

## STATE OF MINNESOTA

## EIGHTY-SECOND SESSION — 2002

## SEVENTY-FIFTH DAY

SAINT PAUL, MINNESOTA, WEDNESDAY, FEBRUARY 27, 2002

The House of Representatives convened at 3:00 p.m. and was called to order by Steve Sviggum, Speaker of the House.

Prayer was offered by the Reverend Bruce Talso, Brooklyn Park, Minnesota.

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

The roll was called and the following members were present:

Abeler	Dibble	Hilstrom	Larson	Osskopp	Smith
Abrams	Dorman	Hilty	Leighton	Osthoff	Solberg
Anderson, B.	Dorn	Holberg	Lenczewski	Otremba	Stanek
Anderson, I.	Eastlund	Holsten	Leppik	Ozment	Stang
Bakk	Entenza	Howes	Lieder	Paulsen	Swapinski
Bernardy	Erhardt	Huntley	Lindner	Pawlenty	Swenson
Biernat	Erickson	Jacobson	Lipman	Paymar	Sykora
Bishop	Evans	Jaros	Mahoney	Pelowski	Thompson
Blaine	Finseth	Jennings	Mares	Penas	Tingelstad
Boudreau	Folliard	Johnson, J.	Mariani	Peterson	Tuma
Bradley	Fuller	Johnson, R.	Marko	Pugh	Vandever
Buesgens	Gerlach	Johnson, S.	Marquart	Rhodes	Wagenius
Carlson	Gleason	Juhnke	McGuire	Rifenberg	Walker
Cassell	Goodno	Kahn	Milbert	Rukavina	Walz
Clark, J.	Goodwin	Kalis	Molnau	Ruth	Westerberg
Clark, K.	Gray	Kelliher	Mulder	Schumacher	Westrom
Daggett	Greiling	Kielkucki	Mullery	Seagren	Wilkin
Davids	Gunther	Knoblach	Murphy	Seifert	Winter
Davnie	Haas	Koskinen	Ness	Sertich	Wolf
Dawkins	Hackbarth	Krinkie	Nornes	Skoe	Workman
Dehler	Harder	Kubly	Olson	Skoglund	Spk. Sviggum
Dempsey	Hausman	Kuisle	Opatz	Slawik	

A quorum was present.

McElroy was excused.

Wasiluk was excused until 4:05 p.m.

The Chief Clerk proceeded to read the Journal of the preceding day. Osskopp moved that further reading of the Journal be suspended and that the Journal be approved as corrected by the Chief Clerk. The motion prevailed.

## MOTION FOR RECONSIDERATION

Mulder moved that the vote whereby the Bishop motion to reconsider and repass H. F. No. 351, Chapter No. 220, the objections of the Governor notwithstanding, did not prevail on Tuesday, February 26, 2002, be now reconsidered.

A roll call was requested and properly seconded.

The question was taken on the Mulder motion and the roll was called. There were 96 yeas and 30 nays as follows:

Those who voted in the affirmative were:

Abeler	Dempsey	Holsten	Lieder	Paulsen	Solberg
Abrams	Dorman	Howes	Lindner	Pawlenty	Stanek
Anderson, B.	Dorn	Jacobson	Lipman	Paymar	Stang
Anderson, I.	Eastlund	Jaros	Mahoney	Pelowski	Swenson
Bakk	Erhardt	Jennings	Mares	Penas	Sykora
Bishop	Erickson	Johnson, J.	Marquart	Peterson	Tingelstad
Blaine	Finseth	Johnson, R.	Molnau	Rhodes	Tuma
Boudreau	Fuller	Juhnke	Mulder	Rifenberg	Vanderveer
Bradley	Gerlach	Kelliher	Ness	Rukavina	Walz
Buesgens	Goodno	Kielkucki	Nornes	Ruth	Westerberg
Cassell	Goodwin	Knoblach	Olson	Schumacher	Westrom
Clark, J.	Hackbarth	Kubly	Opatz	Seagren	Wilkin
Clark, K.	Harder	Kuisele	Osskopp	Seifert	Winter
Daggett	Hausman	Larson	Osthoff	Sertich	Wolf
Davids	Hilstrom	Lenczewski	Otremba	Skoe	Workman
Dehler	Holberg	Leppik	Ozment	Smith	Spk. Sviggum

Those who voted in the negative were:

Bernardy	Dibble	Gray	Kahn	McGuire	Slawik
Biernat	Entenza	Greiling	Koskinen	Milbert	Swapinski
Carlson	Evans	Hilty	Leighton	Murphy	Thompson
Davnie	Folliard	Huntley	Mariani	Pugh	Wagenius
Dawkins	Gleason	Johnson, S.	Marko	Skoglund	Walker

The motion prevailed.

Bishop and Stanek moved that H. F. No. 351, Chapter No. 220, be now reconsidered and repassed, the objections of the Governor notwithstanding, pursuant to Article IV, Section 23, of the Constitution of the State of Minnesota.

## CALL OF THE HOUSE

On the motion of Lipman and on the demand of 10 members, a call of the House was ordered. The following members answered to their names:

Abeler	Bakk	Blaine	Carlson	Daggett	Dehler
Abrams	Bernardy	Boudreau	Cassell	Davids	Dempsey
Anderson, B.	Biernat	Bradley	Clark, J.	Davnie	Dibble
Anderson, I.	Bishop	Buesgens	Clark, K.	Dawkins	Dorman

Dorn	Harder	Kielkucki	McGuire	Penas	Swapinski
Eastlund	Hausman	Knoblach	Milbert	Peterson	Swenson
Entenza	Hilstrom	Koskinen	Molnau	Pugh	Sykora
Erhardt	Hilty	Krinkie	Mulder	Rhodes	Thompson
Erickson	Holberg	Kubly	Mullery	Rifenberg	Tingelstad
Evans	Holsten	Kuisle	Murphy	Rukavina	Tuma
Finseth	Howes	Larson	Ness	Ruth	Vandever
Folliard	Huntley	Leighton	Nornes	Schumacher	Wagenius
Fuller	Jacobson	Lenczewski	Olson	Seagren	Walker
Gerlach	Jaros	Leppik	Opatz	Seifert	Walz
Gleason	Jennings	Lieder	Osskopp	Sertich	Westerberg
Goodno	Johnson, J.	Lindner	Osthoff	Skoe	Westrom
Goodwin	Johnson, R.	Lipman	Otremba	Skoglund	Wilkin
Gray	Johnson, S.	Mahoney	Ozment	Slawik	Winter
Greiling	Juhnke	Mares	Paulsen	Smith	Wolf
Gunther	Kahn	Mariani	Pawlenty	Solberg	Workman
Haas	Kalis	Marko	Paymar	Stanek	Spk. Sviggum
Hackbarth	Kelliher	Marquart	Pelowski	Stang	

Pawlenty moved that further proceedings of the roll call be suspended and that the Sergeant at Arms be instructed to bring in the absentees. The motion prevailed and it was so ordered.

The question recurred on the Bishop and Stanek motion to reconsider and repass H. F. No. 351, Chapter No. 220, the objections of the Governor notwithstanding, pursuant to Article IV, Section 23, of the Constitution of the State of Minnesota and the roll was called.

