

STATE OF MINNESOTA

Journal of the Senate

EIGHTY-THIRD LEGISLATURE

NINETY-FIFTH DAY

St. Paul, Minnesota, Thursday, April 22, 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 Chaplains, Calvin Ottetail and Chris Leith.

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

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

The President declared a quorum present.

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

REPORTS FILED WITH THE SECRETARY OF THE SENATE

The following reports were received and filed with the Secretary of the Senate: Department of Corrections, Supervision Fees, 2004; Department of Finance, Debt Capacity Forecast, 2004; Board of Pardons, Annual Report, 2003; Department of Natural Resources, Division of Forestry, FY 2003; Department of Commerce, Ambulance Service Liability Insurance Study, 2004; Department of Health, Data Collected and Reviewed Regarding a Health Study for People Living Near a Nuclear Facility, 2004; Board of Teaching, State Administration and Performance on the Basic Skills Examination for Teacher Licensure, 2001-03; Department of Education, Recommendations Minnesota's High Academic Standards, 2004; Department of Corrections, Remote Electronic Alcohol Monitoring, 2004; Department of Human Services, Home and Community Based Services for Persons With Mental Retardation and Related Conditions, 2004; Department of Commerce, Purchasing Alliance Stop-Loss Fund Report, 2004; Department of Human Services, Strategies for Maximizing Federal Funding for Centers for Independent Living, 2004; Pollution Control Agency, Annual Pollution Report, 2004; Pollution Control Agency, Superfund Report, 2004; Department of Human Services, Licensing Division, Maltreatment

Report, 2004; Department of Human Services, Value-Based Reimbursement: A Proposal for a New Nursing Facility Reimbursement System, 2004; Pollution Control Agency, A Detailed Assessment of Phosphorus Sources to Minnesota Watersheds, 2004; Minnesota State Lottery, Annual Report, 2003; Department of Revenue, This Old House, 2003; Departments of Human Services, Corrections and Housing Finance Agency, Ending Long-Term Homelessness in Minnesota, Report and Business Plan of the Working Group on Long-Term Homelessness, including Appendix, 2004; Department of Revenue, Property Values and Assessment Practices Report, 2004; Board on Judicial Standards, Annual Report, 2003; Metropolitan Council, Regional Report, Metropolitan Livable Communities Fund, 2004.

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received and referred to the committee indicated.

April 19, 2004

The Honorable James P. Metzen
President of the Senate

Dear Senator Metzen:

Enclosed is a copy of the Notice of Appointment for Michael Campion, whom I have appointed Acting Commissioner of the Minnesota Department of Public Safety, effective last Friday, April 16, 2004.

(Referred to the Committee on Crime Prevention and Public Safety.)

Sincerely,
Tim Pawlenty, Governor

April 19, 2004

The Honorable James P. Metzen
President of the Senate

Dear President Metzen:

On behalf of the people of Minnesota, I am honored to inform you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. No. 1614.

Sincerely,
Tim Pawlenty, Governor

April 19, 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
1614		159	1:35 p.m. April 19	April 19

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 Senate File, herewith returned: S.F. No. 2609.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 19, 2004

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 1753: A bill for an act relating to utilities; modifying low-income electric rate discount program; amending Minnesota Statutes 2002, section 216B.16, subdivision 14.

Senate File No. 1753 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 19, 2004

Senator Anderson moved that the Senate do not concur in the amendments by the House to S.F. No. 1753, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 2005, 2151 and 2368.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 19, 2004

FIRST READING OF HOUSE BILLS

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

H.F. No. 2005: A bill for an act relating to the environment; extending the restriction on phosphorus use in fertilizers; amending Minnesota Statutes 2002, section 18C.60, subdivision 2.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1999, now on General Orders.

