

STATE OF MINNESOTA

Journal of the Senate

EIGHTY-THIRD LEGISLATURE

ONE HUNDRED FIFTH DAY

St. Paul, Minnesota, Monday, May 10, 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, Professor Anant Rambachan.

The members of the Senate gave the pledge of allegiance to the flag of the United States of America.

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	Vickerman
Dibble	Kiscaden	Michel	Robling	Wergin
Dille	Kleis	Moua	Rosen	Wiger
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 communications were received.

May 7, 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. 2851.

Sincerely,
Tim Pawlenty, Governor

May 7, 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
2851		177	3:05 p.m. May 7	May 7

Sincerely,
Mary Kiffmeyer
Secretary of State

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1793:

H.F. No. 1793: A bill for an act relating to education; providing for prekindergarten through grade 12 education and early childhood and family education including general education, special programs, academic excellence, facilities, nutrition, and accounting, other programs, libraries, early childhood programs, prevention, self-sufficiency and lifelong learning, state agencies, deficiencies, technical and conforming amendments, and academic standards; providing for higher education including extending sunset of education telecommunications council, requiring eligible institutions to provide certain data to the Higher Education Services Office, making changes relating to child care grants and the Minnesota College Savings Plan, modifying certain education benefits of public safety officers, making changes to tuition reciprocity, and authorizing planning for applied doctoral degrees; repealing obsolete rules; providing for rulemaking; reducing appropriations; appropriating money; amending Minnesota Statutes 2002, sections 13.321, subdivision 1, by adding subdivisions; 119A.46, subdivisions 2, 3, 8; 120A.05, by adding a subdivision; 120B.23, as amended; 120B.35, by adding a subdivision; 121A.22, subdivision 2; 121A.34, by adding subdivisions; 121A.45, subdivision 3; 121A.48; 121A.75, by adding a subdivision; 122A.06, subdivision 4; 122A.12, by adding a subdivision; 122A.16; 122A.18, subdivision 2a, by adding a subdivision; 122A.20, subdivision 2; 123A.05, subdivision 2; 123A.442, subdivision 2; 123A.443, subdivision 4; 123A.55; 123B.09, subdivision 8; 123B.143, subdivision 1; 123B.195; 123B.36, subdivision 1; 123B.49, subdivision 4; 123B.53, subdivision 6; 123B.58, subdivision 2; 123B.71, subdivision 9; 123B.75, by adding a subdivision; 123B.76, by adding a subdivision; 123B.82; 123B.92, subdivision 5; 124D.15, subdivisions 1, 3, 5, 8, 10, 12, by adding a subdivision; 124D.16, subdivision 2; 124D.19, subdivision 11; 124D.20, by adding a subdivision; 124D.59, as amended; 124D.61; 124D.68, subdivisions 3, 9; 124D.69, subdivision 1; 125A.023, subdivision 3; 125A.03; 125A.07; 125A.22; 125A.46; 125A.51; 125A.79, subdivisions 5, 7, by adding subdivisions; 125B.15; 126C.10, subdivision 2; 126C.15, subdivision 2, by adding a subdivision; 126C.21, subdivision 4; 126C.48, subdivision 8; 127A.42, subdivisions 4, 6; 127A.45, subdivision 11; 127A.47, subdivision 3; 134.31, by adding a subdivision; 134.50; 136A.08, by adding a subdivision; 136A.121, subdivision 2, by adding a subdivision; 136G.11, by adding a subdivision; 169.451; 171.04, subdivision 1; 171.05, subdivisions 2, 2b, 3; 171.19;

260A.01; 260A.03; 260C.163, subdivision 11; 299A.45, subdivision 4; 631.40, subdivision 4; Minnesota Statutes 2003 Supplement, sections 13.46, subdivision 2; 16A.152, subdivision 2; 119A.46, subdivision 1; 120B.021, subdivisions 1, 3, by adding a subdivision; 120B.022, subdivision 1; 120B.024; 120B.36; 121A.64; 122A.09, subdivision 4; 123B.54; 123B.77, subdivision 4; 123B.92, subdivision 1; 124D.095, subdivisions 4, 7, 8; 124D.10, subdivisions 3, 4, 8; 124D.11, subdivisions 1, 2, 9; 124D.20, subdivision 11; 124D.385, subdivision 2; 124D.42, subdivision 6; 124D.454, subdivision 2; 124D.531, subdivisions 1, 4; 124D.86, subdivisions 3, 4; 125A.023, subdivision 4; 125A.091, subdivision 5; 125A.75, subdivision 8; 125A.79, subdivision 1; 125B.21, subdivision 1; 126C.10, subdivisions 3, 31; 126C.15, subdivision 1; 126C.17, subdivision 9; 126C.40, subdivision 1; 126C.43, subdivisions 2, 3; 126C.44; 126C.457; 126C.63, subdivision 8; 127A.41, subdivision 9; 127A.42, subdivision 2; 127A.47, subdivisions 7, 8; 128C.05, subdivision 1a; 136A.121, subdivision 9; 136A.125, subdivision 2; 136G.11, subdivisions 1, 3; 136G.13, subdivision 1; 275.065, subdivision 1; 475.61, subdivision 4; 626.556, subdivision 2; Laws 2003, chapter 130, section 12; Laws 2003, First Special Session chapter 9, article 1, section 53, subdivisions 2, 3, 5, 6, 11, 12; Laws 2003, First Special Session chapter 9, article 2, section 55, subdivisions 2, 3, 4, 5, 7, 9, 12, 15, 16, 17, 19, 21, as amended; Laws 2003, First Special Session chapter 9, article 3, section 19; Laws 2003, First Special Session chapter 9, article 3, section 20, subdivisions 4, 5, 6, 7, 8, 9; Laws 2003, First Special Session chapter 9, article 4, section 29; Laws 2003, First Special Session chapter 9, article 4, section 31, subdivisions 2, 3; Laws 2003, First Special Session chapter 9, article 5, section 35, subdivisions 2, 3; Laws 2003, First Special Session chapter 9, article 6, section 4; Laws 2003, First Special Session chapter 9, article 7, section 11, subdivisions 2, 3; Laws 2003, First Special Session chapter 9, article 8, section 7, subdivisions 2, 5; Laws 2003, First Special Session chapter 9, article 9, section 9, subdivisions 2, 5; Laws 2003, First Special Session chapter 9, article 10, section 10, subdivision 2; Laws 2003, First Special Session chapter 9, article 10, section 11; Laws 2003, First Special Session chapter 9, article 10, section 12; proposing coding for new law in Minnesota Statutes, chapters 120A; 120B; 121A; 122A; 123B; 125B; 127A; 135A; 171; repealing Minnesota Statutes 2002, sections 124D.15, subdivisions 2, 4, 6, 11, 13; 124D.16, subdivisions 1, 4; 124D.41; 124D.42, subdivisions 1, 2, 4, 5, 7; 124D.43; 124D.91; 124D.92; 126C.23; 134.47, subdivision 3; Minnesota Statutes 2003 Supplement, sections 124D.15, subdivision 7; 124D.42, subdivision 3; 124D.86, subdivision 5; 136G.11, subdivision 2; Minnesota Rules, parts 4815.0100; 4815.0110; 4815.0120; 4815.0130; 4815.0140; 4815.0150; 4815.0160; 4830.8100; 4830.8110; 4830.8120; 4830.8130; 4830.8140; 4830.8150.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

Seagren; Sykora; Johnson, J.; Nornes and Klinzing have been appointed as such committee on the part of the House.

House File No. 1793 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 7, 2004

Senator Kelley moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1793, and that a Conference Committee of 5 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 2277:

H.F. No. 2277: A bill for an act relating to human services; making changes to licensing provisions; regulating child protection dispositions; clarifying a mental health case management provision; changing a provision under child welfare targeted case management; regulating child care, long-term care, and health care; amending Minnesota Statutes 2002, sections 119B.011, by

adding a subdivision; 119B.03, subdivisions 3, 6a, by adding a subdivision; 245.4881, subdivision 1; 245.814, subdivision 1; 245A.02, subdivisions 2a, 5a, 7, 10, 14, by adding a subdivision; 245A.03, subdivision 3; 245A.04, subdivisions 5, 6, 7, by adding a subdivision; 245A.05; 245A.06, subdivisions 2, 4; 245A.07, subdivisions 2, 2a, 3; 245A.08, subdivision 5; 245A.16, subdivision 4; 245A.22, subdivision 2; 245B.02, by adding a subdivision; 245B.05, subdivision 2; 245B.07, subdivisions 8, 12; 252.28, subdivision 1; 256.01, by adding a subdivision; 256.955, subdivisions 2, 2b; 256B.0625, by adding a subdivision; 256B.0911, subdivision 4a; 256F.10, subdivision 5; 256J.01, subdivision 1; 256J.08, subdivisions 73, 82a; 256J.21, subdivision 3; 256J.415; 256J.425, subdivision 5; 260C.212, subdivision 5; Minnesota Statutes 2003 Supplement, sections 119B.011, subdivisions 8, 10, 20; 119B.03, subdivision 4; 119B.05, subdivision 1; 119B.09, subdivision 7; 119B.12, subdivision 2; 119B.13, subdivisions 1, 1a; 119B.189, subdivisions 2, 4; 119B.19, subdivision 1; 119B.24; 119B.25, subdivision 2; 241.021, subdivision 6; 245.4874; 245A.03, subdivision 2; 245A.04, subdivision 1; 245A.08, subdivisions 1, 2a; 245A.085; 245A.11, subdivisions 2a, 2b; 245A.16, subdivision 1; 245A.22, subdivision 3; 245C.02, subdivision 18; 245C.03, subdivision 1, by adding a subdivision; 245C.05, subdivisions 1, 2, 5, 6; 245C.08, subdivisions 2, 3, 4; 245C.09, subdivision 1; 245C.13, subdivision 1; 245C.14, subdivision 1; 245C.15, subdivisions 2, 3, 4; 245C.16, subdivision 1; 245C.17, subdivisions 1, 3; 245C.18; 245C.20; 245C.21, subdivision 3, by adding a subdivision; 245C.22, subdivisions 3, 4, 5, 6; 245C.23, subdivisions 1, 2; 245C.25; 245C.26; 245C.27, subdivisions 1, 2; 245C.28, subdivisions 1, 2, 3; 245C.29, subdivision 2; 256.01, subdivision 2; 256.045, subdivisions 3, 3b; 256.046, subdivision 1; 256.955, subdivision 2a; 256.98, subdivision 8; 256B.0596; 256B.06, subdivision 4; 256B.0625, subdivision 9; 256B.0915, subdivisions 3a, 3b; 256B.431, subdivision 32; 256B.69, subdivision 6b; 256D.03, subdivisions 3, 4; 256J.09, subdivision 3b; 256J.24, subdivision 5; 256J.32, subdivisions 2, 8; 256J.37, subdivision 9; 256J.425, subdivisions 1, 4, 6; 256J.46, subdivision 1; 256J.49, subdivision 4; 256J.515; 256J.521, subdivisions 1, 2; 256J.53, subdivision 2; 256J.56; 256J.57, subdivision 1; 256J.626, subdivision 2; 256J.751, subdivision 2; 256J.95, subdivisions 1, 3, 11, 12, 19; 626.556, subdivision 10i; 626.557, subdivision 9d; proposing coding for new law in Minnesota Statutes, chapters 245A; 245B; repealing Minnesota Statutes 2002, sections 119B.211; 256D.051, subdivision 17; Minnesota Statutes 2003 Supplement, sections 245C.02, subdivision 17; Laws 2000, chapter 489, article 1, section 36; Laws 2003, First Special Session chapter 14, article 3, section 56; Minnesota Rules, parts 9525.1600; 9543.0040, subpart 3; 9543.1000; 9543.1010; 9543.1020; 9543.1030; 9543.1040; 9543.1050; 9543.1060.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Abeler, Samuelson and Huntley have been appointed as such committee on the part of the House.

