

STATE OF MINNESOTA

Journal of the Senate

EIGHTY-THIRD LEGISLATURE

NINETIETH DAY

St. Paul, Minnesota, Tuesday, April 13, 2004

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

CALL OF THE SENATE

Senator Betzold 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. Arthur Bruning.

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

Anderson	Gaither	Langseth	Olson	Scheid
Bachmann	Hann	Larson	Ortman	Senjem
Bakk	Higgins	LeClair	Ourada	Skoe
Belanger	Hottinger	Limmer	Pappas	Skoglund
Berglin	Johnson, D.E.	Lourey	Pariseau	Solon
Betzold	Johnson, D.J.	Marko	Pogemiller	Sparks
Chaudhary	Jungbauer	Marty	Ranum	Stumpf
Cohen	Kelley	McGinn	Reiter	Tomassoni
Day	Kierlin	Metzen	Rest	Wergin
Dibble	Kiscaden	Michel	Robling	Wiger
Dille	Kleis	Moua	Rosen	
Fischbach	Knutson	Murphy	Ruud	
Foley	Koering	Neuville	Sams	
Frederickson	Kubly	Nienow	Saxhaug	

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.

April 8, 2004

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

I have the honor to inform you that the following enrolled Act of the 2004 Session of the State Legislature has been received from the Office of the Governor and is deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 2004	Date Filed 2004
1653		154	1:40 p.m. April 8	April 8

Sincerely,
Mary Kiffmeyer
Secretary of State

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 2378.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 12, 2004

FIRST READING OF HOUSE BILLS

The following bill was read the first time and referred as indicated.

H.F. No. 2378: A bill for an act relating to local government; adding to the list of unpaid special charges for which a city may collect a service charge as a special assessment; making a conforming change; amending Minnesota Statutes 2002, section 504B.445, subdivision 4; Minnesota Statutes 2003 Supplement, section 429.101, subdivision 1.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2285, now on General Orders.

MOTIONS AND RESOLUTIONS

Senator Robling moved that her name be stricken as a co-author to S.F. No. 3005. The motion prevailed.

Senator Berglin moved that the name of Senator Koering be added as a co-author to S.F. No. 3036. The motion prevailed.

Senator McGinn introduced--

Senate Resolution No. 146: A Senate resolution congratulating the Eagan High School Winter Drumline on winning the 2004 State High School Minnesota Percussion Association World Class Championship.

Referred to the Committee on Rules and Administration.

Senators Betzold, Skoglund, Limmer, Cohen and Kiscaden introduced--

Senate Resolution No. 147: A Senate resolution honoring Donald A. Gemberling on the occasion of his retirement from the Department of Administration.

Senator Betzold moved that Senate Resolution No. 147 be laid on the table. The motion prevailed.

Senator Hottinger introduced--

Senate Resolution No. 148: A Senate resolution congratulating the Mankato West High School boys basketball team on winning the 2004 State High School Class AAA boys basketball tournament.

Referred to the Committee on Rules and Administration.

Pursuant to Rule 26, Senator Johnson, D.E., Chair of the Committee on Rules and Administration, designated S.F. No. 3 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 3: A bill for an act relating to employment; increasing the minimum wage; amending Minnesota Statutes 2002, section 177.24, subdivision 1.

Senator Anderson moved to amend S.F. No. 3 as follows:

Page 2, line 4, delete everything after "2005"

Page 2, lines 5 to 11, delete the new language

The motion prevailed. So the amendment was adopted.

Senator Kleis moved to amend S.F. No. 3 as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 177.24, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT.] (a) For purposes of this subdivision, the terms defined in this paragraph have the meanings given them.

(1) "Large employer" means an enterprise whose annual gross volume of sales made or business done is not less than \$500,000 (exclusive of excise taxes at the retail level that are separately stated) and covered by the Minnesota Fair Labor Standards Act, sections 177.21 to 177.35.

(2) "Small employer" means an enterprise whose annual gross volume of sales made or business done is less than \$500,000 (exclusive of excise taxes at the retail level that are separately stated) and covered by the Minnesota Fair Labor Standards Act, sections 177.21 to 177.35.

(b) Except as otherwise provided in sections 177.21 to 177.35, every large employer must pay each employee wages at a rate of at least \$5.15 an hour beginning September 1, 1997, and at a rate equal to the federal minimum wage in effect at the time beginning July 1, 2004. Every small employer must pay each employee at a rate of at least \$4.90 an hour beginning January 1, 1998.

(c) Notwithstanding paragraph (b), during the first 90 consecutive days of employment, an employer may pay an employee under the age of 20 years a wage of \$4.25 an hour. No employer may take any action to displace any employee, including a partial displacement through a reduction in hours, wages, or employment benefits, in order to hire an employee at the wage authorized in this paragraph.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective July 1, 2004."