H.F. No. 2151: A bill for an act relating to telecommunications; regulating certain payments, credits, and interest charges; changing various cable system provisions; establishing consumer protections for wireless customers; expanding call areas; providing alternative regulation plans for telephone companies; amending Minnesota Statutes 2002, sections 237.01, subdivision 3; 237.06; 237.766; 237.773, subdivision 3; 238.02, subdivision 3; 238.03; 238.08, subdivisions 3, 4; 238.081; 238.083, subdivisions 2, 4; 238.084, subdivision 1; 238.11, subdivision 2; 238.22, subdivision 13; 238.23; 238.24, subdivisions 3, 4, 6, 9, 10; 238.242, subdivisions 1, 3; 238.25,

subdivisions 5, 10; 238.35, subdivisions 1, 4; 238.36, subdivision 2; 238.39; 238.40; 238.43, subdivision 1; 325E.02; proposing coding for new law in Minnesota Statutes, chapters 237; 325F; repealing Minnesota Statutes 2002, sections 238.01; 238.02, subdivisions 2, 17, 18, 19, 25; 238.082; 238.083, subdivisions 3, 5; 238.084, subdivisions 2, 3, 5; 238.12, subdivision 1a; 238.36, subdivision 1.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2774, now on General Orders.

H.F. No. 2368: A bill for an act relating to game and fish; modifying game and migratory waterfowl refuge provisions; providing for suspension of game and fish license and permit privileges under certain circumstances; modifying certain hearing provisions; modifying certain game license provisions; modifying shooting hours for migratory game birds; authorizing a hunting season for mourning doves; requiring reports; modifying deer hunting provisions and fees; modifying restriction on importation of cervidae carcasses; modifying restriction on the transport of game birds; providing for certain trapping by nonresidents; modifying dark house and fish house hours on ice; modifying turtle license requirements; eliminating prohibition on the use of vehicles for trapping beaver and otter; amending Minnesota Statutes 2002, sections 97A.015, subdivisions 24, 52; 97A.085, subdivisions 2, 3, 4; 97A.095, subdivisions 1, 2; 97A.420, subdivision 4; 97A.421, by adding a subdivision; 97A.435, subdivision 4; 97A.465, by adding a subdivision; 97A.475, subdivision 20; 97A.545, subdivision 5; 97B.075; 97B.301, subdivisions 6, 7; 97B.601, subdivision 3, by adding a subdivision; 97B.721; 97C.355, subdivision 7; 97C.605, subdivision 2; Minnesota Statutes 2003 Supplement, sections 97A.475, subdivision 2; 97A.505, subdivision 8; 97C.605, subdivision 2c; proposing coding for new law in Minnesota Statutes, chapter 97B; repealing Minnesota Statutes 2002, sections 97B.731, subdivision 2; 97B.935.

Referred to the Committee on Finance.

REPORTS OF COMMITTEES

Senator Rest moved that the Committee Reports at the Desk be now adopted, with the exception of the reports on S.F. Nos. 2547, 2248 and the reports pertaining to appointments. The motion prevailed.

Senator Higgins from the Committee on State and Local Government Operations, to which was re-referred

S.F. No. 2547: A bill for an act relating to taxation; prohibiting amendment of existing rules and adoption of new rules for determination of the value of electric utility property.

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

Page 1, delete section 1 and insert:

"Section 1. [273.323] [EFFECTIVE DATE FOR RULES FOR VALUATION OF ELECTRIC UTILITY PROPERTY.]

Rules adopted by the commissioner that prescribe the method of valuing property of electric utilities may not take effect until the end of the regular legislative session in the calendar year following adoption of the rules.

[EFFECTIVE DATE.] This section is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to taxation; modifying the effective date for new rules for valuation of electric utility property to permit legislative review; proposing coding for new law in Minnesota Statutes, chapter 273."

And when so amended the bill do pass.

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

Senator Higgins from the Committee on State and Local Government Operations, to which was re-referred

S.F. No. 2248: A bill for an act relating to commerce; requiring more detail in reports from municipalities on building code enforcement; providing a property tax deduction for structures contaminated by mold; requiring written contracts for contractor licensee services; establishing a statutory cure process for home warranty claims; requiring preclicensing education of residential building contractors; making changes in continuing education; providing homebuyers with access to information about avoidance of moisture and other problems; permitting successful home warranty claimants to recover attorney fees and expenses; amending Minnesota Statutes 2002, sections 16B.65, subdivision 7; 273.123, by adding a subdivision; 326.87, subdivision 1; 326.89, subdivision 2; 326.96; 327A.05; Minnesota Statutes 2003 Supplement, section 16B.685; proposing coding for new in Minnesota Statutes, chapters 325E; 326.

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

Page 2, line 11, delete "of" and insert "to determine compliance with"

Page 2, delete lines 12 to 15 and insert:

"(c) A municipality must pay for the attendance of a municipal employee at continuing education classes authorized by this subdivision. For the purposes of this paragraph, "municipal employee" means an employee who performs plan review or inspection to determine compliance with state construction codes."

