committee on Taxes.

Senator Kleis introduced--

S.F. No. 2196: A bill for an act relating to capital improvements; modifying match requirements for a grant; amending Laws 1998, chapter 404, section 7, subdivision 26.

Referred to the Committee on Environment and Natural Resources.

Senators Kleis, Ziegler and Neuville introduced--

S.F. No. 2197: A bill for an act relating to crime prevention; requiring that persons convicted of a second violent felony be sentenced to life imprisonment and that persons convicted of a third violent felony be sentenced to life imprisonment without the possibility of release; providing for indeterminate sentencing for first-time sex offenders; providing criminal penalties; amending Minnesota Statutes 1998, sections 244.05, subdivisions 4 and 5; 609.108, subdivisions 1, 3, and 4; 609.1095, subdivision 3; 609.342, subdivision 2; 609.343, subdivision 2; 609.344, subdivision 2; and 609.345, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 609; repealing Minnesota Statutes 1998, sections 609.109; 609.342, subdivision 3; 609.343, subdivision 3; 609.344, subdivision 3; and 609.345, subdivision 3.

Referred to the Committee on Crime Prevention.

MEMBERS EXCUSED

Senator Pogemiller was excused from the Session of today from 8:00 to 8:55 a.m. Senators Krentz and Murphy were excused from the Session of today from 8:00 to 9:15 a.m. Senator Novak was excused from the Session of today from 8:00 to 9:20 and at 11:50 a.m. Senators Moe, R.D. and Scheid were excused from the Session of today from 8:00 to 9:30 a.m. Senator Higgins was excused from the Session of today from 8:45 to 9:45 a.m. Senator Larson was excused from the Session of today from 8:50 to 9:40 and from 10:55 to 11:30 a.m. Senator Janezich was excused from the Session of today from 8:50 to 10:00 a.m. Senator Pariseau was excused from the Session of today from 11:40 to 11:50 a.m. Senator Lessard was excused from the Session of today from 12:00 noon to 12:20 p.m. Senator Frederickson was excused from the Session of today from 12:05 to 12:45 p.m. Senators Cohen and Pappas were excused from the Session of today from 12:10 to 12:40 p.m.

ADJOURNMENT

Senator Moe, R.D. moved that the Senate do now adjourn until 8:30 a.m., Friday, April 9, 1999. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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