House File No. 2277 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 7, 2004

Senator Kiscaden moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 2277, 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 appointed on the part of the House. The motion prevailed.

REPORTS OF COMMITTEES

Senator Johnson, D.E. moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred

H.F. No. 2027 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.
2027	2020				

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred

H.F. No. 2633 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.
2633	2621				

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

SECOND READING OF HOUSE BILLS

H.F. Nos. 2027 and 2633 were read the second time.

RECESS

Senator Johnson, D.E. 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.

MOTIONS AND RESOLUTIONS

Pursuant to Rule 26, Senator Johnson, D.E., Chair of the Committee on Rules and Administration, designated S.F. No. 2793 a Special Order to be heard immediately.

SPECIAL ORDER

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; providing for the

establishment of procedures and criteria for grant-in-aid trails; 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.

Senator Frederickson moved to amend S.F. No. 2793 as follows:

Page 2, delete lines 9 to 12

Page 12, line 7, delete everything after "lands"

Page 12, line 8, delete everything before the semicolon and insert "or public waters with an air-intake pipe that is more than six inches above the manufacturer's original air-intake pipe"

The motion prevailed. So the amendment was adopted.

Senator Frederickson then moved to amend S.F. No. 2793 as follows:

Page 2, line 20, after the semicolon, insert "an off-highway vehicle being used by a licensed land surveyor, or assistant, when surveying on public or private property;"

Page 10, line 27, after "person" insert "or organization"

Page 10, line 29, after the period, insert "The commissioner may issue a general permit under this subdivision to a conservation organization for the use of off-highway vehicles for land management or restoration purposes."

The motion prevailed. So the amendment was adopted.

Senator Frederickson then moved to amend S.F. No. 2793 as follows:

Page 10, line 25, before "Notwithstanding" insert "(a)"

Page 10, after line 29, insert:

"(b) The commissioner may issue a permit under paragraph (a) to cross a wetland on land not under the commissioner's jurisdiction without making an on-site evaluation. The commissioner may use items such as existing wetland inventory maps, aerial photographs, land atlases, or other maps, as determined by the commissioner, in making a wetland crossing permit decision on lands that are not under the commissioner's jurisdiction."

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 43 and nays 20, as follows:

Those who voted in the affirmative were:

Anderson	Frederickson	Lourey	Pogemiller	Skoe
Bachmann	Higgins	Marko	Ranum	Skoglund
Bakk	Kelley	Marty	Rest	Solon
Berglin	Kierlin	McGinn	Robling	Stumpf
Betzold	Kiscaden	Michel	Ruud	Tomassoni
Chaudhary	Knutson	Moua	Sams	Vickerman
Cohen	Kubly	Nienow	Saxhaug	Wiger
Dibble	Langseth	Ourada	Scheid	
Foley	Larson	Pappas	Senjem	

Those who voted in the negative were:

Belanger	Johnson, D.E.	Koering	Murphy	Reiter
Dille	Johnson, D.J.	LeClair	Neuville	Rosen
Fischbach	Jungbauer	Limmer	Ortman	Sparks
Hann	Kleis	Metzen	Pariseau	Wergin

The motion prevailed. So the amendment was adopted.

Senator Frederickson then moved to amend S.F. No. 2793 as follows:

Pages 16 and 17, delete section 16 and insert:

"Sec. 16. Laws 2003, chapter 128, article 1, section 167, subdivision 1, is amended to read:

Subdivision 1. [FOREST CLASSIFICATION STATUS REVIEW.] (a) By December 31, 2006, the commissioner of natural resources shall complete a review of the forest classification status of all state forests classified as managed or limited, all forest lands under the authority of the commissioner as defined in Minnesota Statutes, section 89.001, subdivision 13, and lands managed by the commissioner under Minnesota Statutes, section 282.011. The review must be conducted on a forest-by-forest and area-by-area basis in accordance with the process and criteria under Minnesota Rules, part 6100.1950. After each forest is reviewed, the commissioner must change its the status of the lands within each forest to limited or closed,~~and. The commissioner may classify portions of a limited forest as closed. The commissioner must also provide a similar status for each of the other areas subject to review under this section after each individual review is completed.~~

(b) If the commissioner determines on January 1, 2005, that the review required under this section cannot be completed by December 31, 2006, the completion date for the review shall be extended to December 31, 2008. By January 15, 2005, the commissioner shall report to the chairs of the legislative committees with jurisdiction over natural resources policy and finance regarding the status of the process required by this section.

(c) Until December 31, 2010, the state forests and areas subject to review under this section are exempt from Minnesota Statutes, section 84.777, unless an individual forest or area has been classified as limited or closed."

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Saxhaug moved to amend S.F. No. 2793 as follows:

Pages 1 and 2, delete section 1 and insert:

"Section 1. Minnesota Statutes 2003 Supplement, section 84.773, is amended to read:

84.773 [RESTRICTIONS ON OPERATION.]

Subdivision 1. [RESTRICTIONS.] A person may not intentionally operate an off-highway vehicle:

- (1) on a trail on public land that is designated or signed for nonmotorized use only;
- (2) on restricted areas within public lands that are posted or where gates or other clearly visible structures are placed to prevent unauthorized motorized vehicle access; ~~or~~
- (3) except as specifically authorized by law or rule adopted by the commissioner, on public lands in: unfrozen type 3, 4, 5, and 8 wetlands or unfrozen public waters, as defined in section 103G.005;
- (4) except as specifically authorized by law or rule adopted by the commissioner, in a state park; in a scientific and natural area; or in a wildlife management area;
- (5) on privately owned lands in public waters, unless the public water is frozen sufficient to prevent rutting; or
- (6) in a calcareous fen, as identified by the commissioner.

Subd. 2. [SPECIFIC USE EXEMPTIONS.] Subdivision 1 does not apply to an off-highway vehicle being used for farming; an off-highway vehicle used for military, fire, emergency, or law

enforcement purposes; an off-highway vehicle used by a licensed land surveyor, or assistant, when surveying on public or private property; a construction off-highway vehicle used in the performance of its common function; an off-highway vehicle used to carry out silvicultural activities, including timber cruising, and the harvest and transport of forest products for commercial purposes; an off-highway vehicle owned by or operated under contract with a utility or pipeline company, whether publicly or privately owned, when used for maintenance or work on utilities or pipelines; a commercial off-highway vehicle being used for nonrecreational purposes; or a government-owned off-highway vehicle used for official business.

Subd. 3. [LAND ACCESS AND HUNTING EXEMPTIONS.] Subdivision 1, clause (3), does not apply to the direct crossing of type 8 wetlands by an off-highway vehicle being used:

(1) to access privately owned or leased land; or

(2) by an individual on private or public lands lawfully engaged in hunting and trapping activities as described in section 84.926, subdivision 2."

Page 10, line 28, delete the new language

Page 10, line 35, delete "retrieving" and insert "hunting"

Page 11, line 4, delete "trapping" and insert "tending traps for"

Page 11, line 5, delete everything after "license"

Page 11, line 6, delete everything before the semicolon

Page 11, line 10, delete everything after the comma

Page 11, line 11, delete everything before "the"

Page 11, line 23, after "closed" insert "to this exemption"

Page 11, line 24, delete everything after "license"

Page 11, line 25, delete everything before the period

Pages 16 and 17, delete section 16 and insert:

"Sec. 16. Laws 2003, chapter 128, article 1, section 167, subdivision 1, is amended to read:

Subdivision 1. [FOREST CLASSIFICATION STATUS REVIEW.] (a) By December 31, 2006, the commissioner of natural resources shall complete a review of the forest classification status of all state forests classified as managed or limited, all forest lands under the authority of the commissioner as defined in Minnesota Statutes, section 89.001, subdivision 13, and lands managed by the commissioner under Minnesota Statutes, section 282.011. The review must be conducted on a forest-by-forest and area-by-area basis in accordance with the process and criteria under Minnesota Rules, part 6100.1950. After each forest is reviewed, the commissioner must change its the status of the lands within each forest to limited or closed, ~~and~~. The commissioner may classify portions of a limited forest as closed. The commissioner must also provide a similar status for each of the other areas subject to review under this section after each individual review is completed.

(b) If the commissioner determines on January 1, 2005, that the review required under this section cannot be completed by December 31, 2006, the completion date for the review shall be extended to December 31, 2008. By January 15, 2005, the commissioner shall report to the chairs of the legislative committees with jurisdiction over natural resources policy and finance regarding the status of the process required by this section.

(c) Until December 31, 2010, the state forests and areas subject to review under this section are exempt from Minnesota Statutes, section 84.777, unless an individual forest or area has been classified as limited or closed."

Amend the title accordingly

Senator Higgins moved to amend the Saxhaug amendment to S.F. No. 2793 as follows:

Page 2, delete line 10

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

The question recurred on the adoption of the Saxhaug amendment.

The roll was called, and there were yeas 34 and nays 33, as follows:

Those who voted in the affirmative were:

Bachmann	Johnson, D.E.	LeClair	Ortman	Skoe
Bakk	Johnson, D.J.	Limmer	Pariseau	Sparks
Belanger	Jungbauer	Metzen	Reiter	Stumpf
Day	Kleis	Murphy	Rosen	Tomassoni
Dille	Koering	Neuville	Sams	Vickerman
Fischbach	Kubly	Nienow	Saxhaug	Wergin
Hann	Langseth	Olson	Scheid	

Those who voted in the negative were:

Anderson	Frederickson	Knutson	Moua	Ruud
Berglin	Gaither	Larson	Ourada	Senjem
Betzold	Higgins	Lourey	Pappas	Skoglund
Chaudhary	Hottinger	Marko	Pogemiller	Solon
Cohen	Kelley	Marty	Ranum	Wiger
Dibble	Kierlin	McGinn	Rest	
Foley	Kiscaden	Michel	Robling	

The motion prevailed. So the amendment was adopted.

Senator Fischbach moved to amend S.F. No. 2793 as follows:

Page 2, after line 27, insert:

"Sec. 2. Minnesota Statutes 2003 Supplement, section 84.777, is amended to read:

84.777 [OFF-HIGHWAY VEHICLE USE OF STATE LANDS RESTRICTED.]

(a) Except as otherwise allowed by law or rules adopted by the commissioner, effective June 1, 2003, notwithstanding sections 84.787 to 84.805 and 84.92 to 84.929, the use of off-highway vehicles is prohibited on state land administered by the commissioner of natural resources, and on county-administered forest land within the boundaries of a state forest, except on roads and trails specifically designated and posted by the commissioner for use by off-highway vehicles.

(b) Paragraph (a) does not apply to county-administered land within a state forest if the county board adopts a resolution that modifies restrictions on the use of off-highway vehicles on county-administered land within the forest.

(c) Restrictions on off-highway vehicle use of state lands do not apply to private landowners and leaseholders, or their guests, when accessing the landowner's or leaseholder's year-round or seasonal residence and the only reasonable access to their residence is across state lands."

Re-number the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Ruud moved to amend S.F. No. 2793 as follows:

Page 5, after line 5, insert:

"Sec. 4. Minnesota Statutes 2002, section 84.797, subdivision 6, is amended to read:

Subd. 6. [OFF-ROAD.] "Off-road" means on ~~trails or~~ nonpublic roads or for cross-country travel on natural terrain. For purposes of sections 84.797 to 84.805, nonpublic roads include state forest roads, county forest roads, and other roads ~~and trails~~ that are not operated by a public road authority as defined in section 160.02, subdivision 25.