Page 4, line 12, before "Contracts" insert "(a) For the purposes of this section:

(1) "contractor" has the meaning given to "residential building contractor" and "residential remodeler" in section 326.83, subdivisions 15 and 16; and

(2) "licensee" has the meaning given it in section 326.83, subdivision 7.

(b)"

And when so amended the bill do pass and be re-referred to the Committee on Taxes.

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

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

H.F. No. 1838: A bill for an act relating to traffic regulations; regulating uses of recreational vehicle combinations; authorizing motor carrier of passengers to operate articulated bus up to 61 feet in length without a permit; amending Minnesota Statutes 2002, sections 169.01, subdivision 78; 169.81, subdivision 3c, by adding a subdivision.

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

Pages 1 and 2, delete sections 1 and 2

Renumber the sections in sequence

Amend the title as follows:

Page 1, lines 2 and 3, delete "regulating uses of recreational vehicle combinations;"

Page 1, line 6, delete "sections 169.01, subdivision 78;" and insert "section"

Page 1, line 7, delete "subdivision 3c,"

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

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

S.F. No. 2696: A bill for an act relating to liquor; providing for conformity in license fees and production levels for brewpubs and small brewers; authorizing issuance of temporary licenses to small brewers; authorizing off-sale of growlers by small brewers; clarifying restrictions on location of retail licenses in proximity to certain institutions; providing for uniform off-sale hours statewide; regulating Sunday on-sales; modifying sampling provisions; providing that the on-sale license for Elko Speedway authorizes sales on all days of the week; changing the issuer of a certain license at the state fair; authorizing the city of Duluth to issue a liquor license for Wade Municipal Stadium; authorizing the city of St. Paul to issue a liquor license for special events at the State Capitol; amending Minnesota Statutes 2002, sections 340A.404, subdivision 10; 340A.412, subdivision 4; 340A.504, subdivision 4; Minnesota Statutes 2003 Supplement, sections 340A.301, subdivisions 6, 7; 340A.504, subdivisions 1, 3; 340A.510, subdivision 2; Laws 2003, chapter 126, section 28; Laws 2003, chapter 126, section 29; proposing coding for new law in Minnesota Statutes, chapter 340A.

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

Page 13, line 3, delete everything after the period and insert "Sections 2, 3, 4, 8, 9, 11, 12, 13, and 14"

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

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

S.F. No. 1866: A bill for an act relating to state employment; ratifying certain labor agreements and compensation plans.

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

Page 2, after line 15, insert:

"Subd. 9. [SRSEA.] The labor agreement between the state of Minnesota and the State Residential Schools Education Association (SRSEA), approved by the Legislative Coordinating Commission Subcommittee on Employee Relations on March 19, 2004, is ratified.

Subd. 10. [MMA.] The labor agreement between the state of Minnesota and the Middle Management Association (MMA), approved by the Legislative Coordinating Commission Subcommittee on Employee Relations on March 19, 2004, is ratified."

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

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

S.F. No. 2154: A bill for an act relating to fuel purchased for use in certain state-owned vehicles; requiring the use of E85 fuel in flexible-fuel vehicles; requiring periodic reports; providing sanctions; amending Minnesota Statutes 2002, section 16C.135, by adding subdivisions.

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

Senator Kelley from the Committee on Education, to which were referred the following appointments as reported in the Journal for January 9, 2004:

BOARD OF TRUSTEES OF THE
MINNESOTA STATE COLLEGES AND UNIVERSITIES

Wilfred Antell
Cheryl Dickson
Ivan Dusek
Clarence Hightower
Robert Hoffman
I. Vincent Ijioma
Lewis Moran
Christopher Nelson
David Paskach
Michael Redlinger
Anne Curme Shaw
Shaun Williams

MINNESOTA HIGHER EDUCATION FACILITIES AUTHORITY

Michael Ranum

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

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

Senator Kelley from the Committee on Education, to which were referred the following appointments as reported in the Journal for February 5, 2004:

BOARD OF TRUSTEES OF THE
MINNESOTA STATE COLLEGES AND UNIVERSITIES

Tyler Despins

MINNESOTA HIGHER EDUCATION FACILITIES AUTHORITY

Gary Benson
Kathryn Balstad Brewer

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

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

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

S.F. No. 2241: A bill for an act relating to state government operations; appropriating money for the technology enterprise fund.