There were 99 yeas and 33 nays as follows:

Those who voted in the affirmative were:

Abeler	Dorman	Holsten	Lieder	Pawlenty	Swenson
Abrams	Dorn	Howes	Lindner	Paymar	Sykora
Anderson, B.	Eastlund	Jacobson	Lipman	Pelowski	Tingelstad
Anderson, I.	Erhardt	Jaros	Mahoney	Penas	Tuma
Bakk	Erickson	Johnson, J.	Mares	Peterson	Vandever
Bishop	Finseth	Johnson, R.	Marquart	Rhodes	Walz
Blaine	Fuller	Juhnke	Molnau	Rifenberg	Wasiluk
Boudreau	Gerlach	Kahn	Mulder	Rukavina	Westerberg
Bradley	Goodno	Kalis	Murphy	Ruth	Westrom
Buesgens	Goodwin	Kelliher	Ness	Seagren	Wilkin
Cassell	Gunther	Kielkucki	Nornes	Seifert	Winter
Clark, J.	Haas	Knoblach	Opatz	Sertich	Wolf
Clark, K.	Hackbarth	Kubly	Osskopp	Skoe	Workman
Daggett	Harder	Kuisle	Osthoff	Smith	Spk. Sviggum
Davids	Hausman	Larson	Otremba	Solberg	
Dehler	Hilstrom	Lenczewski	Ozment	Stanek	
Dempsey	Holberg	Leppik	Paulsen	Stang	

Those who voted in the negative were:

Bernardy	Davnie	Entenza	Gleason	Hilty	Johnson, S.
Biernat	Dawkins	Evans	Gray	Huntley	Koskinen
Carlson	Dibble	Folliard	Greiling	Jennings	Krinkie

Leighton	McGuire	Olson	Skoglund	Thompson
Mariani	Milbert	Pugh	Slawik	Wagenius
Marko	Mullery	Schumacher	Swapinski	Walker

Having received the constitutionally required two-thirds vote, the bill was reconsidered and repassed, the objections of the Governor notwithstanding.

### REPORTS OF STANDING COMMITTEES

Tuma from the Committee on Crime Prevention to which was referred:

H. F. No. 1934, A bill for an act relating to government data; providing for a National Crime Prevention and Privacy Compact; providing for an electronic information sharing system between the federal government and the state to access criminal history data; proposing coding for new law in Minnesota Statutes, chapter 299C.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Civil Law.

The report was adopted.

Dempsey from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 2611, A bill for an act relating to Anoka county; authorizing debt for an emergency radio system; providing for reporting of the levy.

Reported the same back with the following amendments:

Page 1, line 10, after "Anoka" insert "county"

Page 1, line 15, delete "or" and insert "and"

Page 1, line 21, after "pay" insert "principal and interest on"

Page 1, line 23, after "pay" insert "principal and interest on"

Page 2, line 2, delete "day on" and insert "year in"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.

Workman from the Committee on Transportation Policy to which was referred:

H. F. No. 2687, A bill for an act relating to motor vehicles; providing for payment of sales tax on a motor vehicle sold in violation of dealer licensing requirements; abolishing misdemeanor penalty for committing fraud in an application for certificate of title to a motor vehicle; amending Minnesota Statutes 2000, sections 168A.30, subdivision 2; 297B.035, subdivision 3.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Dempsey from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 2830, A bill for an act relating to the city of St. Paul; setting out certain local bonding authority limits through 2008; amending Laws 1971, chapter 773, section 1, subdivision 2, as amended.

Reported the same back with the following amendments:

Page 2, line 2, delete "2008" and insert "2013"

Amend the title as follows:

Page 1, line 3, delete "2008" and insert "2013"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.

Tuma from the Committee on Crime Prevention to which was referred:

H. F. No. 2841, A bill for an act relating to corrections; defining local correctional fees to include board, room, and other expenses, thereby authorizing collection of those fees from persons convicted of a crime and under control of a local correctional agency; amending Minnesota Statutes 2001 Supplement, section 244.18, subdivision 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 641.12, is amended by adding a subdivision to read:

Subd. 3. [INMATE PAYMENT OF ROOM AND BOARD.] (a) A county board may require that an offender convicted of a crime and confined in the county jail, workhouse, or correctional or work farm pay the cost of the offender's room, board, clothing, medical, dental, and other correctional services. The board shall establish a schedule to charge offenders under this subdivision. The costs may be collected at any time while the offender is under sentence or after the sentence has been discharged. During the period of confinement, the costs may be deducted from any money possessed by the offender or any money deposited with the local correctional or law enforcement agency on the offender's behalf. The board, or local correctional agency or sheriff with authority over the jail, workhouse, or farm, may use any available civil means of debt collection in collecting costs under this subdivision.

(b) The chief executive officer of the local correctional agency or sheriff may waive payment of the costs under this subdivision if the officer or sheriff determines that the offender does not have the ability to pay the costs, payment of the costs would create undue hardship for the offender or the offender's immediate family, the prospects for payment are poor, or there are extenuating circumstances justifying waiver of the costs.

(c) If an offender has been ordered by a court to pay restitution, the offender shall be obligated to pay the restitution ordered before paying the costs under this subdivision. However, if the offender is making reasonable payments to satisfy the restitution obligation, the local correctional agency or sheriff may also collect costs under this section."

Delete the title and insert:

"A bill for an act relating to corrections; requiring persons convicted of a crime and under control of a local correction agency to pay the cost of room, board, clothing, medical, dental, and other correctional services; amending Minnesota Statutes 2000, section 641.12, by adding a subdivision."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Judiciary Finance.

The report was adopted.

Dempsey from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 2915, A bill for an act relating to local government; clarifying Cook county's powers and authority in relation to the Cook county hospital district; providing for a maximum tax levy; amending Laws 1989, chapter 211, section 8, as amended.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.

Workman from the Committee on Transportation Policy to which was referred:

H. F. No. 2952, A bill for an act relating to traffic regulations; providing for designation of senior citizen crossings; deleting requirement that a senior citizen crossing on a trunk highway be with the consent of the commissioner of transportation; prescribing minimum size requirements of residential facilities in order to qualify for senior citizen crossing; amending Minnesota Statutes 2000, section 169.215, subdivision 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [TRUNK HIGHWAY 169 RECONSTRUCTION; PEDESTRIAN SIGNAL.]

The commissioner of transportation shall, as part of the reconstruction of marked trunk highway No. 169 (Ferry Street) in the city of Anoka, install a pedestrian-activated traffic signal at the senior crossing located between Benton Street and Fremont Street if the commissioner determines that the cost of the signal and its installation will be paid from nonstate sources."

Delete the title and insert:

"A bill for an act relating to highways; requiring installation of pedestrian-activated traffic signal in the city of Anoka by the state if paid for by nonstate sources."

With the recommendation that when so amended the bill pass.

The report was adopted.

Smith from the Committee on Civil Law to which was referred:

H. F. No. 3059, A bill for an act relating to adoption; modifying provision for notice to a registered putative father; amending Minnesota Statutes 2000, section 259.52, subdivisions 9, 10; Minnesota Statutes 2001 Supplement, section 259.49, subdivision 1.

Reported the same back with the following amendments:

Page 2, line 13, delete "the" and insert "an"

Page 2, line 14, after "notice" insert "that is sent more than 15 days after the initial notice"

Page 2, line 16, strike "30 days" and delete the new language

Page 2, line 17, delete "is given" and insert "applicable time period"

Page 4, line 14, after "given" insert "and an amended notice is sent more than 15 days after the initial notice"

Page 4, line 18, strike "30 days of"

Page 4, line 19, strike "receipt of the notice to registered putative father"

Page 4, lines 19 to 21, delete the new language and insert "the applicable time period"

With the recommendation that when so amended the bill pass.

The report was adopted.

Workman from the Committee on Transportation Policy to which was referred:

H. F. No. 3135, A bill for an act relating to highways; transferring three state highways and vacating one state highway; repealing Minnesota Statutes 2000, section 161.115, subdivisions 122, 197, 204, 233.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Tuma from the Committee on Crime Prevention to which was referred:

H. F. No. 3168, A bill for an act relating to corrections; clarifying mandatory sentences for driving while impaired offenders; enhancing offender accountability by requiring offender co-payment of certain sex offender treatment fees; providing for staff of programs for intensive supervision; requiring an independent, contracted, board-certified forensic pathologist to sign the record of death on department incarcerated deaths; amending Minnesota Statutes 2000, sections 241.272, by adding a subdivision; 244.13, subdivision 2; Minnesota Statutes 2001 Supplement, sections 169A.276, subdivision 1; 390.23.

Reported the same back with the following amendments:

Pages 1 and 2, delete sections 1 and 2 and insert:

"Section 1. Minnesota Statutes 2000, section 241.67, is amended by adding a subdivision to read:

Subd. 10. [SEX OFFENDER TREATMENT FEE.] The commissioner of corrections may authorize sex offender treatment providers to charge and collect treatment co-pays from all offenders in their treatment program. The amount of treatment co-pay assessed to each offender shall be based upon a fee schedule approved by the commissioner. Fees collected under this authority shall be used by the treatment provider to fund the cost of treatment provided."