Sec. 5. Minnesota Statutes 2002, section 84.797, subdivision 12, is amended to read:

Subd. 12. [OFF-ROAD VEHICLE STAGING AREA.] "Off-road vehicle staging area" means a parking lot, ~~trail head~~, campground, or other location to or from which an off-road vehicle is transported by truck, trailer, or other motor vehicle so that it may be placed into operation or removed from operation on public lands. Off-road vehicle staging area does not include a location to which an off-road vehicle is transported primarily for servicing, maintenance, repair, storage, or sale."

Page 5, line 14, delete "trails" and strike "or"

Page 5, line 15, delete "trails and"

Page 5, after line 17, insert:

"Sec. 7. Minnesota Statutes 2002, section 84.798, subdivision 6, is amended to read:

Subd. 6. [REGISTRATION FEES.] (a) The fee for registration of an off-road vehicle under this section, other than those registered by a dealer or manufacturer under paragraph (b) or (c), is ~~\$30~~ \$9 for three years and \$4 for a duplicate or transfer.

(b) The total registration fee for off-road vehicles owned by a dealer and operated off-road for demonstration or testing purposes is ~~\$50~~ \$15 per year. Dealer registrations are not transferable.

(c) The total registration fee for off-road vehicles owned by a manufacturer and operated off-road for research, testing, experimentation, or demonstration purposes is ~~\$150~~ \$45 per year. Manufacturer registrations are not transferable.

(d) The fees collected under this subdivision must be credited to the off-road vehicle account in the natural resources fund.

Sec. 8. Minnesota Statutes 2002, section 84.802, is amended to read:

84.802 [YOUTHFUL OPERATORS; PROHIBITIONS.]

(a) A person under 16 years of age may not operate an off-road vehicle.

(b) ~~Except for operation on public road rights-of-way that is permitted under section 84.804, A driver's license issued by the state or another state is required to operate an off-road vehicle along~~ ~~or~~ on a public road right-of-way.

(c) An owner of an off-road vehicle may not knowingly allow it to be operated in violation of this section.

Sec. 9. Minnesota Statutes 2003 Supplement, section 84.803, subdivision 2, is amended to read:

Subd. 2. [PURPOSES.] Subject to appropriation by the legislature, money in the off-road vehicle account may only be spent for:

(1) administration, enforcement, and implementation of sections 84.773 to 84.805;

(2) acquisition, maintenance, and development of off-road vehicle ~~trails and~~ use areas;

(3) grant-in-aid programs to counties and municipalities to construct and maintain off-road vehicle ~~trails and~~ use areas;

- (4) grants-in-aid to local safety programs; and
- (5) enforcement and public education grants to local law enforcement agencies.

Sec. 10. Minnesota Statutes 2002, section 84.804, subdivision 1, is amended to read:

Subdivision 1. [OPERATION ON PUBLIC ROAD RIGHTS-OF-WAY.] (a) A person may not operate a vehicle off-road within a public road right-of-way in this state ~~except on a trail designated by the commissioner and approved by the unit of government having jurisdiction over the right-of-way.~~

(b) ~~A person may not operate a vehicle off-road within a public road right-of-way between the hours of one-half hour after sunset to one-half hour before sunrise, except on the right hand side of the right-of-way and in the same direction as traffic on the nearest lane of the road.~~

~~(c) A person may not operate an off-road vehicle within the right-of-way of an interstate highway.~~

Sec. 11. Minnesota Statutes 2002, section 84.804, subdivision 2, is amended to read:

Subd. 2. [CROSSING PUBLIC ROAD RIGHTS-OF-WAY.] (a) ~~An off-road vehicle not registered under chapter 168 may make a direct crossing of a public road right-of-way for the purpose of continuing on a designated off-road trail if:~~

~~(1) the crossing is made at an angle of approximately 90 degrees to the direction of the road and at a place where no obstruction prevents a quick and safe crossing;~~

~~(2) the vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the road;~~

~~(3) the driver yields the right-of-way to all traffic;~~

~~(4) in crossing a divided road, the crossing is made only at an intersection of the road with another public road; and~~

~~(5) if the crossing is made between the hours of one-half hour after sunset to one-half hour before sunrise or in conditions of reduced visibility, only if both front and rear lights are on.~~

~~(b) An off-road vehicle not registered under chapter 168 may be operated on a bridge, other than a bridge that is part of the main traveled lanes of an interstate highway, or a roadway shoulder or inside bank of a public road right-of-way when required to avoid obstructions to travel and no other method of avoidance is possible, provided that the vehicle is operated in the farthest right-hand lane, the entrance to the roadway is made within 100 feet of the bridge or obstacle, and the crossing is made without undue delay.~~

~~(c) (b) A person may not operate an off-road vehicle on a public street or highway unless the off-road vehicle is equipped with at least one headlight and one taillight, each of minimum candlepower as prescribed by rules of the commissioner, and with brakes conforming to standards prescribed by rule of the commissioner, and all of which are subject to the approval of the commissioner of public safety.~~

~~(d) (c) Chapter 169 applies to the operation of off-road vehicles on streets and highways, except that those provisions that by their nature have no application and those provisions relating to required equipment do not apply to vehicles not registered under chapter 168. Chapter 169A applies to the operation of off-road vehicles anywhere in the state and on the ice of boundary waters.~~

~~(e) A road authority, as defined in section 160.02, subdivision 25, may, with the approval of the commissioner, designate access trails on public road rights-of-way for gaining access to established off-road vehicle trails."~~

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Skoe moved to amend S.F. No. 2793 as follows:

Pages 14 to 16, delete section 15 and insert:

"Sec. 15. Minnesota Statutes 2002, section 97A.133, subdivision 3, is amended to read:

Subd. 3. [ALL-TERRAIN VEHICLE TRAVEL WITHIN DESIGNATED WILDLIFE MANAGEMENT AREAS.] (a) On lands acquired by the state under chapter 84A that are designated after January 1, 1986, as wildlife management areas, the commissioner shall, by January 15, 2004, identify, designate, and sign at least 90 miles of all-terrain vehicle trails for designation under paragraph (b), not including public roads that are maintained and open to travel by other noncommercial vehicles, in corridors of disturbance that:

(1) the commissioner determines are appropriate to connect trails, forest roads established under section 89.71, subdivision 1, and public highways to provide reasonable travel for all-terrain vehicles; or

(2) are areas of historic all-terrain vehicle use, including trails that end within a wildlife management area.

The designated trails must be either within or contiguous to the wildlife management areas. The commissioner shall consult with wildlife management area users, including both motorized and nonmotorized trail users, in identifying and designating trails under this paragraph section. Trail establishment must be in compliance with other state and federal law.

(b) Local governments and other trail sponsors may propose the designation of trails an all-terrain vehicle trail system, including the designation as a grant-in-aid trail for the purposes of funding under section 84.927, subdivision 2. This proposed trail designation will be a comprehensive all-terrain vehicle trail system that shall include lands that were acquired by the state under chapter 84A and that were designated as wildlife management area lands after January 1, 1986. The commissioner shall, by January 15, 2006, identify, designate, and sign trails on state wildlife management area lands that the commissioner determines are appropriate for an all-terrain vehicle trail system. The proposed all-terrain vehicle trail system may include adjacent lands needed to connect the trail segments identified on the wildlife management area lands.

~~(b)~~ (c) The following roads shall be open to travel by all-terrain vehicles when the roads are open to other noncommercial vehicles:

(1) the Rapid River Forest Road, beginning at the west boundary of the Red Lake Wildlife Management Area at the southwest corner of Section 7, Township 156 North, Range 35 West, Beltrami County, thence in an easterly and northeasterly direction through the Red Lake Wildlife Management Area to the east boundary of the Red Lake Wildlife Management Area at the southwest corner of Section 7, Township 157 North, Range 33 West, Lake of the Woods County;

(2) the Blanchard Forest Road, beginning at the junction of the North Shore Road along the northern shore of Upper Red Lake and the Blanchard State Forest Road at the west section line of Section 30, Township 155 North, Range 31 West, Beltrami County, thence in a westerly direction to the west section line of Section 31, Township 155 North, Range 32 West;

(3) the Moose River Forest Road, beginning at the junction of Dick's Parkway State Forest Road and the Moose River State Forest Road at the southwest corner of Section 31, Township 36 West, Range 158 North, thence in a westerly direction along the Moose River State Forest Road to the junction of Beltrami County Road 706; and

(4) the existing west access road to the Moose River dike, which is included in meeting the required all-terrain vehicle trail mileage specified in paragraph (a).

(e) (d) The commissioner shall sign each road and trail designated under this subdivision indicating the motorized uses allowed.

(d) (e) During the regular firearms deer season, on all wildlife management area lands within the area described in paragraph (e) (f), a person licensed to take deer may operate an all-terrain vehicle:

- (1) before legal shooting hours;
- (2) after legal shooting hours; and
- (3) from 11:00 a.m. to 2:00 p.m.

(e) (f) Paragraph (d) (e) applies from where State Highway No. 1 intersects the west boundary of the Red Lake Indian Reservation, then west to State Highway No. 219, then north on State Highway No. 219 to State Highway No. 89, then north on State Highway No. 89 to County Highway No. 6, then east on County Highway No. 6 to County Highway No. 54 and County Highway No. 1 (Beltrami/Marshall county line) then north along the Beltrami/Marshall county line to Roseau county line, then east on Beltrami/Roseau county line to Dick's Parkway, then south on Dick's Parkway to County Road No. 704, Beltrami County, then south to County State-Aid Highway No. 44 to Fourtown, then south on State Highway No. 89 to the north boundary of the Red Lake Indian Reservation, then west and south following the boundary of the Red Lake Indian Reservation to where it intersects State Highway No. 1.

(f) (g) For the purposes of this subdivision, "corridors of disturbance" means rights-of-way such as ditches, ditch banks, transmission lines, pipelines, permanent roads, winter roads, and recreational trails. The existence of a corridor of disturbance eligible for corridor designation may be demonstrated by physical evidence, document recorded in the office of the county recorder or other public official, aerial survey, or other evidence similar to the above. Cross-country motorized use of land shall not cause that land to be considered a corridor of disturbance."

Page 18, after line 6, insert:

"Sec. 18. [CONSOLIDATED CONSERVATION LANDS; LOCAL PUBLIC ROAD REPORT.]

The commissioner of natural resources, in consultation with local road authorities, shall prepare a report on local public roads, including common law public roads, that are contained within lands that were acquired by the state under Minnesota Statutes, chapter 84A, and that were designated as wildlife management area lands after January 1, 1986. The report shall include:

(1) the legal description of all local public roads, including common law public roads, within the designated lands that are identified and attested to by local road authorities; and

(2) a list of any local public roads, including common law public roads, within the designated lands to be vacated based on a joint recommendation of the commissioner and the affected local road authority.

The commissioner shall provide the report to the house of representatives and senate committees with jurisdiction over natural resource and transportation policy and finance by February 15, 2005."

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Frederickson moved that S.F. No. 2793 be laid on the table. The motion prevailed.

RECESS

Senator Johnson, D.E. moved that the Senate do now recess until 2:00 p.m. The motion prevailed.

The hour of 2:00 p.m. having arrived, the President called the Senate to order.

CALL OF THE SENATE

Senator Johnson, D.E. imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 26, Senator Johnson, D.E., Chair of the Committee on Rules and Administration, designated S.F. No. 2696 a Special Order to be heard immediately.

SPECIAL ORDER

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.

Senator Pappas moved to amend S.F. No. 2696 as follows:

Page 6, delete lines 24 to 28 and insert:

"(5) within 1,000 feet of a state hospital, state training school, state reformatory, or state prison, ~~or other institution under the supervision or control, in whole or in part, of the commissioner of human services or the commissioner of corrections;~~"

Page 11, after line 8, insert:

"Sec. 9. Minnesota Statutes 2002, section 340A.702, is amended to read:

340A.702 [GROSS MISDEMEANORS.]