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

Delete everything after the enacting clause and insert:

"Section 1. [APPROPRIATION.]

(a) The commissioner of finance must transfer any outstanding balance from the expired technology enterprise fund to the general fund.

(b) \$117,000 in fiscal year 2004 is appropriated from the general fund to the commissioner of administration for the purpose of completing small agency infrastructure and electronic government services projects funded through the technology enterprise fund and underway but not completed when Minnesota Statutes, section 16E.09, was repealed in 2003. This appropriation is available until June 30, 2005.

[EFFECTIVE DATE.] This section is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to state government operations; appropriating money for technology projects."

And when so amended the bill do pass and be placed on the Consent Calendar. Amendments adopted. Report adopted.

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

S.F. No. 2793: A bill for an act relating to natural resources; modifying restrictions on the operation of off-highway vehicles; providing an exemption from rulemaking; extending the availability of the off-highway vehicle damage account; modifying decal requirements for off-highway motorcycles; clarifying the requirement for off-road vehicle registration; modifying the off-highway vehicle safety and conservation grant program; modifying restrictions on the operation of all-terrain vehicles; modifying provisions for reviewing forest classification status; modifying trail designation on certain consolidated conservation lands; creating a gas tax allocation task force; requiring an off-highway vehicle study and report; providing for the establishment of procedures and criteria for grant-in-aid trails; appropriating money; amending Minnesota Statutes 2002, sections 84.798, subdivision 1; 84.925, subdivision 1; 84.9256, subdivision 1; 84.9257; 84.928, subdivisions 2, 6; 89.19; 97A.133, subdivision 3; Minnesota Statutes 2003 Supplement, sections 84.773; 84.780; 84.788, subdivision 3; 84.901; 84.922, subdivision 2; 84.926; 84.930; Laws 2003, chapter 128, article 1, section 167, subdivision 1.

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

Page 2, line 2, after "in" insert a stricken colon

Pages 17 and 18, delete sections 17 and 18

Page 19, delete section 20

Re-number the sections in sequence

Amend the title as follows:

Page 1, line 13, delete "creating a gas tax allocation task"

Page 1, delete line 14

Page 1, line 15, delete "report;"

Page 1, line 16, delete "appropriating"

Page 1, line 17, delete "money;"

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

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

S.F. No. 2869: A bill for an act relating to health; modifying fees for radioactive and nuclear material; approving state agreement with the Nuclear Regulatory Commission; amending Minnesota Statutes 2002, section 144.1205, subdivisions 2, 4, 8, 9; repealing Minnesota Statutes 2003 Supplement, section 144.1202, subdivision 4.

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

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

S.F. No. 2196: A bill for an act relating to human services; extending the sunset date for the supportive housing and managed care pilot project; amending Minnesota Statutes 2002, section 256K.25, subdivision 7.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

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

S.F. No. 1941: A bill for an act relating to agriculture; providing milk producer payments to beginning milk producers; establishing a dairy modernization grant program; proposing coding for new law in Minnesota Statutes, chapters 41A; 116J.

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

Pages 1 and 2, delete section 1 and insert:

"Section 1. [17.844] [LIVESTOCK PRODUCTION POLICY.]

(a) The policy of the state is to promote livestock production under a broad range of management systems and sizes of operation, provided that operations are environmentally sound and meet all legal requirements of all jurisdictions, including federal, state, county, town, city, and watershed district requirements.

(b) In order to promote livestock production, state agencies and local governments when appropriate shall, to the extent allowed by law:

(1) allow farms to be competitive and have the potential to generate a net profit through adoption of new technology, growth in their farm business, and reinvestment in buildings, equipment, and other infrastructure;

(2) provide encouragement for establishment of livestock enterprises on farms;

(3) promote environmental protection and water quality improvement through increased livestock production that results in controlling runoff through increased acreage of hay, pasture, and small grains; and

(4) promote more farms to use agronomically applied manure to increase the water holding capacity of the soil, control erosion, and decrease phosphorus runoff."

Page 2, line 16, delete "GRANTS"

Page 2, line 21, delete "Grant funds" and insert "Money"

Page 2, line 22, after "for" insert "loans for"

Page 3, line 12, delete "grant funds" and insert "money"

Page 3, after line 13, insert:

"Sec. 3. [DAIRY PRODUCER PAYMENT REPORT.]