Page 2, line 6, delete "3" and insert "2"

Page 2, line 15, delete "shall" and insert "may"

Page 2, line 18, delete "4" and insert "3"

Page 2, line 24, strike "to" and insert "of"

Amend the title as follows:

Page 1, line 6, delete everything after the semicolon

Page 1, line 7, delete "supervision;"

Page 1, line 10, delete "sections 241.272, by" and insert "section 241.67, by adding a subdivision;"

Page 1, line 11, delete everything before "Minnesota"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Judiciary Finance.

The report was adopted.

Tuma from the Committee on Crime Prevention to which was referred:

H. F. No. 3176, A bill for an act relating to crimes; providing that whoever employs runners to procure clients under certain circumstances involving motor vehicle insurance is guilty of a felony; proposing coding for new law in Minnesota Statutes, chapter 609.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Commerce, Jobs and Economic Development.

The report was adopted.

Dempsey from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 3192, A bill for an act relating to Cook county; authorizing the county to expend the proceeds of a certain levy for road and bridge purposes.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.



Smith from the Committee on Civil Law to which was referred:

H. F. No. 3206, A bill for an act relating to occupational safety and health; eliminating certain responsibilities of the commissioner of health; increasing penalty limits for certain violations; amending Minnesota Statutes 2000, sections 182.65, subdivision 2; 182.656, subdivision 1; 182.666, subdivision 2.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Commerce, Jobs and Economic Development.

The report was adopted.

Smith from the Committee on Civil Law to which was referred:

H. F. No. 3240, A bill for an act relating to cooperatives; authorizing electronic voting; amending Minnesota Statutes 2000, section 308A.635, subdivisions 4, 6.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 308A.311, subdivision 4, is amended to read:

Subd. 4. [VOTE BY MAIL OR ELECTRONIC MEANS.] (a) A member may not vote by mail or electronic means for a director unless mail or electronic voting is authorized for election of directors by the articles or bylaws.

(b) The ballot shall be in a form prescribed by the board.

(c) If the vote is by mail, the member shall mark the ballot for the candidate chosen and mail the ballot to the cooperative in a sealed plain envelope inside another envelope bearing the member's name.

(d) The member may vote by electronic means if the cooperative is able to authenticate that it is the cooperative member who is casting the vote.

(e) If the ballot of the member is received by the cooperative on or before the date of the regular members' meeting, the ballot shall be accepted and counted as the vote of the absent member.

Sec. 2. Minnesota Statutes 2000, section 308A.311, subdivision 5, is amended to read:

Subd. 5. [VOTE BY MAIL OR ELECTRONIC MEANS FOR TELEPHONE COOPERATIVE.] If voting by mail or by electronic means is authorized by the articles or the bylaws of a telephone cooperative, a member may vote by mail or by electronic means for the director in the manner prescribed in the articles or bylaws. The mail voting shall be by secret ballot.

Sec. 3. Minnesota Statutes 2000, section 308A.635, subdivision 4, is amended to read:

Subd. 4. [VOTING METHOD.] A member's vote at a members' meeting must be in person or by mail if a mail vote is authorized by the board, or by electronic means if an electronic vote is authorized by the board, and not by proxy except as provided in subdivisions 2 and 5.

Sec. 4. Minnesota Statutes 2000, section 308A.635, subdivision 6, is amended to read:

Subd. 6. [ABSENTEE BALLOTS.] (a) A member who is absent from a members' meeting may vote by mail or by electronic means on the ballot prescribed in this subdivision on any motion, resolution, or amendment that the board submits for vote by mail to the members.

(b) The ballot shall be in the form prescribed by the board and contain:

(1) the exact text of the proposed motion, resolution, or amendment to be acted on at the meeting; and

(2) spaces opposite the text of the motion, resolution, or amendment in which the member may indicate an affirmative or negative vote.

(c) If the vote is by mail, the member shall express a choice by marking an "X" in the appropriate space on the ballot and mail or deliver the ballot to the cooperative in a plain, sealed envelope inside another envelope bearing the member's name.

(d) The member may vote by electronic means if the cooperative is able to authenticate that it is the cooperative member who is casting the vote.

(e) A properly executed ballot shall be accepted by the board and counted as the vote of the absent member at the meeting."

Delete the title and insert:

"A bill for an act relating to cooperatives; authorizing electronic voting; amending Minnesota Statutes 2000, sections 308A.311, subdivisions 4, 5; 308A.635, subdivisions 4, 6."

With the recommendation that when so amended the bill pass.

The report was adopted.

Tuma from the Committee on Crime Prevention to which was referred:

H. F. No. 3304, A bill for an act relating to crimes; defining the crime of criminal abuse of vulnerable adults to include subjecting those adults to involuntary servitude or cruel discipline; defining the crime of financial exploitation of vulnerable adults to include swindling or otherwise using artifices or tricks on those adults; defining the crimes of sexual conduct in third and fourth degrees to include persons who sexually penetrate vulnerable adults under certain circumstances and who are agents of special transportation service providers; prescribing penalties; amending Minnesota Statutes 2000, sections 388.051, subdivision 2; 609.232, subdivision 11; 609.2325, subdivision 1; 609.2335; 609.341, by adding a subdivision; Minnesota Statutes 2001 Supplement, sections 609.344, subdivision 1; 609.345, subdivision 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 609.341, is amended by adding a subdivision to read:

Subd. 21. [SPECIAL TRANSPORTATION.] "Special transportation service" means motor vehicle transportation provided on a regular basis by a public or private entity or person that is intended exclusively or primarily to serve individuals who are vulnerable adults, handicapped, or disabled. Special transportation service includes, but is not limited to, service provided by buses, vans, taxis, and volunteers driving private automobiles.

Sec. 2. Minnesota Statutes 2001 Supplement, section 609.344, subdivision 1, is amended to read:

Subdivision 1. [CRIME DEFINED.] A person who engages in sexual penetration with another person is guilty of criminal sexual conduct in the third degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant shall be a defense;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 24 months older than the complainant. In any such case it shall be an affirmative defense, which must be proved by a preponderance of the evidence, that the actor believes the complainant to be 16 years of age or older. If the actor in such a case is no more than 48 months but more than 24 months older than the complainant, the actor may be sentenced to imprisonment for not more than five years. Consent by the complainant is not a defense;

(c) the actor uses force or coercion to accomplish the penetration;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual penetration. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual penetration, and:

(i) the actor or an accomplice used force or coercion to accomplish the penetration;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual penetration occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists.

Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a former patient of the psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual penetration occurred by means of therapeutic deception. Consent by the complainant is not a defense;

(k) the actor accomplishes the sexual penetration by means of deception or false representation that the penetration is for a bona fide medical purpose. Consent by the complainant is not a defense;

(l) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual penetration occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual penetration occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private. Consent by the complainant is not a defense; or

(m) the actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, including, but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under supervision of the correctional system. Consent by the complainant is not a defense; or

(n) the actor provides or is an agent of an entity that provides special transportation service, the complainant used the special transportation service, and the sexual penetration occurred during or immediately before or after the actor transported the complainant. Consent by the complainant is not a defense.