It is a gross misdemeanor:

(1) to sell an alcoholic beverage without a license authorizing the sale;

(2) for a licensee to refuse or neglect to obey a lawful direction or order of the commissioner or the commissioner's agent, withhold information or a document the commissioner calls for examination, obstruct or mislead the commissioner in the execution of the commissioner's duties or swear falsely under oath;

(3) to violate the provisions of sections 340A.301 to 340A.312;

(4) to violate the provisions of section 340A.508;

(5) for any person, partnership, or corporation to knowingly have or possess direct or indirect interest in more than one off-sale intoxicating liquor license in a municipality in violation of section 340A.412, subdivision 3;

(6) to sell or otherwise dispose of intoxicating liquor within 1,000 feet of a state hospital, state training school, state reformatory, or state prison, ~~or other institution under the supervision and control, in whole or in part, of the commissioner of human services or the commissioner of corrections;~~

(7) to violate the provisions of section 340A.502;

(8) except as otherwise provided in section 340A.701, to violate the provisions of section 340A.503, subdivision 2, clause (1) or (3);

(9) to withhold any information, book, paper, or other thing called for by the commissioner for the purpose of an examination;

(10) to obstruct or mislead the commissioner in the execution of the commissioner's duties;

(11) to swear falsely concerning any matter stated under oath; or

(12) to violate the provisions of section 340A.503, subdivision 5, after having been convicted previously of violating section 340A.503, subdivision 5."

Page 13, line 4, delete "11, 12, 13, and 14" and insert "10, 12, 13, 14, and 15"

Page 13, line 5, delete "10" and insert "11"

Reorder the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Murphy moved to amend S.F. No. 2696 as follows:

Page 1, after line 25, insert:

"Section 1. Minnesota Statutes 2002, section 340A.101, is amended by adding a subdivision to read:

Subd. 26a. [SUPERMARKET.] "Supermarket" means a general food store that:

(1) carries a variety of food and other grocery items in each of the following product categories: bread and bakery; dairy; unfrozen, fresh, and prepared meats and poultry; frozen and refrigerated food and beverages; fresh fruits, vegetables, and other produce; shelf-stable food and beverages, including canned and other types of packaged products; staple foodstuffs; cleaning products, paper goods, and other household products; and health and beauty aids; and

(2) occupies a building space with at least 10,000 square feet for the purposes of supermarket operations."

Page 6, after line 1, insert:

"Sec. 5. [340A.4051] [OFF-SALE MINNESOTA-PRODUCED WINE LICENSES.]

Subdivision 1. [LICENSE.] A city, including a city owning and operating a municipal liquor store under section 340A.601, shall issue an off-sale wine license to a supermarket located within the city for the sale of wine produced by a farm winery if the supermarket meets the qualifications in section 340A.402. A county or town authorized to issue an off-sale intoxicating liquor license under section 340A.405, subdivision 2 or 3, shall issue an off-sale wine license to a supermarket

for the sale of wine produced by a farm winery pursuant to the same jurisdictional guidelines and requirements for the issuance of an off-sale intoxicating liquor license as set forth in section 340A.405, subdivisions 2, paragraphs (b) and (c), and 3, provided that the supermarket meets the qualifications in section 340A.402. A license issued under this section is not valid until approved by the commissioner.

Subd. 2. [SALES AUTHORIZED.] A license under this section authorizes only the off-sale of wine produced by a farm winery containing not more than 15.5 percent alcohol by volume for consumption off the licensed premises.

Sec. 6. Minnesota Statutes 2002, section 340A.408, subdivision 3, is amended to read:

Subd. 3. [INTOXICATING LIQUOR; OFF-SALE.] (a) Except as provided in paragraph (c), the annual license fee for an off-sale intoxicating liquor license issued by a city, when combined with any occupation tax imposed by the city, may not exceed the following limits:

- (1) \$1,000 for cities of the first class;
- (2) \$200 for cities over 10,000 other than cities of the first class;
- (3) \$150 for cities of between 5,000 and 10,000 population; and
- (4) \$100 for cities with less than 5,000 population.

(b) The annual license fee for an off-sale intoxicating liquor license issued by a county or town shall not exceed \$500.

(c) The annual license fee for an off-sale wine license issued under section 340A.4051 is the fee set by the issuing city, county, or town. The fee may not exceed the amount reasonably necessary to recover the issuing authority's costs to administer and enforce the provisions of this chapter with respect to licensed supermarkets. In addition, the commissioner may charge an annual fee for an off-sale wine license issued under section 340A.4051 in an amount reasonably necessary to recover the department's costs to administer and enforce the provisions of this chapter with respect to licensed supermarkets.

Sec. 7. Minnesota Statutes 2002, section 340A.412, subdivision 3, is amended to read:

Subd. 3. [LIMITATIONS ON ISSUANCE OF LICENSES TO ONE PERSON OR PLACE.] (a) A municipality may not issue more than one off-sale intoxicating liquor license to any one person or for any one place.

(b) A municipality may not allow the same business name to be used by more than one of its off-sale intoxicating liquor licensees.

(c) For purposes of this subdivision, "person" means:

- (1) a holder of an off-sale intoxicating liquor license;
- (2) an officer, director, agent, or employee of a holder of an off-sale intoxicating liquor license;

or

(3) an affiliate of a holder of an off-sale intoxicating liquor license, regardless of whether the affiliation is corporate or by management, direction, or control.

(d) This subdivision does not apply to off-sale wine licenses issued under section 340A.4051."

Page 7, after line 30, insert:

"Sec. 9. Minnesota Statutes 2002, section 340A.413, subdivision 5, is amended to read:

Subd. 5. [OFF-SALE LICENSES.] No off-sale intoxicating liquor license may be issued in any city, other than an off-sale wine license under section 340A.4051, except as provided in this section, in excess of the following limits:

- (1) in cities of the first class, not more than one off-sale license for each 5,000 population; and
 (2) in all other cities the limit shall be determined by the governing body of the city."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Pursuant to Rule 41, Senator Stumpf moved that he be excused from voting on the Murphy amendment to S.F. No. 2696. The motion prevailed.

CALL OF THE SENATE

Senator Kleis imposed a call of the Senate for the balance of the proceedings on S.F. No. 2696. The Sergeant at Arms was instructed to bring in the absent members.

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

The roll was called, and there were yeas 15 and nays 51, as follows:

Those who voted in the affirmative were:

Anderson	Kierlin	Langseth	Murphy	Pariseau
Dibble	Kiscaden	Larson	Ourada	Saxhaug
Kelley	Kleis	Marko	Pappas	Scheid

Those who voted in the negative were:

Bachmann	Frederickson	LeClair	Ortman	Skoglund
Bakk	Gaither	Limmer	Pogemiller	Solon
Belanger	Hann	Lourey	Ranum	Sparks
Berglin	Higgins	Marty	Reiter	Tomassoni
Betzold	Hottinger	McGinn	Rest	Vickerman
Chaudhary	Johnson, D.E.	Metzen	Robling	Wergin
Cohen	Johnson, D.J.	Michel	Rosen	Wiger
Day	Jungbauer	Moua	Ruud	
Dille	Knutson	Neuville	Sams	
Fischbach	Koering	Nienow	Senjem	
Foley	Kubly	Olson	Skoe	

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

Senator Hottinger moved to amend S.F. No. 2696 as follows:

Page 12, lines 2, 4, and 5, delete the new language

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 41 and nays 25, as follows:

Those who voted in the affirmative were:

Bachmann	Frederickson	LeClair	Olson	Skoglund
Belanger	Hann	Limmer	Ranum	Solon
Berglin	Hottinger	Lourey	Reiter	Stumpf
Betzold	Johnson, D.J.	Marko	Rest	Wergin
Cohen	Jungbauer	Marty	Robling	Wiger
Day	Knutson	McGinn	Rosen	
Dille	Kubly	Michel	Ruud	
Fischbach	Langseth	Neuville	Sams	
Foley	Larson	Nienow	Senjem	

Those who voted in the negative were:

Anderson	Dibble	Johnson, D.E.	Kiscaden	Metzen
Bakk	Gaither	Kelley	Kleis	Moua
Chaudhary	Higgins	Kierlin	Koering	Murphy

Ortman	Pappas	Saxhaug	Skoe	Tomassoni
Ourada	Pogemiller	Scheid	Sparks	Vickerman

The motion prevailed. So the amendment was adopted.

S.F. No. 2696 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 54 and nays 10, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Berglin	Limmer	Ortman	Reiter	Skoglund
Dille	Neuville	Ranum	Rest	Vickerman

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

MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 26, Senator Johnson, D.E., Chair of the Committee on Rules and Administration, designated S.F. No. 2335 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 2335: A bill for an act relating to transportation; modifying appropriations; modifying provisions relating to use of real estate appraisal data, snowmobile operation, toll facilities, operation of hybrid and inherently low emission vehicles, highway safety rest areas and travel information centers, lane observance, driver licenses, designation of natural preservation routes, establishment of cartways, vehicle weight and load restrictions, speed limits in school zones; prohibiting certain uses of traffic signal preemption transmitters, telephone use by certain drivers, appropriate speed when passing stopped emergency vehicle, railroad grade crossing requirements, public transit crimes, leaving unattended child in motor vehicle, legislative approval of rules concerning deputy registrars, review of plat roadway elements, regulation of motorized scooters, use of booster seats in vehicles, seat belt violations, operation of motor vehicles by peace officer with class D license; prohibiting issuance of driver's license to certain applicants under 18, provisional license limitations, allocation of two-wheeled vehicle endorsement fee, examination of driver license holder who is habitual violator; requiring state aviation plan; creating advisory council on aviation planning; requiring ten-ton county highway system plan; prohibiting closure of highway rest areas; protecting animals in vehicles; authorizing issuance of trunk highway bonds; appropriating money; amending Minnesota Statutes 2002, sections 84.87, subdivision 1; 160.02, by adding subdivisions; 160.08, subdivision 7; 160.276; 160.277; 160.278; 160.28; 160.84, subdivision 9; 160.85, subdivisions 1, 3, 3a, 5; 160.86; 160.88; 161.162, subdivision 2; 161.163, subdivision 1; 161.164, subdivision 2; 161.165, subdivisions 2, 3, 4; 161.166, subdivisions 2, 3; 161.23, subdivision 3; 161.433, subdivision 2; 161.434; 162.021, subdivision 5; 164.08, subdivision 2; 168.33, subdivision 9; 169.01, by adding subdivisions; 169.06, by adding a subdivision; 169.14, subdivisions 2, 3, 4, by adding subdivisions; 169.18, subdivisions 7, 10;

169.685, subdivisions 5, 6, 7; 169.686, subdivisions 1, 3; 169.87, subdivisions 5, 6; 169A.55, by adding a subdivision; 171.02, subdivision 2; 171.05, subdivision 2b, by adding a subdivision; 171.055, subdivisions 1, 2; 171.06, subdivision 2a; 171.07, subdivision 13; 171.13, subdivisions 1, 2, by adding subdivisions; 174.03, by adding a subdivision; 221.0314, subdivision 9; 462.352, by adding a subdivision; 462.358, subdivision 3b, by adding a subdivision; 505.03, subdivision 2; 609.855, subdivision 1, by adding a subdivision; Minnesota Statutes 2003 Supplement, sections 13.44, subdivision 3; 117.036, subdivisions 2, 3, by adding a subdivision; 160.93, subdivision 4, by adding a subdivision; 168.013, subdivision 3; 169.14, subdivision 5a; 169.28, subdivision 1; 169.86, subdivision 5; proposing coding for new law in Minnesota Statutes, chapters 160; 168; 169; 174; 343; repealing Minnesota Statutes 2002, section 174.50, subdivision 4.