By January 15, 2005, the commissioner of agriculture shall report to the senate and house policy and finance committees with jurisdiction over agriculture on a value-added agriculture program to pay beginning dairy farmers based on the amount of milk production. The report shall include suggested language to create the program."

Amend the title as follows:

Page 1, lines 2 and 3, delete "providing milk producer payments to beginning milk producers;"

Page 1, line 4, delete "grant"

Page 1, line 5, delete "41A" and insert "17"

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

SECOND READING OF SENATE BILLS

S.F. Nos. 2696, 1866, 2154, 2241, 2793, 2869, 2196 and 1941 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. No. 1838 was read the second time.

MOTIONS AND RESOLUTIONS

Senator Sams moved that his name be stricken as a co-author to S.F. No. 2268. The motion prevailed.

Senator Wergin moved that the name of Senator Wiger be added as a co-author to S.F. No. 2851. The motion prevailed.

Senators Kelley, Scheid, Skoe, Stumpf and Lourey introduced--

Senate Resolution No. 157: A Senate resolution expressing support for the revitalization of the Dakota and Ojibwe languages.

Referred to the Committee on Rules and Administration.

Senators Bachmann, Jungbauer, Michel, Reiter and Senjem introduced--

Senate Resolution No. 158: A Senate resolution recognizing May 6, 2004, as a Day of Prayer in Minnesota.

Referred to the Committee on Rules and Administration.

Senator Johnson, D.J. introduced--

Senate Resolution No. 159: A Senate resolution congratulating Paul Donlin of Andover, Minnesota, for receiving the Eagle Award.

Referred to the Committee on Rules and Administration.

Senator Johnson, D.J. introduced--

Senate Resolution No. 160: A Senate resolution congratulating Edwin Renner of Andover, Minnesota, for receiving the Eagle Award.

Referred to the Committee on Rules and Administration.

Senators Hottinger, Foley, Lourey, Kierlin and Robling introduced--

Senate Resolution No. 161: A Senate resolution recognizing April 18-24, 2004, as the Week of the Young Child in Minnesota.

Referred to the Committee on Rules and Administration.

Senator Rest, for Senator Johnson, D.E., moved that H.F. No. 2052 be withdrawn from the Committee on Finance and re-referred to the Committee on Rules and Administration for comparison with S.F. No. 2196, now on the Consent Calendar. The motion prevailed.

SPECIAL ORDERS

Pursuant to Rule 26, Senator Rest, designee of the Chair of the Committee on Rules and Administration, designated the following bills a Special Orders Calendar to be heard immediately:

H.F. No. 1978, S.F. Nos. 1758, 2265, H.F. No. 1861, S.F. Nos. 2593, 1875 and 1782.

SPECIAL ORDER

H.F. No. 1978: A bill for an act relating to motor carriers; making technical corrections to conform state law to amended federal regulations relating to truck driver hours; amending Minnesota Statutes 2002, sections 221.011, subdivision 6; 221.0314, subdivision 9.

Senator Ourada moved that the amendment made to H.F. No. 1978 by the Committee on Rules and Administration in the report adopted March 29, 2004, pursuant to Rule 45, be stricken. The motion prevailed. So the amendment was stricken.

H.F. No. 1978 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 62 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 1758: A bill for an act relating to paternity; changing certain presumptions; amending Minnesota Statutes 2002, sections 257.55, subdivision 1; 257.57, subdivision 2; 257.62, subdivision 5.

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 64 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Dibble	Hottinger	Koering	Marty
Bakk	Dille	Johnson, D.J.	Kubly	McGinn
Belanger	Fischbach	Jungbauer	Langseth	Metzen
Berglin	Foley	Kelley	Larson	Michel
Betzold	Frederickson	Kierlin	LeClair	Moua
Chaudhary	Gaither	Kiscaden	Limmer	Murphy
Cohen	Hann	Kleis	Lourey	Neuville
Day	Higgins	Knutson	Marko	Nienow

Olson	Pogemiller	Rosen	Skoe	Tomassoni
Ortman	Ranum	Ruud	Skoglund	Vickerman
Ourada	Reiter	Sams	Solon	Wergin
Pappas	Rest	Saxhaug	Sparks	Wiger
Pariseau	Robling	Scheid	Stumpf	

So the bill passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 2265: A bill for an act relating to financial institutions; clarifying the status of industrial loan and thrift companies that accept deposits; amending Minnesota Statutes 2002, section 53.01.