Sec. 3. Minnesota Statutes 2001 Supplement, section 609.345, subdivision 1, is amended to read:

Subdivision 1. [CRIME DEFINED.] A person who engages in sexual contact with another person is guilty of criminal sexual conduct in the fourth degree if any of the following circumstances exists:

(a) the complainant is under 13 years of age and the actor is no more than 36 months older than the complainant. Neither mistake as to the complainant's age or consent to the act by the complainant is a defense. In a prosecution under this clause, the state is not required to prove that the sexual contact was coerced;

(b) the complainant is at least 13 but less than 16 years of age and the actor is more than 48 months older than the complainant or in a position of authority over the complainant. Consent by the complainant to the act is not a defense. In any such case, it shall be an affirmative defense which must be proved by a preponderance of the evidence that the actor believes the complainant to be 16 years of age or older;

(c) the actor uses force or coercion to accomplish the sexual contact;

(d) the actor knows or has reason to know that the complainant is mentally impaired, mentally incapacitated, or physically helpless;

(e) the complainant is at least 16 but less than 18 years of age and the actor is more than 48 months older than the complainant and in a position of authority over the complainant. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(f) the actor has a significant relationship to the complainant and the complainant was at least 16 but under 18 years of age at the time of the sexual contact. Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(g) the actor has a significant relationship to the complainant, the complainant was at least 16 but under 18 years of age at the time of the sexual contact, and:

(i) the actor or an accomplice used force or coercion to accomplish the contact;

(ii) the complainant suffered personal injury; or

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Neither mistake as to the complainant's age nor consent to the act by the complainant is a defense;

(h) the actor is a psychotherapist and the complainant is a patient of the psychotherapist and the sexual contact occurred:

(i) during the psychotherapy session; or

(ii) outside the psychotherapy session if an ongoing psychotherapist-patient relationship exists. Consent by the complainant is not a defense;

(i) the actor is a psychotherapist and the complainant is a former patient of the psychotherapist and the former patient is emotionally dependent upon the psychotherapist;

(j) the actor is a psychotherapist and the complainant is a patient or former patient and the sexual contact occurred by means of therapeutic deception. Consent by the complainant is not a defense;

(k) the actor accomplishes the sexual contact by means of deception or false representation that the contact is for a bona fide medical purpose. Consent by the complainant is not a defense;

(l) the actor is or purports to be a member of the clergy, the complainant is not married to the actor, and:

(i) the sexual contact occurred during the course of a meeting in which the complainant sought or received religious or spiritual advice, aid, or comfort from the actor in private; or

(ii) the sexual contact occurred during a period of time in which the complainant was meeting on an ongoing basis with the actor to seek or receive religious or spiritual advice, aid, or comfort in private. Consent by the complainant is not a defense; ~~or~~

(m) the actor is an employee, independent contractor, or volunteer of a state, county, city, or privately operated adult or juvenile correctional system, including, but not limited to, jails, prisons, detention centers, or work release facilities, and the complainant is a resident of a facility or under supervision of the correctional system. Consent by the complainant is not a defense; or

(n) the actor provides or is an agent of an entity that provides special transportation service, the complainant used the special transportation service, the complainant is not married to the actor, and the sexual contact occurred during or immediately before or after the actor transported the complainant. Consent by the complainant is not a defense.

Sec. 4. Minnesota Statutes 2000, section 609.349, is amended to read:

609.349 [VOLUNTARY RELATIONSHIPS.]

A person does not commit criminal sexual conduct under sections 609.342, clauses (a) and (b), 609.343, clauses (a) and (b), 609.344, clauses (a), (b), (d), ~~and~~ (e), and (n), and 609.345, clauses (a), (b), (d), ~~and~~ (e), and (n), if the actor and complainant were adults cohabiting in an ongoing voluntary sexual relationship at the time of the alleged offense, or if the complainant is the actor's legal spouse, unless the couple is living apart and one of them has filed for legal separation or dissolution of the marriage. Nothing in this section shall be construed to prohibit or restrain the prosecution for any other offense committed by one legal spouse against the other.

Sec. 5. [EFFECTIVE DATE.]

Sections 1 to 4 are effective August 1, 2002, and apply to crimes committed on or after that date."

Delete the title and insert:

"A bill for an act relating to crimes; defining the crimes of sexual conduct in the third and fourth degrees to include persons who sexually penetrate vulnerable adults under certain circumstances and who are agents of special transportation services; imposing penalties; amending Minnesota Statutes 2000, sections 609.341, by adding a subdivision; 609.349; Minnesota Statutes 2001 Supplement, section 609.344, subdivision 1; 609.345, subdivision 1."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Judiciary Finance.

The report was adopted.

Workman from the Committee on Transportation Policy to which was referred:

H. F. No. 3320, A bill for an act relating to capital improvements; providing for a grant to the University of Minnesota to study, develop, and construct a demonstration personal rapid transit system; authorizing issuance of bonds; appropriating money.

Reported the same back with the following amendments:

Pages 1 and 2, delete sections 1 and 2

Page 2, line 5, delete "Sec. 3." and insert "Section 1."

Page 2, line 10, after "campuses" insert "and the state fairgrounds"

Page 2, delete section 4

Amend the title as follows:

Page 1, line 5, delete everything after the first semicolon

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Transportation Finance.

The report was adopted.

Workman from the Committee on Transportation Policy to which was referred:

H. F. No. 3328, A bill for an act relating to drivers' licenses; requiring commissioner of public safety to adopt rules requiring education in organ donation as part of driver education programs; proposing coding for new law in Minnesota Statutes, chapter 171.

Reported the same back with the following amendments:

Page 1, line 10, delete "at least 30"

Page 1, line 11, delete "minutes of"

Page 1, after line 14, insert:

"Sec. 2. Minnesota Statutes 2000, section 171.13, is amended by adding a subdivision to read:

Subd. 1h. [DRIVER'S MANUAL; ORGAN AND TISSUE DONATION.] The commissioner shall include in each edition of the driver's manual published by the department after August 1, 2002, a section that includes information on the shortage of organs and tissues for transplant, basic facts about donation, use of the driver's license as an indication of donation intent, and the importance of informing family members of the driver's decision."

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "requiring commissioner to include information on organ and tissue donation in the driver's manual; amending Minnesota Statutes 2000, section 171.13, by adding a subdivision;"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Governmental Operations and Veterans Affairs Policy.

The report was adopted.

Rhodes from the Committee on Governmental Operations and Veterans Affairs Policy to which was referred:

H. F. No. 3407, A bill for an act relating to state government; rejecting certain labor agreements and compensation plans; ratifying a labor agreement.

Reported the same back with the following amendments:

Page 1, line 6, delete "REJECTIONS" and insert "CONTRACTS AND PLANS"

Page 1, line 25, delete "rejected" and insert "ratified"

Page 2, line 4, delete "rejected" and insert "modified to remove all provisions granting insurance benefits to a domestic partner of a state employee, and as modified, the amendments to the plan are ratified"

Page 2, line 8, delete "rejected" and insert "modified to remove all provisions granting insurance benefits to a domestic partner of a state employee, and as modified, the amendments to the plan are ratified"

Page 2, after line 28, insert:

"Subd. 9. [MNSCU MANAGERS.] The amendments to the compensation plan for administrators of the Minnesota state colleges and universities, as modified and approved by the legislative coordinating commission subcommittee on employee relations on February 1, 2002, are ratified."

Page 2, after line 33, insert:

"Sec. 3. [COVERAGE.]

As provided under Minnesota Statutes, section 43A.18, subdivision 2, an executive branch state employee is covered by the plan established under that subdivision if the employee is not covered by a collective bargaining agreement because the proposed agreement that would cover the employee is rejected by the legislature, or because the legislature adjourns without ratifying the proposed agreement."

Page 2, line 34, delete "3" and insert "4"

Page 2, line 35, delete "and 2" and insert "to 3"

Amend the title as follows:

Page 1, line 3, delete "and" and insert "; modifying and ratifying certain"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on State Government Finance.

The report was adopted.

Workman from the Committee on Transportation Policy to which was referred:

H. F. No. 3415, A bill for an act proposing an amendment to the Minnesota Constitution, article XIV, section 5, and by adding a section; allocating proceeds from sales tax on motor vehicles; increasing and indexing the motor fuel tax; authorizing trunk highway bonds; appropriating money; amending Minnesota Statutes 2000, sections

296A.07, subdivision 3, by adding a subdivision; 296A.08, subdivision 2, by adding a subdivision; Minnesota Statutes 2001 Supplement, section 297B.09, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 270.

Reported the same back with the following amendments:

Page 2, line 25, delete "section" and insert "sections" and after "5," insert "and 296A.08, subdivision 7,"

With the recommendation that when so amended the bill be re-referred to the Committee on Transportation Finance without further recommendation.

The report was adopted.