Senator Murphy moved to amend S.F. No. 2335 as follows:

Page 6, line 14, after "the" insert "fee" and after "owner" insert "or contract purchaser"

Page 9, line 36, delete "deposit" and insert "credit"

Page 10, line 26, delete "Funds" and insert "Money"

Page 10, line 27, delete "are" and insert "is"

Page 10, line 35, delete "proceeds of" and insert "money in"

Page 32, line 8, delete "final" and insert "specifically approved by law."

Page 32, delete line 9

Page 33, lines 1 and 9, delete "system" and insert "device"

Page 42, line 14, delete "signage" and insert "signs"

Page 42, line 18, delete "such signage" and insert "the signs"

Page 71, line 11, delete "such a" and insert "the"

Page 71, lines 12, 15, and 18, delete "media" and insert "medium"

Page 71, line 14, after "presents" insert "a"

Page 71, line 25, delete "fare media" and insert "a fare medium"

Page 72, delete lines 14 and 15 and insert:

"(e) "Fare medium" means a ticket, smart card, pass, coupon, token, transfer, or other medium sold or distributed"

Page 72, lines 19, 21, 23, and 27, delete "media" and insert "medium"

Page 73, delete section 98

The motion prevailed. So the amendment was adopted.

Senator Murphy then moved to amend S.F. No. 2335 as follows:

Page 65, after line 6, insert:

"Sec. 85. Minnesota Statutes 2002, section 174.52, is amended by adding a subdivision to read:

Subd. 4a. [RURAL ROAD SAFETY ACCOUNT; APPROPRIATION.] (a) A rural road safety account is established in the local road improvement fund. Money in the account is annually appropriated to the commissioner of transportation for expenditure as specified in this subdivision. Money in the account must be used as grants to counties to assist in paying the costs of capital improvement projects on county state-aid highways that are intended primarily to reduce traffic crashes, deaths, injuries, and property damage.

(b) The commissioner shall establish procedures for counties to apply for grants from the rural road safety account and criteria to be used to select projects for funding. The commissioner shall establish these procedures and criteria in consultation with representatives appointed by the Association of Minnesota Counties. Eligibility for project selection must be based on the ability of each proposed project to reduce the frequency and severity of crashes.

(c) Money in the account must be allocated in each fiscal year as follows:

(1) one-half of money in the account must be used for projects in the counties of Anoka, Chisago, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington; and

(2) the remainder must be used for projects elsewhere in the state.

Sec. 86. Minnesota Statutes 2002, section 174.52, subdivision 5, is amended to read:

Subd. 5. [GRANT PROCEDURES AND CRITERIA.] The commissioner shall establish procedures for statutory or home rule charter cities, towns, and counties to apply for grants or loans from the ~~fund~~ trunk highway corridor projects account and local road account for routes of regional significance and criteria to be used to select projects for funding. The commissioner shall establish these procedures and criteria in consultation with representatives appointed by the Association of Minnesota Counties, League of Minnesota Cities, and Minnesota Township Officers Association. The criteria for determining project priority and the amount of a grant or loan must be based upon consideration of:

(1) the availability of other state, federal, and local funds;

(2) the regional significance of the route;

(3) effectiveness of the proposed project in eliminating a transportation system deficiency;

(4) the number of persons who will be positively impacted by the project;

(5) the project's contribution to other local, regional, or state economic development or redevelopment efforts; and

(6) ability of the local unit of government to adequately provide for the safe operation and maintenance of the facility upon project completion."

Reorder the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Murphy then moved to amend S.F. No. 2335 as follows:

Page 42, line 28, after "safety" insert ". The absence of the parent, guardian, or responsible person from the vicinity of the motor vehicle, shall not in itself, be deemed to create a significant risk to a child's health or safety"

The motion prevailed. So the amendment was adopted.

Senator Murphy then moved to amend S.F. No. 2335 as follows:

Page 73, after line 14, insert:

"Sec. 96. [TOWN ROAD SIGN REPLACEMENT PROGRAM.]

Subdivision 1. [SCOPE OF PROGRAM.] The commissioner of transportation shall develop and implement a town road sign replacement program to:

(1) inventory all county and town road signs;

- (2) evaluate town road signs for compliance with applicable sign standards;
- (3) remove and replace town road signs as the commissioner deems necessary; and
- (4) establish an ongoing sign maintenance program.

Subd. 2. [SIGN STANDARDS.] Standards for sign removal, replacement, and installation must conform to applicable federal, state, and local safety standards, including retroreflectivity standards and other provisions of the Manual on Uniform Traffic Control Devices adopted by the commissioner.

Subd. 3. [LOCAL GOVERNMENT PARTICIPATION.] The commissioner may establish conditions for local government participation in the town road sign replacement program, including, but not limited to, involvement of county engineers, and establishment and maintenance by the local government of a database of county and town road signs.

Subd. 4. [USE OF APPROPRIATIONS.] The commissioner may utilize the proceeds of state appropriations for the town road sign replacement program to match federal funds. The commissioner may establish a pilot program in consultation with the Minnesota Association of Townships.

[EFFECTIVE DATE.] This section takes effect on the effective date of a state or federal appropriation for the town road sign replacement program.

Sec. 97. [REVISOR'S INSTRUCTION.]

(a) The revisor of statutes shall include in Minnesota Statutes the uncoded permanent law in section 96, relating to a town road sign replacement program, when that section becomes effective."

Page 73, delete line 15

Page 73, line 16, before "The" insert "(b)"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Reiter moved to amend S.F. No. 2335 as follows:

Page 73, after line 14, insert:

"Sec. 96. [CONSTITUTIONAL AMENDMENT PROPOSED.]

An amendment to the Minnesota Constitution is proposed to the people. If the amendment is adopted, a section must be added to article XIV to read:

Sec. 12. Any authorization by the legislature for the collection of tolls on highways or highway lanes constructed after January 1, 2005, must provide that tolls may be collected only until all costs related to the construction of the highway or lanes, including payment of principal and interest on any debt incurred therefore, have been paid.

Sec. 97. [SUBMISSION TO VOTERS.]

The constitutional amendment proposed under section 96 must be submitted to the people at the November 2004 general election. The question submitted must be:

"Shall the Minnesota Constitution be amended to allow the collection of tolls on highways or highway lanes constructed after January 1, 2005, only until all costs related to the construction of the highway or lanes, including debt service, have been paid?"

Yes.....
No....." "

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Murphy questioned whether the amendment was germane pursuant to Rule 35.3.

The President ruled that the amendment was not germane.

Senator Reiter moved that Rule 35.3 be suspended to allow her to offer her amendment.

CALL OF THE SENATE

Senator Betzold imposed a call of the Senate for the balance of the proceedings on S.F. No. 2335. The Sergeant at Arms was instructed to bring in the absent members.

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

The roll was called, and there were yeas 26 and nays 41, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

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

The motion did not prevail.

Senator Murphy moved to amend S.F. No. 2335 as follows:

Page 32, after line 3, insert:

"Sec. 45. Minnesota Statutes 2002, section 168.187, is amended by adding a subdivision to read:

Subd. 27. [PROHIBITED OPERATION.] The commissioner of public safety shall refuse to issue a vehicle registration, license plate, or permit to a vehicle licensed under this section if the vehicle is assigned to a commercial motor carrier who has been prohibited from operating in interstate commerce by a federal agency with authority to do so under federal law.

The commissioner of public safety may revoke the registration of a vehicle licensed under this section if the vehicle is assigned to a commercial motor carrier who has been prohibited from operating in interstate commerce by a federal agency with authority to do so under federal law.

If the prohibition by the federal agency is rescinded, the commissioner of public safety may reinstate a vehicle registration under this section if registration taxes and fees have been paid."

Page 32, after line 9, insert:

"Sec. 47. Minnesota Statutes 2002, section 168A.11, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION REQUIREMENTS UPON SUBSEQUENT TRANSFER.] (a) ~~If A dealer who buys a vehicle and holds it for resale and procures the certificate of title from the owner, and complies with subdivision 2 hereof, the dealer need not apply for a certificate of title, but.~~ Upon transferring the vehicle to another person other than by the creation of a security interest, the dealer shall promptly execute the assignment and warranty of title by a dealer, showing the names and addresses of the transferee and of any secured party holding a security interest created or reserved at the time of the resale, and the date of the security agreement in the spaces provided therefor on the certificate of title or secure reassignment.

(b) With respect to motor vehicles subject to the provisions of section 325E.15, the dealer shall also, in the space provided therefor on the certificate of title or secure reassignment, state the true cumulative mileage registered on the odometer or that the exact mileage is unknown if the odometer reading is known by the transferor to be different from the true mileage.

(c) The transferee shall complete the application for title section on the certificate of title or separate title application form prescribed by the department. The dealer shall mail or deliver the certificate to the registrar or deputy registrar with the transferee's application for a new certificate and appropriate taxes and fees, within ten business days.

(d) With respect to vehicles sold to buyers who will remove the vehicle from this state, the dealer shall remove any license plates from the vehicle, issue a 31-day temporary permit pursuant to section 168.091, and notify the registrar within 48 hours of the sale that the vehicle has been removed from this state. The notification must be made in an electronic format prescribed by the registrar. The dealer may contract with a deputy registrar for the notification of sale to an out-of-state buyer. The deputy registrar may charge a fee of \$7 per transaction to provide this service."

Page 55, after line 27, insert:

"Sec. 74. Minnesota Statutes 2002, section 171.05, subdivision 1, is amended to read:

Subdivision 1. [PERSON 18 OR MORE YEARS OF AGE.] Any person who is 18 or more years of age and who, except for a lack of instruction in operating a motor vehicle, would otherwise be qualified to obtain a class D driver's license under this chapter, may apply for an instruction permit and the department shall issue such permit entitling the applicant, while having such permit in immediate possession, to drive a motor vehicle for which a class D license is valid upon the highways for a period of ~~one year~~ two years, but such person must be accompanied by an adult licensed driver who is actually occupying a seat beside the driver. Any license of a lower class may be used as an instruction permit for a higher class for a period of six months after passage of the written test or tests required for the higher class and when the licensee is accompanied by and receiving instruction from a holder of the appropriate higher class license. A copy of the record of examination taken for the higher class license must be carried by the driver while using such lower class license as an instruction permit."

Page 56, after line 1, insert:

"Sec. 76. Minnesota Statutes 2002, section 171.05, subdivision 2, is amended to read:

Subd. 2. [PERSON LESS THAN 18 YEARS OF AGE.] (a) Notwithstanding any provision in subdivision 1 to the contrary, the department may issue an instruction permit to an applicant who is 15, 16, or 17 years of age and who:

(1) has completed a course of driver education in another state, has a previously issued valid license from another state, or is enrolled in either:

(i) a public, private, or commercial driver education program that is approved by the commissioner of public safety and that includes classroom and behind-the-wheel training; or

(ii) an approved behind-the-wheel driver education program when the student is receiving full-time instruction in a home school within the meaning of sections 120A.22 and 120A.24, the student is working toward a home-school diploma, the student's status as a home-school student has been certified by the superintendent of the school district in which the student resides, and the student is taking home-classroom driver training with classroom materials approved by the commissioner of public safety;

(2) has completed the classroom phase of instruction in the driver education program;

(3) has passed a test of the applicant's eyesight;

(4) has passed a department-administered test of the applicant's knowledge of traffic laws;

(5) has completed the required application, which must be approved by (i) either parent when both reside in the same household as the minor applicant or, if otherwise, then (ii) the parent or spouse of the parent having custody or, in the event there is no court order for custody, then (iii) the parent or spouse of the parent with whom the minor is living or, if items (i) to (iii) do not apply, then (iv) the guardian having custody of the minor or, in the event a person under the age of 18 has no living father, mother, or guardian, or is married or otherwise legally emancipated, then (v) the applicant's adult spouse, adult close family member, or adult employer; provided, that the approval required by this clause contains a verification of the age of the applicant and the identity of the parent, guardian, adult spouse, adult close family member, or adult employer; and

(6) has paid the fee required in section 171.06, subdivision 2.