Senator Sparks moved to amend S.F. No. 2265 as follows:

Page 2, after line 3, insert:

"Sec. 2. [325G.052] [AUTHORIZED USER OF CREDIT CARD ACCOUNT.]

An individual is not liable to a financial institution, as defined in section 49.01, subdivision 2, on a credit card account unless the individual has signed and submitted to the financial institution an account application or other document in which the individual promised to pay the account. An individual is not liable to a financial institution on a credit card account merely on the basis of having or using a credit card on that account bearing the individual's name, if the individual has or uses the credit card only as an authorized user of the account. For purposes of this section, "credit card" does not include a debit card or ATM card."

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 2265 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 64 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

SPECIAL ORDER

H.F. No. 1861: A bill for an act relating to civil actions; regulating liability on land used for recreational purposes; modifying the definition of recreational purpose; amending Minnesota Statutes 2002, section 604A.21, subdivision 5.

Senator Hann moved to amend H.F. No. 1861 as follows:

Page 1, after line 6, insert:

"Section 1. [604.17] [ACTIONS ALLEGING WEIGHT GAIN OR OBESITY FROM FOOD CONSUMPTION.]

Subdivision 1. [ACTIONS PROHIBITED.] An action may not be brought against a manufacturer or seller of a food or a trade association for a food to recover damages or obtain injunctive relief for alleged injury resulting from consumption of food and weight gain, obesity, or any health condition associated with weight gain or obesity.

Subd. 2. [ACTIONS PERMITTED.] Subdivision 1 does not prohibit an action:

(1) against a manufacturer or seller of a food that knowingly and willfully violated a state law applicable to the manufacturing, marketing, distribution, advertisement, labeling, or sale of the food, and the violation was a proximate cause of injury related to a person's weight gain, obesity, or any health condition associated with a person's weight gain or obesity; or

(2) an action for breach of express contract or express warranty in connection with the purchase of food.

Subd. 3. [PLEADINGS.] In an action described in subdivision 2, the complaint must state with particularity each and every state statute that was violated and the facts that caused the alleged injuries.

Subd. 4. [DISCOVERY IN CERTAIN ACTIONS.] In an action described in subdivision 2, discovery and other proceedings must be stayed during the pendency of a motion to dismiss unless the court finds on motion of a party that particularized discovery is necessary to preserve evidence or prevent undue prejudice to that party. During the pendency of a stay of discovery under this subdivision, unless otherwise ordered by the court, a party to the action with actual notice of the allegations contained in the complaint shall treat all documents, data compilations including electronically recorded or stored data, and tangible objects that are in the control or custody of that party and relevant to the allegations as if they were the subject of a continuing request for production of documents from any opposing party under the Rules of Civil Procedure. A party aggrieved by the failure of another party to comply with this subdivision may apply to the court for an order awarding appropriate sanctions."

Page 1, delete lines 19 and 20 and insert:

"Section 1 is effective August 1, 2004, and applies to actions commenced on or after that date. Section 2 is effective August 1, 2004, 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 Rest questioned whether the amendment was germane.

The President ruled that the amendment was not germane.

H.F. No. 1861 was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Cohen	Gaither	Kierlin	LeClair
Bachmann	Day	Hann	Kiscaden	Limmer
Bakk	Dibble	Higgins	Kleis	Lourey
Belanger	Dille	Hottinger	Knutson	Marko
Berglin	Fischbach	Johnson, D.J.	Koering	Marty
Betzold	Foley	Jungbauer	Kubly	McGinn
Chaudhary	Frederickson	Kelley	Langseth	Metzen

Michel	Ourada	Rest	Scheid	Tomassoni
Moua	Pappas	Robling	Skoe	Vickerman
Neuville	Pariseau	Rosen	Skoglund	Wergin
Nienow	Pogemiller	Ruud	Solon	Wiger
Olson	Ranum	Sams	Sparks	
Ortman	Reiter	Saxhaug	Stumpf	

So the bill passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 2593: A bill for an act relating to real estate; prohibiting restrictions on real estate use that restrict display of flags; proposing coding for new law in Minnesota Statutes, chapter 500.

Senator Knutson moved to amend S.F. No. 2593 as follows:

Page 1, line 14, after the period, insert "In addition, the right of an owner or tenant to display a noncommercial sign from August 1 in a state general election year until ten days following the state general election must not be limited."