Dauids from the Committee on Commerce, Jobs and Economic Development to which was referred:

H. F. No. 3434, A bill for an act relating to financial institutions; enacting restrictions on certain home loans; proposing coding for new law as Minnesota Statutes, chapter 58A.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [58A.01] [CITATION.]

Sections 58A.01 to 58A.08 may be cited as the "Responsible Lending Act of 2002."

Sec. 2. [58A.02] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For the purposes of sections 58A.01 to 58A.08, the terms defined in this section have the meanings given them.

Subd. 2. [AFFILIATE.] "Affiliate" has the meaning given in section 302A.011, subdivision 43.

Subd. 3. [ASSIGNEE.] "Assignee" means a person that purchases or otherwise voluntarily acquires a loan or an interest in a loan. Assignee does not include a purchaser of a mortgage-backed security.

Subd. 4. [AUTHORIZED INDEPENDENT HOME LOAN COUNSELOR.] "Authorized independent home loan counselor" means an individual or organization, authorized by either the housing finance agency or the Department of Housing and Urban Development, or accredited by the American Homeownership Education and Counseling Institute to provide home loan counseling.

Subd. 5. [BONA FIDE ERROR.] "Bona fide error" includes a clerical, calculation, computer malfunction, computer programming, or printing mistake.

Subd. 6. [COMMISSIONER.] "Commissioner" means the commissioner of commerce.

Subd. 7. [HIGH-COST HOME LOAN.] "High-cost home loan" means a loan covered under Code of Federal Regulations, title 12, section 226.32(a), as amended.

Subd. 8. [LENDER.] "Lender" means any person authorized to do business under chapter 47, 48, 50, 51A, 52, 53, 56, or 58.

Subd. 9. [PERSON.] "Person" means an individual, corporation, business trust, partnership, association, or any other legal entity.



Subd. 10. [POINTS AND FEES.] "Points and fees" means:

(1) any charges, points, discount points, fees, compensation, premiums, or any amounts paid, directly or indirectly, other than taxes and interest, to the lender or lenders in connection with a loan secured by a mortgage or deed on real estate that is used as a borrower's primary residence and is equal to or less than the maximum amount for loans eligible for sale to Fannie Mae and Freddie Mac; and

(2) the cost of all premiums financed by the lender, directly or indirectly, for any credit life, credit disability, credit unemployment, or credit property insurance, or any other health or life insurance, or any debt cancellation or debt forgiveness contract.

Subd. 11. [RESCISSION PERIOD.] "Rescission period" means the period provided under United States Code, title 15, section 1635(a), in which a borrower has the right to rescind a loan transaction.

Subd. 12. [SPECIAL MORTGAGE LOAN.] "Special mortgage loan" means a home loan that is originated, subsidized, or guaranteed by or through a federal, state, local, or tribal government or nonprofit organization and that has zero interest; is forgivable; or has one or more payment terms beneficial to the borrower, including, but not limited to, payments that are limited to a percentage of income or payments that vary with income, that will be lost as a result of the refinancing.

Sec. 3. [58A.03] [PROHIBITED ACTS AND PRACTICES.]

Subdivision 1. [ABILITY TO PAY.] (a) No lender may make a high-cost home loan to a borrower where it is presumed that the borrower is unable to repay the loan. It is presumed that the borrower is unable to repay the loan if the borrower's total monthly debt payments, including amounts owed under the loan, including principal, interest, taxes, and insurance, exceed 55 percent of the borrower's monthly gross income, as verified at the time of approval by the lender. This presumption may be overcome by a showing that:

(1) the borrower's income is more than 120 percent of the median family income, as determined and published annually by the Department of Housing and Urban Development, for the metropolitan statistical area in which the real estate to be secured is located; or

(2) if the real estate is not located within a metropolitan statistical area, the borrower's income is more than 120 percent of the median family income, as determined and published annually by the Department of Housing and Urban Development, for the county in which the real estate to be secured is located.

(b) Notwithstanding the presumption described in paragraph (a), a lender who determines that the extension of credit is needed to meet a bona fide personal financial emergency shall benefit from a rebuttable presumption that the creditor made a loan with due regard to repayment ability.

Subd. 2. [LOAN FLIPPING.] Neither a lender, nor an affiliate, nor an assignee may make a high-cost home loan that refinances an existing home loan made by either the same lender, or an affiliate, or an assignee to the same borrower within 24 months after consummation of the existing loan unless the lender, affiliate, or assignee refunds the total of the points and fees collected from the existing loan. It is a violation of this chapter for any lender to act in any manner designed to evade the provisions of this subdivision.

Subd. 3. [NEGATIVE AMORTIZATION.] No high-cost home loan may include payment terms under which the outstanding principal balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of the interest due.

Subd. 4. [REFINANCING OF SPECIAL MORTGAGES.] No lender may refinance a special mortgage loan with a high-cost home loan, unless prior to closing of the new loan or the end of the rescission period, if applicable, the lender obtains documentation signed by an authorized independent home loan counselor or the lender who originally made the special mortgage loan indicating that the borrower has received home loan counseling in which the advantages and disadvantages of the refinancing have been reviewed.

Subd. 5. [FINANCING OF CREDIT INSURANCE.] No lender may finance, directly or indirectly, any credit life, credit disability, or credit involuntary unemployment insurance, or any other life or health insurance premiums through a high-cost home loan, or the advance collection of a fee for any debt cancellation or suspension agreement. Contract insurance premiums or debt cancellation or suspension fees calculated and paid on a monthly basis shall not be considered financed by the lender.

Subd. 6. [PAYOFF BALANCE REQUIREMENTS.] No lender may charge a fee for informing or transmitting to any borrower the balance due to pay off a home loan or to provide a mortgage release upon repayment. A lender shall provide a payoff balance amount as soon as possible but in no case later than 17 days after a request from the borrower or the borrower's representative is made.

Sec. 4. [58A.04] [DISCLOSURES.]

(a) The commissioner shall develop a simple disclosure notice written in plain language, easily readable and understandable by a person of average intelligence and education, that must be provided by the lender to all applicants for a high-cost loan upon oral, written, or personal application for the loan and again no less than seven days prior to the beginning of the rescission period. The notice must, at a minimum:

(1) explain that the loan is subject to special protections under this chapter;

(2) explain that the lender will hold the mortgage and that the borrower will lose the home and any money put into it if the borrower fails to make timely payments; and

(3) encourage the borrower to seek independent home loan credit counseling prior to signing the loan documents.

(b) The lender must also provide a list of authorized independent home loan counselors each time the notice is provided.

Sec. 5. [58A.05] [UNINTENTIONAL ERRORS.]

A lender who, acting in good faith, fails to comply with any of the provisions of this chapter, shall not be deemed to be in violation if the lender establishes that:

(1) the violation was not intentional and was the result of a bona fide error; and

(2) within 60 days of discovery of the compliance failure, the lender has made restitution to the borrower, if applicable, and has adjusted the loan to bring it into compliance.

Sec. 6. [58A.06] [ENFORCEMENT; LOCAL REGULATION PROHIBITED.]

(a) The commissioner may bring an enforcement action under chapter 45 against a lender who has violated this chapter.

(b) No political subdivision of the state, including a statutory or home rule charter city, may enact, issue, or enforce any ordinance, resolution, regulation, order, policy, request for proposal, or request for bids that in any way regulates residential mortgage loans as defined in section 58.02, subdivision 18.

Sec. 7. [58A.07] [CONSUMER REMEDIES; LIABILITIES.]

(a) A court in which any action is brought by a borrower for relief against a lender, upon a finding of a violation of this chapter, may enjoin foreclosure, order reformation of the loan to comply with the provisions of this chapter, award actual damages, attorney fees, and court costs, and provide any other relief it deems equitable.

(b) The court shall, upon a finding of a violation of this chapter, award statutory damages to the borrower in the amount of \$10,000.

(c) No class action may be commenced or maintained under, or as a result of, alleged violations of this chapter.

Sec. 8. [58A.08] [SEVERABILITY.]

The provisions of this chapter are severable as provided in section 645.20.

Sec. 9. [EXEMPTIONS.]