(b) The instruction permit is valid for ~~one year~~ two years from the date of application and may be renewed upon payment of a fee equal to the fee for issuance of an instruction permit under section 171.06, subdivision 2."

Page 70, after line 33, insert:

"Sec. 96. Minnesota Statutes 2002, section 609.531, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purpose of sections 609.531 to 609.5318, the following terms have the meanings given them.

(a) "Conveyance device" means a device used for transportation and includes, but is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any equipment attached to it. The term "conveyance device" does not include property which is, in fact, itself stolen or taken in violation of the law.

(b) "Weapon used" means a dangerous weapon as defined under section 609.02, subdivision 6, that the actor used or had in possession in furtherance of a crime.

(c) "Property" means property as defined in section 609.52, subdivision 1, clause (1).

(d) "Contraband" means property which is illegal to possess under Minnesota law.

(e) "Appropriate agency" means the Bureau of Criminal Apprehension, the Minnesota Division of Driver and Vehicle Services, the Minnesota State Patrol, a county sheriff's department, the Suburban Hennepin Regional Park District park rangers, the Department of Natural Resources Division of Enforcement, the University of Minnesota Police Department, or a city or airport police department.

(f) "Designated offense" includes:

(1) for weapons used: any violation of this chapter, chapter 152, or chapter 624;

(2) for driver's license or identification card transactions: any violation of section 171.22; and

(3) for all other purposes: a felony violation of, or a felony-level attempt or conspiracy to violate, section 325E.17; 325E.18; 609.185; 609.19; 609.195; 609.21; 609.221; 609.222; 609.223;

609.2231; 609.24; 609.245; 609.25; 609.255; 609.322; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e), and (h) to (j); 609.42; 609.425; 609.466; 609.485; 609.487; 609.52; 609.525; 609.527; 609.528; 609.53; 609.54; 609.551; 609.561; 609.562; 609.563; 609.582; 609.59; 609.595; 609.631; 609.66, subdivision 1e; 609.671, subdivisions 3, 4, 5, 8, and 12; 609.687; 609.821; 609.825; 609.86; 609.88; 609.89; 609.893; 609.895; 617.246; or a gross misdemeanor or felony violation of section 609.891 or 624.7181; or any violation of section 609.324.

(g) "Controlled substance" has the meaning given in section 152.01, subdivision 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 56 and nays 11, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Anderson	Higgins	Marty	Pappas	Ranum
Berglin	Lourey	Moua	Pogemiller	Tomassoni
Dibble				

The motion prevailed. So the amendment was adopted.

Senator Murphy then moved to amend S.F. No. 2335 as follows:

Page 74, after line 30, insert:

"Sec. 3. [HOLMAN FIELD APPROPRIATION.]

Notwithstanding Minnesota Statutes, section 360.305, subdivision 6, \$6,000,000 is appropriated to the commissioner of transportation from the state airports fund for transfer to the Metropolitan Airports Commission to construct a permanent flood control perimeter dike along the south and east edges of the St. Paul Downtown Airport/Holman Field. This appropriation is available for transfer until June 30, 2007. The commissioner may not transfer more than \$3,000,000 in any fiscal year."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Murphy then moved to amend the sixth Murphy amendment to S.F. No. 2335 as follows:

Page 1, line 11, delete "\$3,000,000" and insert "\$2,000,000"

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

The question recurred on the adoption of the sixth Murphy amendment, as amended. The motion prevailed. So the amendment, as amended, was adopted.

Senator Johnson, D.E. moved to amend S.F. No. 2335 as follows:

Page 43, after line 31, insert:

"Sec. 61. Minnesota Statutes 2002, section 169.448, is amended by adding a subdivision to read:

Subd. 4. [DAY ACTIVITY CENTER BUSES.] Notwithstanding subdivision 1, a vehicle used to transport adults to and from a day activity center may be equipped with prewarning flashing amber signals and a stop-signal arm, and the operator of the vehicle may activate this equipment under the following circumstances:

- (1) the operator possesses a commercial driver's license with a school bus endorsement;
- (2) the vehicle is engaged in picking up or dropping off adults at locations predesignated by the day activity center that owns or leases the bus;
- (3) the vehicle is identified as a "day activity center bus" in letters at least eight inches high on the front and rear top of the bus; and
- (4) the name, address, and telephone number of the owner and operator of the bus is identified on each front door of the bus in letters not less than three inches high.

The provisions of section 169.444 relating to duties of care of a motorist to a school bus, and violations thereof, apply to a vehicle described in this section when the vehicle is operated in conformity with this subdivision. The provisions of section 169.443 relating to bus driver's duties apply to a vehicle described in this section except those which by their nature have no application."

Renumber the sections in sequence and correct the internal references

Amend the amendment title accordingly

The motion prevailed. So the amendment was adopted.

Senator Berglin moved to amend S.F. No. 2335 as follows:

Page 43, after line 31, insert:

"Sec. 61. Minnesota Statutes 2002, section 169.65, is amended to read:

169.65 [SPECIFICATIONS FOR LIGHTING AND OTHER DEVICES.]

(a) The commissioner of public safety is hereby authorized and required to adopt and enforce standard specifications as to the amount, color and direction of light to be emitted or reflected by lighting devices and as to the general construction and mounting on the vehicle for compliance with the requirements and limitations of this chapter.

(b) No person shall have for sale, sell, or offer for sale for use upon or as a part of the equipment of a vehicle, trailer or semitrailer, or use upon any such vehicle, any headlamp, auxiliary driving lamp, rear lamp, signal lamp, spot lamp, clearance lamp, marker lamp or reflector, or parts of any of the foregoing, unless of a type which has been submitted to and approved by the commissioner of public safety.

(c) No person shall have for sale, sell, or offer for sale for use upon or as a part of the equipment of a vehicle, trailer or semitrailer, or bicycle, or use upon any such vehicle, any lamp or device mentioned in this section, which has been approved by the commissioner of public safety unless such lamp or device bears thereon the trademark or name and model designation all permanently marked under which it is approved so as to be legible when installed.

(d) No person shall use upon any vehicle, trailer or semitrailer or bicycle any lamps mentioned in this section unless such lamps are equipped with bulbs of a type approved by the commissioner of public safety, having a rated candle power, and are mounted and adjusted as to focus and aim in accordance with instructions of the commissioner of public safety.

(e) The commissioner of public safety is hereby authorized to approve or disapprove lighting devices.

(f) The commissioner of public safety is hereby required to approve or disapprove any lighting device, of a type on which approval is specifically required in this chapter, within a reasonable time after such device has been submitted.

(g) The commissioner of public safety is further authorized to set up a procedure which shall be followed when any device is submitted for approval.

(h) The commissioner of public safety is authorized to set and collect a reasonable fee for the testing and approval of all types of devices upon which approval is required in this chapter. Such fee may be sufficient in amount to reimburse the Department of Public Safety for all costs connected with such test and approval.

(i) The commissioner of public safety, upon approving any such lamp or device, shall issue to the applicant a certificate of approval, together with any instructions determined by the commissioner of public safety.

(j) The commissioner of public safety shall publish lists of all lamps and devices by name and type which have been approved by the commissioner of public safety, together with instructions as to the permissible candlepower rating of the bulbs which the commissioner of public safety has determined for use therein and such other instructions as to adjustment as the commissioner of public safety may deem necessary. No person shall sell for use or use on any vehicle any reconvered lamp or any device redesigned for a use other than for which it was originally approved unless authorized by the commissioner of public safety.

(k) A purchaser of equipment described in this section may maintain a cause of action against the seller for consequential damages arising from the purchase and use of the equipment."

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 23 and nays 43, as follows:

Those who voted in the affirmative were:

Anderson	Foley	Langseth	Pogemiller	Stumpf
Berglin	Higgins	Lourey	Ranum	Vickerman
Chaudhary	Hottinger	Marty	Rest	Wiger
Cohen	Johnson, D.E.	Moua	Solon	
Dibble	Kubly	Pappas	Sparks	

Those who voted in the negative were:

Bachmann	Hann	Larson	Nienow	Sams
Bakk	Johnson, D.J.	LeClair	Olson	Saxhaug
Belanger	Jungbauer	Limmer	Ortman	Scheid
Betzold	Kelley	Marko	Ourada	Senjem
Day	Kierlin	McGinn	Pariseau	Skoe
Dille	Kiscaden	Metzen	Reiter	Tomassoni
Fischbach	Kleis	Michel	Robling	Wergin
Frederickson	Knutson	Murphy	Rosen	
Gaither	Koering	Neuville	Ruud	

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

Senator Jungbauer moved to amend S.F. No. 2335 as follows:

Page 66, after line 13, insert:

"Sec. 88. [360.046] [REQUIREMENTS FOR CLOSURE OF MUNICIPAL AIRPORT.]

Subdivision 1. [DEFINITION OF MUNICIPAL AIRPORT.] For the purposes of this section, "municipal airport" is an airport owned by a county, city, town, or joint powers board within the meaning of section 360.042, exclusive of an airport formed and operated by the Metropolitan Airports Commission pursuant to sections 473.601 to 473.680.

Subd. 2. [NOTICE OF INTENT TO CLOSE PROVIDED TO COMMISSIONER.] The owner of a municipal airport shall provide written notice to the commissioner of intent to close the airport. Notice must be provided to the commissioner before or immediately upon cessation of operations at the airport.

Subd. 3. [PRESERVATION OF AIRPORT PROPERTY; PENALTY.] For 120 days following receipt by the commissioner of the notice described in subdivision 2, the municipality may not abandon, significantly alter, demolish, or convey airport property. A municipality in violation must be assessed a civil penalty of \$1,000 for each day of the 120-day period that it remains in violation. Proceeds of the penalty must be deposited in the state airports fund.

Subd. 4. [PUBLIC NOTICE AND HEARING.] The owner of a municipal airport shall schedule a public hearing to take place within 60 days following the giving of notice to the commissioner of intent to close. The owner of the airport shall provide public notice within the municipality served by the airport a minimum of 21 days before the hearing. At the hearing, the municipality shall present information concerning the airport closing, and the public must have the opportunity to comment.

Subd. 5. [IMPACT EVALUATION.] Before the public hearing, the commissioner shall prepare a written evaluation of the impact on the airport system of the closure of the municipal airport. The commissioner shall make the evaluation available to the municipality and to the public in advance of the hearing."

Reorder the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Saxhaug moved to amend S.F. No. 2335 as follows:

Pages 28 to 31, delete section 43

Page 47, line 20, delete everything after "products"

Page 47, delete lines 21 and 22

Page 47, line 23, delete everything before "to" and insert ", including wood chips, by the most direct route"

Reorder the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Saxhaug then moved to amend S.F. No. 2335 as follows:

Page 51, line 31, after "fund" insert "for costs related to administering the permit program and inspecting and posting bridges" and delete "and"

Page 52, after line 3, insert:

"(iii) money in excess of the amounts needed for the purposes stated in items (i) and (ii) must be appropriated to the commissioner to reimburse local costs of maintenance and repair of county highways and town roads impacted by vehicles described in section 169.8261. The commissioner shall define criteria and an application process for reimbursement under this clause; and"

Page 52, line 4, delete everything after "years" and insert a colon

Page 52, delete line 5 and insert:

"(i) the first \$50,000 in each fiscal year must be deposited in the trunk highway fund and appropriated to the commissioner for costs relating to administering the permit program; and

(ii) money in excess of the amount needed for the purpose stated in item (i) must be appropriated to the commissioner to reimburse local costs of maintenance and repair of county highways and town roads impacted by vehicles described in section 169.8261."