Page 2, lines 2, 4, and 6, after "flag" insert "or noncommercial sign"

Page 2, line 8, after the first "flag" insert "or noncommercial sign" and after the second "flag" insert "or sign"

Page 2, line 10, after "flag" insert "or sign"

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Betzold moved that S.F. No. 2593 be laid on the table. The motion prevailed.

SPECIAL ORDER

S.F. No. 1875: A bill for an act relating to child protection; modifying requirements for a relative search; amending Minnesota Statutes 2002, section 260C.212, subdivision 5.

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 62 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 1782: A bill for an act relating to local government; removing restrictions and eliminating a moratorium on equitable compensation reporting requirements for political subdivisions; amending Minnesota Statutes 2003 Supplement, section 471.999.

Senator Robling moved to amend S.F. No. 1782 as follows:

Page 2, delete lines 1 to 5 and insert:

"Notwithstanding any rule to the contrary, beginning in ~~2005~~ 2004, a political subdivision must report on its compliance with the requirements of sections 471.991 to 471.999 no more frequently than once every five years, except that political subdivisions that have been found to be out of compliance under section 471.992, subdivision 1, within the preceding ten years must report once every three years. For the purposes of this section, "out of compliance" does not include clerical or reporting errors. No report from a political subdivision is required for 2003 ~~and 2004.~~"

Amend the title accordingly

CALL OF THE SENATE

Senator Ranum imposed a call of the Senate for the balance of the proceedings on S.F. No. 1782. The Sergeant at Arms was instructed to bring in the absent members.

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

The roll was called, and there were yeas 29 and nays 34, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

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

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

S.F. No. 1782 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 46 and nays 18, as follows:

Those who voted in the affirmative were:

Anderson	Fischbach	Kleis	Metzen	Robling
Bakk	Foley	Koering	Moua	Rosen
Berglin	Frederickson	Kubly	Murphy	Sams
Betzold	Higgins	Langseth	Nienow	Saxhaug
Chaudhary	Hottinger	Limmer	Pappas	Scheid
Cohen	Kelley	Lourey	Pogemiller	Skoe
Dibble	Kierlin	Marko	Ranum	Skoglund
Dille	Kiscaden	Marty	Rest	Solon

Sparks
Stumpf

Tomassoni

Vickerman

Wergin

Wiger

Those who voted in the negative were:

Bachmann
Belanger
Day
Gaither

Hann
Johnson, D.J.
Jungbauer
Knutson

Larson
LeClair
McGinn
Michel

Neuville
Ortman
Ourada
Pariseau

Reiter
Ruud

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Sparks moved that H.F. No. 2551 be taken from the table. The motion prevailed.

H.F. No. 2551: A bill for an act relating to commerce; regulating safe deposit companies; modifying collateral requirements applicable to depositories of local public funds; amending Minnesota Statutes 2002, section 55.15; Minnesota Statutes 2003 Supplement, section 118A.03, subdivision 2.

Senator Sparks withdrew his amendment.

Senator Stumpf moved to amend H.F. No. 2551 as follows:

Page 2, after line 23, insert:

"Sec. 3. Minnesota Statutes 2002, section 604.113, subdivision 2, is amended to read:

Subd. 2. [ACTS CONSTITUTING.] Whoever issues any check that is dishonored is liable for the following penalties:

(a) A service charge, not to exceed \$30, may be imposed immediately on any dishonored check by the payee or holder of the check, regardless of mailing a notice of dishonor, if notice of the service charge was conspicuously displayed on the premises when the check was issued. If a law enforcement agency obtains payment of a dishonored check on behalf of the payee or holder, up to the entire amount of the service charge may be retained by the law enforcement agency for its expenses. Only one service charge may be imposed under this paragraph for each dishonored check. The displayed notice must also include a provision notifying the issuer of the check that civil penalties may be imposed for nonpayment.