This chapter shall not apply to loans made by the housing finance agency, or by any lender administering a housing finance agency program, or by a nonprofit housing development agency.

Sec. 10. [EFFECTIVE DATE.]

Sections 1 to 9 are effective October 1, 2002, and apply to loans closed on or after that date."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Civil Law.

The report was adopted.

Dempsey from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 3499, A bill for an act relating to local government; establishing a retroactive effective date for St. Paul civil service separation.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Ozment from the Committee on Environment and Natural Resources Policy to which was referred:

H. F. No. 3519, A bill for an act relating to the environment; modifying the application of recyclable material container requirements for public entities; amending Minnesota Statutes 2000, section 115A.151.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Local Government and Metropolitan Affairs.

The report was adopted.

Smith from the Committee on Civil Law to which was referred:

H. F. No. 3579, A bill for an act relating to domestic abuse; clarifying the standard for a misdemeanor violation of an order for protection or no contact order; amending Minnesota Statutes 2000, section 518B.01, subdivision 22; Minnesota Statutes 2001 Supplement, section 518B.01, subdivision 14.

Reported the same back with the following amendments:

Page 3, line 7, strike "knowingly"

Page 3, line 8, strike everything before the period and insert "knows of the existence of the order. If the order has not been served, the officer shall immediately serve the order whenever possible. An order for purposes of this subdivision, includes the short form order described in subdivision 8a"

Page 3, line 11, strike "but shall be" and insert "without first being"

With the recommendation that when so amended the bill be re-referred to the Committee on Crime Prevention without further recommendation.

The report was adopted.

Smith from the Committee on Civil Law to which was referred:

H. F. No. 3584, A bill for an act relating to judgments; changing the formula for certain calculations; amending Minnesota Statutes 2000, section 549.09, subdivision 1.

Reported the same back with the recommendation that the bill pass and be placed on the Consent Calendar.

The report was adopted.

## **SECOND READING OF HOUSE BILLS**

H. F. Nos. 2687, 2952, 3059, 3135, 3240, 3499 and 3584 were read for the second time.

## **INTRODUCTION AND FIRST READING OF HOUSE BILLS**

The following House Files were introduced:

Erhardt introduced:

H. F. No. 3642, A bill for an act relating to taxes; sales and use tax; allowing a refund of sales tax related to bad debt losses of lender; changing the dates for filing a deduction or refund claim on bad debt loss; amending Minnesota Statutes 2000, sections 289A.40, subdivision 2; 289A.50, by adding a subdivision; 297A.81.

The bill was read for the first time and referred to the Committee on Taxes.

Haas, Kalis and Davids introduced:

H. F. No. 3643, A bill for an act relating to claims against the state; providing for payment of various claims; appropriating money.

The bill was read for the first time and referred to the Committee on Ways and Means.

Vandev eer introduced:

H. F. No. 3644, A bill for an act relating to government data practices; modifying the classification of data on public employees; amending Minnesota Statutes 2001 Supplement, section 13.43, subdivision 2.

The bill was read for the first time and referred to the Committee on Civil Law.

Schumacher introduced:

H. F. No. 3645, A bill for an act relating to firearms; reconciling state and federal firearms possession prohibitions; providing that persons ineligible to possess firearms under federal law are also ineligible under state law; amending Minnesota Statutes 2000, section 624.713, subdivision 1.

The bill was read for the first time and referred to the Committee on Crime Prevention.

Penas introduced:

H. F. No. 3646, A bill for an act relating to tourism; appropriating money for tourism.

The bill was read for the first time and referred to the Committee on Jobs and Economic Development Finance.

Kelliher, Erhardt and Wagenius introduced:

H. F. No. 3647, A bill for an act relating to taxation; extending the time during which certain improvements to certain older homesteads are excluded from valuation for property tax purposes; amending Minnesota Statutes 2000, section 273.11, subdivision 16.

The bill was read for the first time and referred to the Committee on Taxes.

McElroy introduced:

H. F. No. 3648, A bill for an act relating to unemployment insurance; providing a special assessment to pay interest on a federal loan; amending Minnesota Statutes 2000, section 268.051, subdivision 8.

The bill was read for the first time and referred to the Committee on Commerce, Jobs and Economic Development.

Mariani and Paymar introduced:

H. F. No. 3649, A bill for an act relating to agriculture; prohibiting payments to ethanol plants that are in violation of certain ordinances; amending Minnesota Statutes 2000, section 41A.09, subdivision 3a.

The bill was read for the first time and referred to the Committee on Agriculture Policy.

Goodno introduced:

H. F. No. 3650, A bill for an act relating to human services; appropriating money for the veterans nursing homes board; transferring a certain appropriation; appropriating a potential settlement amount; appropriating money.

The bill was read for the first time and referred to the Committee on Health and Human Services Finance.

Stanek introduced:

H. F. No. 3651, A bill for an act relating to education; decreasing the required length of school year by three days; amending Minnesota Statutes 2000, section 120A.41.

The bill was read for the first time and referred to the Committee on Education Policy.

Gray was excused for the remainder of today's session.

### **MESSAGES FROM THE SENATE**

The following message was received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following Senate File, herewith transmitted:

S. F. No. 3019.

PATRICK E. FLAHAVEN, Secretary of the Senate

### **FIRST READING OF SENATE BILLS**

S. F. No. 3019, A bill for an act relating to public safety; expanding those persons who are required to register as a predatory offender for their lifetime after a second conviction; amending Minnesota Statutes 2001 Supplement, section 243.166, subdivision 6.

The bill was read for the first time.

### **SUSPENSION OF RULES**

Pursuant to Article IV, Section 19, of the Constitution of the state of Minnesota, Tuma moved that the rule therein be suspended and an urgency be declared so that S. F. No. 3019 be given its second and third readings and be placed upon its final passage. The motion prevailed.

Tuma moved that the rules of the House be so far suspended that S. F. No. 3019 be given its second and third readings and be placed upon its final passage. The motion prevailed.

S. F. No. 3019 was read for the second time.

Mariani was excused for the remainder of today's session.

Skoglund offered an amendment to S. F. No. 3019.

## POINT OF ORDER

Tuma raised a point of order pursuant to rule 3.21 that the Skoglund amendment was not in order. The Speaker ruled the point of order well taken and the Skoglund amendment out of order.

Skoglund appealed the decision of the Speaker.

A roll call was requested and properly seconded.

## LAY ON THE TABLE

Seifert moved to lay the Skoglund appeal of the decision of the Speaker on the table.

A roll call was requested and properly seconded.

The question was taken on the Seifert motion and the roll was called. There were 67 yeas and 61 nays as follows:

Those who voted in the affirmative were:

Abeler	Dempsey	Holberg	Mares	Rifenberg	Walz
Abrams	Dorman	Holsten	Molnau	Ruth	Westerberg
Anderson, B.	Eastlund	Howes	Mulder	Seagren	Westrom
Blaine	Erickson	Jacobson	Ness	Seifert	Wilkin
Boudreau	Finseth	Johnson, J.	Nornes	Smith	Wolf
Bradley	Fuller	Kielkucki	Olson	Stanek	Workman
Buesgens	Gerlach	Knoblach	Osskopp	Stang	Spk. Sviggum
Cassell	Goodno	Krinkie	Ozment	Swenson	
Clark, J.	Gunther	Kuisle	Paulsen	Sykora	
Daggett	Haas	Leppik	Pawlenty	Tingelstad	
Davids	Hackbarth	Lindner	Penas	Tuma	
Dehler	Harder	Lipman	Rhodes	Vandever	

Those who voted in the negative were:

Anderson, I.	Entenza	Jennings	Lenczewski	Paymar	Swapinski
Bakk	Erhardt	Johnson, R.	Lieder	Pelowski	Thompson
Bernardy	Evans	Johnson, S.	Mahoney	Peterson	Wagenius
Biernat	Folliard	Juhnke	Marko	Pugh	Walker
Bishop	Gleason	Kahn	Marquart	Rukavina	Wasiluk
Carlson	Goodwin	Kalis	McGuire	Schumacher	Winter
Clark, K.	Greiling	Kelliher	Milbert	Sertich	
Davnie	Hausman	Koskinen	Mullery	Skoe	
Dawkins	Hilstrom	Kubly	Murphy	Skoglund	
Dibble	Hilty	Larson	Opatz	Slawik	
Dorn	Huntley	Leighton	Otremba	Solberg	

The motion prevailed and the appeal of the decision of the Speaker was laid on the table.