The motion prevailed. So the amendment was adopted.

Senator Knutson moved to amend S.F. No. 2335 as follows:

Page 32, delete line 13

Page 32, line 14 delete everything before the period and insert "device with handlebars and two ten-inch or smaller diameter wheels that is designed to be stood or sat upon by the operator, and is powered by an internal combustion engine or electric motor that is capable of propelling the device with or without human propulsion"

Page 32, line 15, delete everything after the first comma and insert "a motorized bicycle, an electric-assisted bicycle, or a motorcycle"

The motion prevailed. So the amendment was adopted.

Senator Solon moved to amend S.F. No. 2335 as follows:

Page 74, after line 30, insert:

"Sec. 3. [PORT DEVELOPMENT GRANT.]

Notwithstanding Minnesota Statutes, section 457A.02, the commissioner may grant up to \$100,000 of the funds available in the port development assistance program to the Duluth Port Authority to determine the cause of freshwater corrosion of harbor sheet piling, provided state funds are matched on a dollar-for-dollar basis by nonstate funds."

Reorder the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Kiscaden moved to amend S.F. No. 2335 as follows:

Page 2, line 37, strike "paragraph" and insert "paragraphs" and after "(a)" insert "and (b)"

The motion prevailed. So the amendment was adopted.

Senator Kiscaden then moved to amend S.F. No. 2335 as follows:

Page 73, after line 14, insert:

"Sec. 96. [REPORT ON DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY ACQUISITION PRACTICES.]

The commissioner of administration, in cooperation with an independent consultant, shall

review and report on Department of Transportation right-of-way acquisition practices, including use of eminent domain. The report shall include, but not be limited to:

- (1) acquisition timeline;
- (2) department practices relating to acquisition through direct purchase, including offers and negotiations;
- (3) acquisition through eminent domain, including comparison of condemnation awards with original offers;
- (4) department’s use of private consultants;
- (5) appraisal process, including cost, disclosure, sharing, and reimbursement;
- (6) excess acquisition and subsequent disposition of property;
- (7) department’s use of quick-take procedure; and
- (8) record keeping and compliance with data practices laws.

The report must be presented to the chairs of the house and senate committees having jurisdiction over transportation policy no later than January 14, 2005."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Kubly moved to amend S.F. No. 2335 as follows:

Page 75, after line 2, insert:

"Sec. 4. [MAINTENANCE GARAGE AND STREET REPAIR.]

\$635,000 is appropriated from the bond proceeds fund to the commissioner of employment and economic development for a grant to the city of Buffalo Lake to design, construct, furnish, and equip a municipal maintenance garage and reconstruct city streets damaged by a tornado.

Sec. 5. [BOND SALE AUTHORIZATION.]

To provide the money appropriated in section 4 from the bond proceeds fund, the commissioner of finance shall sell and issue bonds of the state in an amount up to \$635,000 in the manner, upon the terms, and with the effect prescribed by Minnesota Statutes, sections 16A.631 to 16A.675, and by the Minnesota Constitution, article XI, sections 4 to 7."

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 61 and nays 5, as follows:

Those who voted in the affirmative were:

Anderson	Dille	Kelley	Limmer	Olson
Bachmann	Fischbach	Kierlin	Lourey	Ortman
Bakk	Foley	Kiscaden	Marko	Pappas
Belanger	Frederickson	Kleis	Marty	Pogemiller
Berglin	Gaither	Knutson	McGinn	Ranum
Betzold	Hann	Koering	Metzen	Rest
Chaudhary	Higgins	Kubly	Michel	Robling
Cohen	Hottinger	Langseth	Moua	Rosen
Day	Johnson, D.E.	Larson	Murphy	Sams
Dibble	Johnson, D.J.	LeClair	Neuville	Saxhaug

Scheid
Senjem
Skoe

Skoglund
Solon

Sparks
Stumpf

Tomassoni
Vickerman

Wergin
Wiger

Those who voted in the negative were:

Nienow

Ourada

Pariseau

Reiter

Ruud

The motion prevailed. So the amendment was adopted.

Senator McGinn moved to amend S.F. No. 2335 as follows:

Page 33, after line 19, insert:

"Sec. 49. Minnesota Statutes 2002, section 169.13, is amended by adding a subdivision to read:

Subd. 2a. [UNLAWFUL SPEED CONTEST.] (a) As used in this subdivision, "speed contest" means a motor vehicle race against another motor vehicle, a clock, or other timing device. However, "speed contest" does not include events in which the time to cover a prescribed route is measured, but where the motor vehicle does not exceed the speed limits.

(b) A person who drives a motor vehicle in a speed contest on a public roadway or who organizes or otherwise facilitates a speed contest on a public roadway is guilty of a misdemeanor.

(c) A person who observes, watches, or otherwise acts as a spectator to a speed contest that is illegal under this subdivision is guilty of a petty misdemeanor.

(d) This subdivision does not apply to motor sports events sanctioned by an appropriate entity where public roadways, public parking lots, public driveways, and public lands, including, but not limited to, lakes, streams, and rivers are temporarily closed to the public for use as a motor sports course.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to acts committed on or after that date."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Murphy moved to amend the McGinn amendment to S.F. No. 2335 as follows:

Page 1, delete lines 14 to 17

Page 1, line 17, delete "(d)" and insert "(c)"

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

The question recurred on the adoption of the McGinn amendment, as amended. The motion prevailed. So the amendment, as amended, was adopted.

Senator Ranum moved to amend S.F. No. 2335 as follows:

Page 63, line 10, delete "except where"

Page 63, line 11, delete everything before the colon

Page 63, line 24, after the semicolon, insert "and"

Page 63, line 26, delete the semicolon and insert a period

Page 63, delete lines 27 to 32

The motion prevailed. So the amendment was adopted.

Senator Wiger moved to amend S.F. No. 2335 as follows:

Page 66, line 9, after "to" insert ":

(1)"

Page 66, line 13, after "farm" insert "; or

(2) a licensed hunter in possession of applicable licenses and permits who is engaged in hunting activities at or within five miles of a hunting site during the legal season for this hunting activity"

The motion prevailed. So the amendment was adopted.

Senator Tomassoni moved to amend S.F. No. 2335 as follows:

Pages 46 and 47, delete sections 64 and 65

Page 56, delete section 73

Page 58, lines 9 to 18, reinstate the stricken language

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 39, as follows:

Those who voted in the affirmative were:

Bachmann	Hann	LeClair	Ortman	Stumpf
Bakk	Johnson, D.J.	Limmer	Ourada	Tomassoni
Chaudhary	Kierlin	Metzen	Pariseau	Vickerman
Day	Kiscaden	Neuville	Reiter	
Fischbach	Koering	Nienow	Saxhaug	
Gaither	Kubly	Olson	Sparks	

Those who voted in the negative were:

Anderson	Frederickson	Larson	Pappas	Scheid
Belanger	Higgins	Lourey	Pogemiller	Senjem
Berglin	Hottinger	Marko	Ranum	Skoe
Betzold	Jungbauer	Marty	Rest	Skoglund
Cohen	Kelley	McGinn	Robling	Solon
Dibble	Kleis	Michel	Rosen	Wergin
Dille	Knutson	Moua	Ruud	Wiger
Foley	Langseth	Murphy	Sams	

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

Senator Wiger moved to amend S.F. No. 2335 as follows:

Page 3, after line 4, insert:

"Sec. 2. Minnesota Statutes 2002, section 65B.28, subdivision 2, is amended to read:

Subd. 2. [ACCIDENT PREVENTION COURSE; RULES.] The commissioner of public safety shall adopt rules establishing and regulating a motor vehicle accident prevention course for persons 55 years old and older. The rules must, at a minimum, include provisions:

- (1) establishing curriculum requirements;
- (2) establishing the number of hours required for successful completion of the course; ~~and~~
- (3) allowing for recognition of courses taken in other states with approved curriculum substantially similar to that established in Minnesota; and
- (4) providing for the issuance of a course completion certification and requiring its submission to an insured as evidence of completion of the course."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Murphy moved to amend the Wiger amendment to S.F. No. 2335 as follows:

Page 1, line 14, delete "similar" and insert "equivalent"

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

Pursuant to Rule 41, Senator Kleis moved that he be excused from voting on the Wiger amendment to S.F. No. 2335. The motion prevailed.

The question recurred on the adoption of the Wiger amendment, as amended. The motion prevailed. So the amendment, as amended, was adopted.

Senator Kiscaden moved to amend S.F. No. 2335 as follows:

Page 68, after line 21, insert:

"Sec. 91. Minnesota Statutes 2002, section 473.604, subdivision 1, is amended to read:

Subdivision 1. [COMPOSITION.] The commission consists of:

(1) the mayor of each of the cities, or a qualified voter appointed by the mayor, for the term of office as mayor;

(2) eight members, appointed by the governor from each of the following agency districts:

(i) district A, consisting of council districts 1 and 2;

(ii) district B, consisting of council districts 3 and 4;

(iii) district C, consisting of council districts 5 and 6;

(iv) district D, consisting of council districts 7 and 8;

(v) district E, consisting of council districts 9 and 10;

(vi) district F, consisting of council districts 11 and 12;

(vii) district G, consisting of council districts 13 and 14; and

(viii) district H, consisting of council districts 15 and 16.

Each member shall be a resident of the district represented. Before making an appointment, the governor shall consult with each member of the legislature from the district for which the member is to be appointed, to solicit the legislator's recommendation on the appointment;

(3) ~~four~~ six members appointed by the governor ~~from outside of the metropolitan area~~ to reflect fairly the various regions and interests throughout the state that are affected by the operation of the commission's major airport and airport system. ~~Two of these members must be residents of statutory or home rule charter cities, towns, or counties containing an airport designated by the commissioner of transportation as a key airport. The other two must be residents of statutory or home rule charter cities, towns, or counties containing an airport designated by the commissioner of transportation as an intermediate airport~~ These six members must be appointed as follows:

(i) one member who resides in the area served by the key airport in St. Cloud;

(ii) one member who resides in the area served by the key airport in Rochester;

(iii) one member who resides in the area served by the key airport in Duluth;

(iv) one member who resides in a community located along a core flight track used by Minneapolis-St. Paul International Airport; and

(v) two members who reside in statutory or home rule charter cities, towns, or counties containing an airport designated by the commissioner of transportation as an intermediate airport.

The members described in items (i) to (iv) must be appointed by the governor as follows: one for a term of one year, one for a term of two years, one for a term of three years, and one for a term of four years. ~~All of the terms start~~ beginning on July 1, 1989 ~~2004~~. The successors of each member must be appointed to four-year terms commencing on the first Monday in January of each fourth year after the expiration of the original term. Before making an appointment, the governor shall consult each member of the legislature representing the municipality or county from which the member is to be appointed, to solicit the legislator's recommendation on the appointment; and

(4) a chair appointed by the governor for a term of four years. The chair may be removed at the pleasure of the governor."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

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

Senator Rosen moved to amend S.F. No. 2335 as follows:

Page 47, after line 16, insert:

"Sec. 66. Minnesota Statutes 2002, section 169.81, is amended by adding a subdivision to read:

Subd. 3e. [ARTICULATED BUSES.] Notwithstanding subdivision 2, a motor carrier of passengers registered under section 221.0252 may operate without a permit an articulated bus of up to 61 feet in length."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Bakk moved to amend S.F. No. 2335 as follows:

Page 74, after line 30, insert:

"Subd. 3. [EAST TWO HARBORS RIVER PROJECT.] \$1,262,000 or so much thereof as the commissioner of transportation determines is necessary, is appropriated to the commissioner of transportation from the trunk highway bond proceeds account for the state share of the East Two Rivers project in or near the city of Tower, including replacement of the marked Trunk Highway 169 bridge over East Two Rivers, demolition of the present marked Trunk Highway 135 bridge over East Two Rivers, and rerouting of marked Trunk Highway 135, and associated trunk highway construction and reconstruction. The commissioner shall not undertake this project unless the commissioner determines that:

(1) the project is essential to the restoration of deepwater access between the city of Tower and Lake Vermilion;

(2) all other essential steps to restore that access have been or will be taken; and

(3) the state trunk highway bond funds will be matched by an equal amount with nonstate funds."