(b) If the amount of the dishonored check is not paid within 30 days after the payee or holder has mailed notice of dishonor pursuant to section 609.535 and a description of the penalties contained in this subdivision, whoever issued the dishonored check is liable to the payee or holder of the check for:

(1) the amount of the check, the service charge as provided in paragraph (a), plus a civil penalty of up to \$100 or the value of the check, whichever is greater. In determining the amount of the penalty, the court shall consider the amount of the check and the reason for nonpayment. The civil penalty may not be imposed until 30 days following the mailing of the notice of dishonor. A payee or holder of the check may make a written demand for payment of the civil liability by sending a copy of this section and a description of the liability contained in this section to the issuer's last known address. Notice as provided in paragraph (a) must also include notification that additional civil penalties will be imposed for dishonored checks for nonpayment after 30 days;

(2) interest at the rate payable on judgments pursuant to section 549.09 on the face amount of the check from the date of dishonor; and

(3) reasonable attorney fees if the aggregate amount of dishonored checks issued by the issuer to all payees within a six-month period is over \$1,250.

(c) This subdivision prevails over any provision of law limiting, prohibiting, or otherwise

regulating service charges authorized by this subdivision, but does not nullify charges for dishonored checks, which do not exceed the charges in paragraph (a) or terms or conditions for imposing the charges which have been agreed to by the parties in an express contract.

(d) A sight draft may not be used as a means of collecting the civil penalties provided in this section without prior consent of the issuer.

(e) The issuer of a dishonored check is not liable for the penalties described in paragraph (b) if a pretrial diversion program under section 628.69 has been established in the jurisdiction where the dishonored check was issued, the issuer was accepted into the program, and the issuer successfully completes the program."

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 2551 was read the third time, as amended, and placed on its final passage.

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

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

Those who voted in the affirmative were:

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

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

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Betzold moved that S.F. No. 2593 be taken from the table. The motion prevailed.

S.F. No. 2593: A bill for an act relating to real estate; prohibiting restrictions on real estate use that restrict display of flags; proposing coding for new law in Minnesota Statutes, chapter 500.

Senator Betzold moved to amend S.F. No. 2593 as follows:

Page 2, line 26, delete "incurred in connection with" and insert "if the owner or tenant prevails in"

The motion prevailed. So the amendment was adopted.

Senator Frederickson moved to amend S.F. No. 2593 as follows:

Page 1, line 11, after "flag" insert "and state of Minnesota flag"

Page 2, lines 2 and 4, delete "a United States" and insert "the"

Page 2, line 6, delete "United States"

Page 2, lines 7 and 8, delete "a United States" and insert "the"

The motion prevailed. So the amendment was adopted.

S.F. No. 2593 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 64 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Kubly moved that S.F. No. 2664 be withdrawn from the Committee on State and Local Government Operations and returned to its author. The motion prevailed.

Senator Marty moved that S.F. No. 2216, No. 62 on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

RECESS

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

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

APPOINTMENTS

Senator Rest, for Senator Johnson, D.E., from the Subcommittee on Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

S.F. No. 1753: Senators Anderson, Kubly and Gaither.

Senator Rest moved that the foregoing appointments be approved. The motion prevailed.

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Senator Betzold introduced--

S.F. No. 3044: A bill for an act relating to sales and use tax; providing that purchases of construction materials and equipment used to provide commuter rail services are exempt; amending Minnesota Statutes 2002, section 297A.71, by adding a subdivision.

Referred to the Committee on Taxes.

Senator Betzold introduced--

S.F. No. 3045: A bill for an act relating to sales and use tax; exempting the sales of diesel fuel used to operate commuter rail systems; amending Minnesota Statutes 2002, sections 297A.68, subdivision 19; 297A.75, subdivisions 1, 2.

Referred to the Committee on Taxes.

Senators Marty, Hottinger, Anderson, Lourey and Kubly introduced--

S.F. No. 3046: A bill for an act relating to the environment; providing for certain regulations regarding greenhouse gas emissions from motor vehicles; proposing coding for new law in Minnesota Statutes, chapter 116.

Referred to the Committee on Environment and Natural Resources.

Senators Johnson, D.E. and Kubly introduced--

S.F. No. 3047: A bill for an act relating to education finance; authorizing a special levy for Common School District No. 815, Prinsburg.

Referred to the Committee on Taxes.

MEMBERS EXCUSED

Senators Johnson, D.E. and Senjem were excused from the Session of today. Senator Bachmann was excused from the Session of today from 11:00 to 11:40 a.m. Senator Ortman was excused from the Session of today from 11:30 to 11:45 a.m. Senator Olson was excused from the Session of today at 12:00 noon.

ADJOURNMENT

Senator Rest moved that the Senate do now adjourn until 11 a.m., Monday, April 26, 2004. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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