Walker was excused for the remainder of today's session.

S. F. No. 3019, A bill for an act relating to public safety; expanding those persons who are required to register as a predatory offender for their lifetime after a second conviction; amending Minnesota Statutes 2001 Supplement, section 243.166, subdivision 6.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 129 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dibble	Hilty	Leighton	Otremba	Stanek
Abrams	Dorman	Holberg	Lenczewski	Ozment	Stang
Anderson, B.	Dorn	Holsten	Leppik	Paulsen	Swapinski
Anderson, I.	Eastlund	Howes	Lieder	Pawlenty	Swenson
Bakk	Entenza	Huntley	Lindner	Paymar	Sykora
Bernardy	Erhardt	Jacobson	Lipman	Pelowski	Thompson
Biernat	Erickson	Jaros	Mahoney	Penas	Tingelstad
Bishop	Evans	Jennings	Mares	Peterson	Tuma
Blaine	Finseth	Johnson, J.	Marko	Pugh	Vandever
Boudreau	Folliard	Johnson, R.	Marquart	Rhodes	Wagenius
Bradley	Fuller	Johnson, S.	McGuire	Rifenberg	Walz
Buesgens	Gerlach	Juhnke	Milbert	Rukavina	Wasiluk
Carlson	Gleason	Kahn	Molnau	Ruth	Westerberg
Cassell	Goodno	Kalis	Mulder	Schumacher	Westrom
Clark, J.	Goodwin	Kelliher	Mullery	Seagren	Wilkin
Clark, K.	Greiling	Kielkucki	Murphy	Seifert	Winter
Daggett	Gunther	Knoblach	Ness	Sertich	Wolf
Davids	Haas	Koskinen	Nornes	Skoe	Workman
Davnie	Hackbarth	Krinkie	Olson	Skoglund	Spk. Sviggum
Dawkins	Harder	Kubly	Opatz	Slawik	
Dehler	Hausman	Kuisle	Osskopp	Smith	
Dempsey	Hilstrom	Larson	Osthoff	Solberg	

The bill was passed and its title agreed to.

#### CALL OF THE HOUSE LIFTED

Seifert moved that the call of the House be suspended. The motion prevailed and it was so ordered.

Kalis and Hilty were excused for the remainder of today's session.

#### CONSENT CALENDAR

Molnau moved that the Consent Calendar be continued. The motion prevailed.



**REPORT FROM THE COMMITTEE ON RULES AND  
LEGISLATIVE ADMINISTRATION**

Pawlenty from the Committee on Rules and Legislative Administration, pursuant to rule 1.21, designated the following bills to be placed on the Calendar for the Day:

H. F. Nos. 2598 and 3049.

**CALENDAR FOR THE DAY**

Paymar was excused for the remainder of today's session.

H. F. No. 2598 was reported to the House.

Rukavina offered an amendment to H. F. No. 2598, the first engrossment.

**POINT OF ORDER**

Seifert raised a point of order pursuant to rule 3.21 that the Rukavina amendment was not in order. The Speaker ruled the point of order well taken and the Rukavina amendment out of order.

Rukavina appealed the decision of the Speaker.

A roll call was requested and properly seconded.

**LAY ON THE TABLE**

Seifert moved to lay the Rukavina appeal of the decision of the Speaker on the table.

A roll call was requested and properly seconded.

**CALL OF THE HOUSE**

On the motion of Rukavina and on the demand of 10 members, a call of the House was ordered. The following members answered to their names:

Abeler	Buesgens	Dempsey	Folliard	Harder	Johnson, J.
Abrams	Carlson	Dibble	Fuller	Hausman	Johnson, R.
Anderson, B.	Cassell	Dorman	Gerlach	Hilstrom	Johnson, S.
Anderson, I.	Clark, J.	Dorn	Gleason	Holberg	Juhnke
Bakk	Clark, K.	Eastlund	Goodno	Holsten	Kahn
Bernardy	Daggett	Entenza	Goodwin	Howes	Kelliher
Biernat	Davids	Erhardt	Greiling	Huntley	Kielkucki
Bishop	Davnie	Erickson	Gunther	Jacobson	Knoblach
Blaine	Dawkins	Evans	Haas	Jaros	Koskinen
Boudreau	Dehler	Finseth	Hackbarth	Jennings	Krinkie

Kubly	McGuire	Osthoff	Rukavina	Stanek	Westerberg
Kuisele	Milbert	Otremba	Ruth	Stang	Westrom
Leighton	Molnau	Ozment	Schumacher	Swapinski	Wilkin
Lenczewski	Mulder	Paulsen	Seagren	Swenson	Winter
Leppik	Mullery	Pawlenty	Seifert	Sykora	Wolf
Lieder	Murphy	Pelowski	Sertich	Thompson	Workman
Lindner	Ness	Penas	Skoe	Tingelstad	Spk. Sviggum
Lipman	Nornes	Peterson	Skoglund	Tuma	
Mares	Olson	Pugh	Slawik	Wagenius	
Marko	Opatz	Rhodes	Smith	Walz	
Marquart	Osskopp	Rifenberg	Solberg	Wasiluk	

Seifert moved that further proceedings of the roll call be suspended and that the Sergeant at Arms be instructed to bring in the absentees. The motion prevailed and it was so ordered.

The question recurred on the Seifert motion and the roll was called.

Pawlenty moved that those not voting be excused from voting. The motion prevailed.

There were 66 yeas and 58 nays as follows:

Those who voted in the affirmative were:

Abeler	Davids	Gunther	Kuisele	Paulsen	Swenson
Abrams	Dehler	Haas	Leppik	Pawlenty	Sykora
Anderson, B.	Dempsey	Hackbarth	Lindner	Penas	Tingelstad
Bishop	Dorman	Harder	Lipman	Rhodes	Tuma
Blaine	Eastlund	Holberg	Mares	Rifenberg	Walz
Boudreau	Erhardt	Holsten	Molnau	Ruth	Westerberg
Bradley	Erickson	Jacobson	Mulder	Seagren	Westrom
Buesgens	Finseth	Johnson, J.	Ness	Seifert	Wilkin
Cassell	Fuller	Kielkucki	Nornes	Smith	Wolf
Clark, J.	Gerlach	Knoblach	Olson	Stanek	Workman
Daggett	Goodno	Krinkie	Ozment	Stang	Spk. Sviggum

Those who voted in the negative were:

Anderson, I.	Entenza	Jaros	Lenczewski	Osthoff	Slawik
Bakk	Evans	Jennings	Lieder	Otremba	Solberg
Bernardy	Folliard	Johnson, R.	Marko	Pelowski	Swapinski
Biernat	Gleason	Johnson, S.	Marquart	Peterson	Thompson
Carlson	Goodwin	Juhnke	McGuire	Pugh	Vandeveer
Clark, K.	Greiling	Kahn	Milbert	Rukavina	Wagenius
Davnie	Hausman	Kelliher	Mullery	Schumacher	Wasiluk
Dawkins	Hilstrom	Koskinen	Murphy	Sertich	Winter
Dibble	Howes	Kubly	Opatz	Skoe	
Dorn	Huntley	Leighton	Osskopp	Skoglund	

The motion prevailed and the appeal of the decision of the Speaker was laid on the table.

Dibble, Walker, Paymar, Swapinski, Dawkins, Skoglund, Kelliher, Davnie, Hausman, Jaros and Clark, K., moved to amend H. F. No. 2598, the first engrossment, as follows:

Page 1, line 12, delete "PLEDGE OF ALLEGIANCE." and insert "CIVICS EDUCATION."

Page 1, line 13, delete everything after "charter" and insert "schools must set aside time each week for civics education. Civics education may include, but is not limited to, recitation of the pledge of allegiance, discussion of the history and meaning of the pledge of allegiance, American patriotic or folk songs, the Bill of Rights, discussion of current events, or any other activities related to government."