Page 74, line 35, delete "\$18,683,000" and insert "\$19,945,000"

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

Senator Robling moved to amend S.F. No. 2335 as follows:

Page 40, line 1, before the semicolon, insert "or when necessary to allow a vehicle entering or exiting a roadway to merge into the appropriate lane"

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

Senator Pappas moved to amend S.F. No. 2335 as follows:

Pages 47 to 52, delete sections 66 and 67

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 9 and nays 54, as follows:

Those who voted in the affirmative were:

Chaudhary	Dibble	Marko	Ranum	Wiger
Cohen	Kierlin	Pappas	Skoglund	

Those who voted in the negative were:

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

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

S.F. No. 2335 was read the third time, as amended, and placed on its final passage.

Pursuant to Rule 41, Senator Kleis moved that he be excused from voting on S.F. No. 2335. The motion prevailed.

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

The roll was called, and there were yeas 45 and nays 17, as follows:

Those who voted in the affirmative were:

Anderson	Frederickson	Langseth	Nienow	Scheid
Bakk	Higgins	Lourey	Ourada	Skoe
Belanger	Hottinger	Marko	Pappas	Skoglund
Berglin	Jungbauer	Marty	Pogemiller	Solon
Betzold	Kelley	McGinn	Ranum	Sparks
Chaudhary	Kierlin	Metzen	Rest	Stumpf
Cohen	Kiscaden	Michel	Robling	Vickerman
Dibble	Knutson	Murphy	Sams	Wergin
Dille	Kubly	Neuville	Saxhaug	Wiger

Those who voted in the negative were:

Bachmann	Hann	LeClair	Pariseau	Tomassoni
Day	Johnson, D.J.	Limmer	Reiter	
Fischbach	Koering	Moua	Rosen	
Gaither	Larson	Ortman	Senjem	

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

Senator Murphy moved that S.F. No. 2335 be laid on the table. The motion prevailed.

RECESS

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

H.F. No. 2277: Senators Kiscaden, Lourey and Solon.

S.F. No. 2181: Senators Rest, Ranum and Neuville.

Senator Johnson, D.E. moved that the foregoing appointments be approved. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Senator Johnson, D.E. moved that the Senate take up the Consent Calendar. The motion prevailed.

CONSENT CALENDAR

H.F. No. 2052: 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.

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 59 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 26, Senator Johnson, D.E., Chair of the Committee on Rules and Administration, designated H.F. No. 2368 a Special Order to be heard immediately.

SPECIAL ORDER

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.

Senator Skoe moved to amend H.F. No. 2368, the unofficial engrossment, as follows:

Page 12, after line 30, insert:

"Sec. 28. Minnesota Statutes 2002, section 97C.355, subdivision 7, is amended to read:

Subd. 7. [DATES AND TIMES HOUSES MAY REMAIN ON ICE.] (a) Except as provided in paragraph (d), a fish house or dark house may not be on the ice between 12:00 a.m. and one hour before sunrise after the following dates:

(1) the last day of February, for state waters south of a line starting at the Minnesota-North Dakota border and formed by rights-of-way of U.S. Route No. 10, then east along U.S. Route No. 10 to Trunk Highway No. 34, then east along Trunk Highway No. 34 to Trunk Highway No. 200, then east along Trunk Highway No. 200 to U.S. Route No. 2, then east along U.S. Route No. 2 to the Minnesota-Wisconsin border; and

(2) March 15, for other state waters.

A fish house or dark house on the ice in violation of this subdivision is subject to the enforcement provisions of paragraph (b). The commissioner may, by rule, change the dates in this paragraph for any part of state waters. Copies of the rule must be conspicuously posted on the shores of the waters as prescribed by the commissioner.

(b) A conservation officer must confiscate a fish house or dark house in violation of paragraph (a). The officer may remove, burn, or destroy the house. The officer shall seize the contents of the house and hold them for 60 days. If the seized articles have not been claimed by the owner, they may be retained for the use of the division or sold at the highest price obtainable in a manner prescribed by the commissioner.

(c) When the last day of February, under paragraph (a), clause (1), or March 15, under paragraph (a), clause (2), falls on a Saturday, a fish house or dark house may be on the ice between 12:00 a.m. and one hour before sunrise until 12:00 a.m. the following Monday.

(d) A person may have a fish house or dark house on the ice between 12:00 a.m. and one hour before sunrise on waters within the area prescribed in paragraph (a), clause (2), but the house may not be unattended during those hours."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Chaudhary moved to amend H.F. No. 2368, the unofficial engrossment, as follows:

Page 16, after line 16, insert:

"Sec. 36. [ROADSIDE WILDLIFE HABITAT STUDY; REPORT.]

The commissioner of natural resources, in consultation with the commissioner of transportation and other interested persons, shall study and make recommendations to improve and promote wildlife habitat within the right-of-ways of public roads in the state and the impact of those recommendations on public safety. The study must include, but is not limited to, an analysis of current mowing restrictions and any recommendations for changes to those restrictions, under Minnesota Statutes, section 160.232. By January 15, 2005, the commissioner of natural resources shall provide a report of the study and recommendations under this section to the senate and house committees with jurisdiction over natural resource policy and transportation policy."

Re-number the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Wergin moved to amend H.F. No. 2368, the unofficial engrossment, as follows:

Page 13, after line 10, insert:

"Sec. 29. Minnesota Statutes 2002, section 97C.401, is amended by adding a subdivision to read:

Subd. 3. [1837 CEDED TERRITORY FISHERIES COMMITTEE.] Any meeting of the 1837 Ceded Territory Fisheries Committee, created under Protocol No. 1 as a result of Mille Lacs Band v. Minnesota, No. 3-94-1226 (D. Minn. March 29, 1996), must be open to the following attendees:

(1) three representatives of the media, to include one representative from the Lake Mille Lacs area, with two others chosen by lottery conducted by the commissioner of natural resources;

(2) two members of the Lake Mille Lacs Fisheries Input Group;

(3) the chairpersons of the house and senate committees having jurisdiction over natural resources policy or their designees; and

(4) a biologist who is not an employee of the Department of Natural Resources."

Re-number the sections in sequence and correct the internal references

Amend the title accordingly

Senator Skoglund questioned whether the amendment was germane.

The President ruled that the amendment was germane.

CALL OF THE SENATE

Senator Cohen imposed a call of the Senate for the balance of the proceedings on H.F. No. 2368. The Sergeant at Arms was instructed to bring in the absent members.

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

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

Those who voted in the affirmative were:

Bachmann
Bakk

Belanger
Day

Dille
Fischbach

Frederickson
Gaither

Hann
Johnson, D.J.

Jungbauer	Koering	Michel	Ourada	Scheid
Kierlin	Larson	Neuville	Pariseau	Senjem
Kiscaden	LeClair	Nienow	Reiter	Wergin
Kleis	Limmer	Olson	Robling	
Knutson	McGinn	Ortman	Rosen	

Those who voted in the negative were:

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

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

Senator Pappas moved to amend H.F. No. 2368, the unofficial engrossment, as follows:

Pages 1 and 2, delete section 1

Page 15, delete section 34

Page 16, delete section 36

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 35 and nays 31, as follows:

Those who voted in the affirmative were:

Anderson	Foley	Limmer	Moua	Rest
Belanger	Higgins	Lourey	Murphy	Robling
Berglin	Hottinger	Marko	Nienow	Scheid
Betzold	Kelley	Marty	Olson	Senjem
Chaudhary	Kiscaden	McGinn	Pappas	Skoglund
Cohen	Knutson	Metzen	Pogemiller	Solon
Dibble	Langseth	Michel	Ranum	Wiger

Those who voted in the negative were:

Bachmann	Hann	Kubly	Reiter	Tomassoni
Bakk	Johnson, D.E.	Larson	Rosen	Vickerman
Day	Johnson, D.J.	LeClair	Sams	Wergin
Dille	Jungbauer	Neuville	Saxhaug	
Fischbach	Kierlin	Ortman	Skoe	
Frederickson	Kleis	Ourada	Sparks	
Gaither	Koering	Pariseau	Stumpf	

The motion prevailed. So the amendment was adopted.

Senator Pariseau moved that H.F. No. 2368 be laid on the table.

RECONSIDERATION

Having voted on the prevailing side, Senator Robling moved that the vote whereby the Pappas amendment to H.F. No. 2368 was adopted on May 10, 2004, be now reconsidered.

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

The roll was called, and there were yeas 54 and nays 12, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Belanger	Cohen	Marko	Pappas	Scheid
Betzold	Kelley	Metzen	Ranum	Skoglund
Chaudhary	Langseth			

The motion prevailed. So the vote was reconsidered.

The question recurred on the adoption of the Pappas amendment.

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

Those who voted in the affirmative were:

Anderson	Foley	Limmer	Moua	Scheid
Belanger	Higgins	Lourey	Murphy	Senjem
Berglin	Hottinger	Marko	Nienow	Skoglund
Betzold	Kelley	Marty	Pappas	Solon
Chaudhary	Kiscaden	McGinn	Pogemiller	Wiger
Cohen	Knutson	Metzen	Ranum	
Dibble	Langseth	Michel	Rest	

Those who voted in the negative were:

Bachmann	Hann	Kubly	Pariseau	Sparks
Bakk	Johnson, D.E.	Larson	Reiter	Stumpf
Day	Johnson, D.J.	LeClair	Robling	Tomassoni
Dille	Jungbauer	Neuville	Rosen	Vickerman
Fischbach	Kierlin	Olson	Sams	Wergin
Frederickson	Kleis	Ortman	Saxhaug	
Gaither	Koering	Ourada	Skoe	

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

H.F. No. 2368 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 42 and nays 24, as follows:

Those who voted in the affirmative were:

Bachmann	Johnson, D.J.	Limmer	Ourada	Solon
Bakk	Jungbauer	McGinn	Pariseau	Sparks
Day	Kierlin	Metzen	Reiter	Stumpf
Dille	Kleis	Michel	Robling	Tomassoni
Fischbach	Knutson	Murphy	Rosen	Vickerman
Frederickson	Kubly	Neuville	Sams	Wergin
Gaither	Langseth	Nienow	Saxhaug	
Hann	Larson	Olson	Senjem	
Johnson, D.E.	LeClair	Ortman	Skoe	

Those who voted in the negative were:

Anderson	Betzold	Dibble	Hottinger	Koering
Belanger	Chaudhary	Foley	Kelley	Lourey
Berglin	Cohen	Higgins	Kiscaden	Marko

Marty
Moua

Pappas
Pogemiller

Ranum
Rest

Scheid
Skoglund

Wiger

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

MEMBERS EXCUSED

Senator Ruud was excused from the Session of today at 6:15 p.m. Senator Lourey was excused from the Session of today from 6:30 to 7:10 p.m.

ADJOURNMENT

Senator Johnson, D.E. moved that the Senate do now adjourn until 12:00 noon, Tuesday, May 11, 2004. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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