CALL OF THE SENATE

Senator Betzold imposed a call of the Senate for the balance of the proceedings on S.F. No. 3. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the Kleis amendment.

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

Those who voted in the affirmative were:

Bachmann	Jungbauer	LeClair	Olson	Ruud
Belanger	Kierlin	Limmer	Ortman	Senjem
Day	Kleis	McGinn	Ourada	Wergin
Fischbach	Knutson	Michel	Reiter	
Gaither	Koering	Neuville	Robling	
Johnson, D.J.	Larson	Nienow	Rosen	

Those who voted in the negative were:

Anderson	Frederickson	Lourey	Ranum	Sparks
Bakk	Higgins	Marko	Rest	Stumpf
Berglin	Hottinger	Marty	Sams	Tomassoni
Betzold	Johnson, D.E.	Metzen	Saxhaug	Wiger
Chaudhary	Kelley	Moua	Scheid	
Cohen	Kiscaden	Murphy	Skoe	
Dibble	Kubly	Pappas	Skoglund	
Foley	Langseth	Pogemiller	Solon	

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

Senator Ruud moved to amend S.F. No. 3 as follows:

Page 2, line 12, after "(c)" insert "Notwithstanding paragraph (b), every large employer must pay each tipped employee at a rate of at least \$5.15 an hour and every small employer must pay each tipped employee at the rate of at least \$4.90 an hour. If a tipped employee does not earn sufficient tips during the employer's pay period to equal the difference between the above stated hourly rate of pay and the current minimum wage for nontipped employees, then the employer must pay that tipped employee an additional amount equal to the difference, bringing that employee's compensation to the current minimum wage rate.

(d)"

Page 2, after line 18, insert:

"Sec. 2. [REPEALER.]

Minnesota Statutes 2002, section 177.24, subdivision 2, is repealed."

Page 2, line 19, delete "2" and insert "3"

Page 2, line 20, delete "Section 1 is" and insert "Sections 1 and 2 are"

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 32 and nays 34, as follows:

Those who voted in the affirmative were:

Bachmann	Hann	Koering	Nienow	Rosen
Belanger	Johnson, D.J.	Larson	Olson	Ruud
Day	Jungbauer	LeClair	Ortman	Senjem
Dille	Kierlin	Limmer	Ourada	Wergin
Fischbach	Kiscaden	McGinn	Pariseau	
Frederickson	Kleis	Michel	Reiter	
Gaither	Knutson	Neuville	Robling	

Those who voted in the negative were:

Anderson	Berglin	Chaudhary	Dibble	Higgins
Bakk	Betzold	Cohen	Foley	Hottinger

Johnson, D.E.	Marko	Pappas	Saxhaug	Sparks
Kelley	Marty	Pogemiller	Scheid	Stumpf
Kubly	Metzen	Ranum	Skoe	Tomassoni
Langseth	Moua	Rest	Skoglund	Wiger
Lourey	Murphy	Sams	Solon	

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

Senator Kierlin moved to amend S.F. No. 3 as follows:

Page 2, line 12, after "(c)" insert "Notwithstanding paragraph (b), every employer offering a full dinner menu and holding an on-sale liquor license must pay each tipped employee at a rate of at least \$3 an hour. If a tipped employee does not earn sufficient tips during the employer's pay period to equal the difference between the current minimum wage for nontipped employees, then the employer must pay that tipped employee an additional amount equal to the difference, bringing that employee's compensation to the current applicable minimum wage rate.

(d)"

Page 2, after line 18, insert:

"Sec. 2. Minnesota Statutes 2002, section 177.24, subdivision 2, is amended to read:

Subd. 2. [GRATUITIES NOT APPLIED.] No employer may directly or indirectly credit, apply, or utilize gratuities towards payment of the minimum wage set by this section or federal law. This subdivision does not apply to employees whose minimum wage is subject to subdivision 1, paragraph (c)."

Page 2, line 19, delete "2" and insert "3"

Page 2, line 20, delete "Section 1 is" and insert "Sections 1 and 2 are"

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 32 and nays 34, as follows:

Those who voted in the affirmative were:

Bachmann	Hann	Koering	Nienow	Rosen
Belanger	Johnson, D.J.	Larson	Olson	Ruud
Day	Jungbauer	LeClair	Ortman	Senjem
Dille	Kierlin	Limmer	Ourada	Wergin
Fischbach	Kiscaden	McGinn	Pariseau	
Frederickson	Kleis	Michel	Reiter	
Gaither	Knutson	Neuville	Robling	

Those who voted in the negative were:

Anderson	Foley	Lourey	Pogemiller	Skoglund
Bakk	Higgins	Marko	Ranum	Solon
Berglin	Hottinger	Marty	Rest	Sparks
Betzold	Johnson, D.E.	Metzen	Sams	Stumpf
Chaudhary	Kelley	Moua	Saxhaug	Tomassoni
Cohen	Kubly	Murphy	Scheid	Wiger
Dibble	Langseth	Pappas	Skoe	

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

Senator Bachmann moved to amend S.F. No. 3 as follows:

Page 1, line 24, delete "\$5.90" and insert "\$9.00" and delete everything after "2004"

Page 1, line 25, delete everything before the period

Page 2, line 3, delete "\$5.65" and insert "\$9.00" and delete everything after "2004"

Page 2, line 4, delete everything before the period

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 13 and nays 51, as follows:

Those who voted in the affirmative were:

Anderson	Cohen	Higgins	Ranum	Wiger
Berglin	Dibble	Marty	Scheid	
Chaudhary	Foley	Pappas	Solon	

Those who voted in the negative were:

Bachmann	Johnson, D.E.	Larson	Nienow	Senjem
Bakk	Johnson, D.J.	LeClair	Olson	Skoe
Belanger	Jungbauer	Limmer	Ortman	Skoglund
Betzold	Kelley	Lourey	Pogemiller	Sparks
Day	Kierlin	Marko	Reiter	Stumpf
Dille	Kiscaden	McGinn	Rest	Tomassoni
Fischbach	Kleis	Metzen	Robling	Wergin
Frederickson	Knutson	Michel	Rosen	
Gaither	Koering	Moua	Ruud	
Hann	Kubly	Murphy	Sams	
Hottinger	Langseth	Neuville	Saxhaug	

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

S.F. No. 3 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 36 and nays 30, as follows:

Those who voted in the affirmative were:

Anderson	Foley	Lourey	Ranum	Sparks
Bakk	Higgins	Marko	Rest	Stumpf
Berglin	Hottinger	Marty	Sams	Tomassoni
Betzold	Johnson, D.E.	Metzen	Saxhaug	Wiger
Chaudhary	Kelley	Moua	Scheid	
Cohen	Koering	Murphy	Skoe	
Dibble	Kubly	Pappas	Skoglund	
Dille	Langseth	Pogemiller	Solon	

Those who voted in the negative were:

Bachmann	Hann	Knutson	Neuville	Reiter
Belanger	Johnson, D.J.	Larson	Nienow	Robling
Day	Jungbauer	LeClair	Olson	Rosen
Fischbach	Kierlin	Limmer	Ortman	Ruud
Frederickson	Kiscaden	McGinn	Ourada	Senjem
Gaither	Kleis	Michel	Pariseau	Wergin

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

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Solon moved that S.F. No. 1822, No. 90 on General Orders, be stricken and re-referred to the Committee on Judiciary. The motion prevailed.

Senator Anderson moved that H.F. No. 1710, No. 1 on the Consent Calendar, be stricken and placed on General Orders. The motion prevailed.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bill was read the first time and referred to the committee indicated.

Senators Pappas and Lourey introduced--

S.F. No. 3038: A bill for an act relating to human services; creating parents as scholars pilot project; appropriating money.

Referred to the Committee on Finance.

MEMBERS EXCUSED

Senator Vickerman was excused from the Session of today. Senator Berglin was excused from the Session of today from 11:00 to 11:45 a.m. Senator Hann was excused from the Session of today from 11:00 a.m. to 12:05 p.m. Senator Dille was excused from the Session of today from 11:00 a.m. to 12:20 p.m. Senator Pariseau was excused from the Session of today from 11:35 a.m. to 12:20 p.m.

ADJOURNMENT

Senator Johnson, D.E. moved that the Senate do now adjourn until 3:00 p.m., Thursday, April 15, 2004. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

INDEX TO DAILY JOURNAL

Tuesday, April 13, 2004

EXECUTIVE AND OFFICIAL COMMUNICATIONS

Pages 3921 to 3922

CHAPTER LAWS

S.F. Nos.	H.F. Nos.	Session Laws Chapter No.	Page
1653		154	3922

MESSAGES FROM THE HOUSE AND FIRST READINGS OF HOUSE FILES

S.F. Nos.	Message Page	H.F. Nos.	Message Page	1st Reading Page
		2378	3922	3922

MOTIONS AND RESOLUTIONS

S.F. Nos.	Page	H.F. Nos.	Page
1822	3926	1710	3926
3005	3922		
3036	3922		
Sen. Res. No. 146	3922		
Sen. Res. No. 147	3922		
Sen. Res. No. 148	3923		

SPECIAL ORDERS

S.F. Nos.	Page	H.F. Nos.	Page
3	3923		

INTRODUCTION AND FIRST READING OF SENATE BILLS

S.F. No. 3038	Page 3927
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