Page 1, delete lines 14 to 20

Page 1, line 26, delete everything after "directors"

Page 1, line 27, delete everything before "may"

Page 3, line 27, delete "pledge of allegiance" and insert "civics education"

Amend the title as follows:

Page 1, line 2, delete everything after the semicolon

Page 1, line 3, delete "pledge of allegiance" and insert "requiring civics education"

A roll call was requested and properly seconded.

The question was taken on the Dibble et al amendment and the roll was called.

Seifert moved that those not voting be excused from voting. The motion prevailed.

There were 33 yeas and 90 nays as follows:

Those who voted in the affirmative were:

Bernardy	Entenza	Huntley	Kelliher	Osthoff	Solberg
Biernat	Evans	Jaros	Koskinen	Pugh	Swapinski
Clark, K.	Folliard	Jennings	Leighton	Rukavina	Wagenius
Davnie	Gleason	Johnson, S.	Lieder	Sertich	
Dawkins	Greiling	Juhnke	McGuire	Skoe	
Dibble	Hausman	Kahn	Murphy	Skoglund	

Those who voted in the negative were:

Abeler	Cassell	Erickson	Hilstrom	Kubly	Molnau
Abrams	Clark, J.	Finseth	Holberg	Kuisle	Mulder
Anderson, B.	Daggett	Fuller	Holsten	Lenczewski	Mullery
Bakk	Davids	Gerlach	Howes	Leppik	Ness
Bishop	Dehler	Goodno	Jacobson	Lindner	Nornes
Blaine	Dempsey	Goodwin	Johnson, J.	Lipman	Olson
Boudreau	Dorman	Gunther	Johnson, R.	Mares	Opatz
Bradley	Dorn	Haas	Kielkucki	Marko	Osskopp
Buesgens	Eastlund	Hackbarth	Knoblach	Marquart	Otremba
Carlson	Erhardt	Harder	Krinkie	Milbert	Ozment

Paulsen	Rhodes	Seifert	Swenson	Vandever	Wilkin
Pawlenty	Rifenberg	Slawik	Sykora	Walz	Winter
Pelowski	Ruth	Smith	Thompson	Wasiluk	Wolf
Penas	Schumacher	Stanek	Tingelstad	Westerberg	Workman
Peterson	Seagren	Stang	Tuma	Westrom	Spk. Sviggum

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

H. F. No. 2598 was read for the third time.

Anderson, I., requested unanimous consent to offer an amendment to H. F. No. 2598, the first engrossment. The request was granted.

Anderson, I., offered an amendment to H. F. No. 2598, the first engrossment.

Anderson, I., withdrew his amendment to H. F. No. 2598, the first engrossment.

The Speaker called Abrams to the Chair.

H. F. No. 2598, A bill for an act relating to education; requiring recitation of the pledge of allegiance in all public schools; providing for instruction in the proper etiquette, display, and respect of the United States flag; amending Minnesota Statutes 2000, section 121A.11, by adding subdivisions; Minnesota Statutes 2001 Supplement, section 124D.10, subdivision 8.

The bill was placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 114 yeas and 11 nays as follows:

Those who voted in the affirmative were:

Abeler	Daggett	Gleason	Johnson, J.	Lindner	Otremba
Abrams	Davids	Goodno	Johnson, R.	Lipman	Ozment
Anderson, B.	Davnie	Goodwin	Johnson, S.	Mares	Paulsen
Anderson, I.	Dempsey	Gunther	Juhnke	Marko	Pawlenty
Bakk	Dorman	Haas	Kelliher	Marquart	Pelowski
Bernardy	Dorn	Hackbarth	Kielkucki	Milbert	Penas
Biernat	Eastlund	Harder	Knoblach	Molnau	Peterson
Bishop	Entenza	Hilstrom	Koskinen	Mulder	Pugh
Blaine	Erhardt	Holberg	Krinkie	Mullery	Rhodes
Boudreau	Erickson	Holsten	Kubly	Murphy	Rifenberg
Bradley	Evans	Howes	Kuise	Ness	Rukavina
Buesgens	Finseth	Huntley	Larson	Nornes	Ruth
Carlson	Folliard	Jacobson	Lenczewski	Olson	Schumacher
Cassell	Fuller	Jaros	Leppik	Opatz	Seagren
Clark, J.	Gerlach	Jennings	Lieder	Osskopp	Seifert

Sertich	Smith	Swapinski	Tingelstad	Wasiluk	Winter
Skoe	Solberg	Swenson	Tuma	Westerberg	Wolf
Skoglund	Stanek	Sykora	Vandever	Westrom	Workman
Slawik	Stang	Thompson	Walz	Wilkin	Spk. Sviggum

Those who voted in the negative were:

Clark, K.	Dehler	Greiling	Kahn	McGuire	Wagenius
Dawkins	Dibble	Hausman	Leighton	Osthoff	

The bill was passed and its title agreed to.

H. F. No. 3049 was reported to the House.

Tuma moved that H. F. No. 3049 be re-referred to the Committee on Crime Prevention. The motion prevailed.

### MOTIONS AND RESOLUTIONS

Leppik moved that the name of Rhodes be added as an author on H. F. No. 1524. The motion prevailed.

Wilkin moved that the name of Paulsen be added as an author on H. F. No. 2568. The motion prevailed.

Entenza moved that the name of Marko be added as an author on H. F. No. 2710. The motion prevailed.

Sykora moved that the name of Johnson, J., be added as an author on H. F. No. 3172. The motion prevailed.

Sykora moved that the name of Johnson, J., be added as an author on H. F. No. 3409. The motion prevailed.

Tuma moved that the name of Koskinen be added as an author on H. F. No. 3613. The motion prevailed.

Sviggum moved that the name of Abrams be added as chief author on H. F. No. 3621. The motion prevailed.

Stanek moved that the name of Koskinen be added as an author on H. F. No. 3634. The motion prevailed.

Hackbarth moved that H. F. No. 2528 be recalled from the Committee on Governmental Operations and Veterans Affairs Policy and be re-referred to the Committee on Taxes. The motion prevailed.

Osthoff moved that H. F. No. 2789 be recalled from the Committee on Capital Investment and be re-referred to the Committee on Taxes. The motion prevailed.

Clark, K., moved that H. F. No. 3324 be recalled from the Committee on Local Government and Metropolitan Affairs and be re-referred to the Committee on Commerce, Jobs and Economic Development. The motion prevailed.

Kuisle moved that H. F. No. 3500 be returned to its author. The motion prevailed.

## CALL OF THE HOUSE LIFTED

Seifert moved that the call of the House be suspended. The motion prevailed and it was so ordered.

Pawlenty introduced:

House Concurrent Resolution No. 5, A house concurrent resolution relating to adjournment for more than three days.

## SUSPENSION OF RULES

Pawlenty moved that the rules be so far suspended that House Concurrent Resolution No. 5 be now considered and be placed upon its adoption. The motion prevailed.

## HOUSE CONCURRENT RESOLUTION NO. 5

A house concurrent resolution relating to adjournment for more than three days.

*Be It Resolved*, by the House of Representatives of the State of Minnesota, the Senate concurring:

(1) Upon its adjournment on Thursday, February 28, 2002, the House of Representatives may set its next meeting day for Wednesday, March 6, 2002.

(2) Pursuant to the Minnesota Constitution, Article IV, Section 12, the Senate consents to adjournment of the House of Representatives for more than three days.

Pawlenty moved that House Concurrent Resolution No. 5 be now adopted. The motion prevailed and House Concurrent Resolution No. 5 was adopted.

## ADJOURNMENT

Pawlenty moved that when the House adjourns today it adjourn until 3:00 p.m., Thursday, February 28, 2002. The motion prevailed.

Pawlenty moved that the House adjourn. The motion prevailed, and Speaker pro tempore Abrams declared the House stands adjourned until 3:00 p.m., Thursday, February 28, 2002.

EDWARD A. BURDICK, Chief Clerk, House of Representatives