

STATE OF MINNESOTA

EIGHTY-THIRD SESSION — 2004

 NINETY-THIRD DAY

SAINT PAUL, MINNESOTA, MONDAY, APRIL 19, 2004

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 Pastor Eldon DeWeerth, Redeemer Lutheran Church, White Bear Lake, 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	Dempsey	Holberg	Lindgren	Paulsen	Strachan
Abrams	Dill	Hoppe	Lindner	Paymar	Swenson
Adolphson	Dorman	Hornstein	Lipman	Pelowski	Sykora
Anderson, I.	Dorn	Howes	Magnus	Penas	Thao
Anderson, J.	Eastlund	Huntley	Mahoney	Peterson	Thissen
Atkins	Eken	Jacobson	Mariani	Powell	Tingelstad
Beard	Ellison	Jaros	Marquart	Pugh	Urdahl
Bernardy	Entenza	Johnson, J.	McNamara	Rhodes	Vandever
Biernat	Erhardt	Johnson, S.	Meslow	Rukavina	Wagenius
Blaine	Erickson	Juhnke	Mullery	Ruth	Walker
Borrell	Finstad	Kahn	Murphy	Samuelson	Walz
Boudreau	Fuller	Kelliher	Nelson, C.	Seagren	Wardlow
Bradley	Gerlach	Klinzing	Nelson, M.	Seifert	Wasiluk
Brod	Goodwin	Knoblauch	Nelson, P.	Sertich	Westerberg
Buesgens	Greiling	Koenen	Newman	Severson	Westrom
Carlson	Gunther	Kohls	Nornes	Sieben	Wilkin
Cornish	Haas	Krinkie	Olson, M.	Simpson	Zellers
Cox	Hackbarth	Lanning	Opatz	Slawik	Spk. Sviggum
Davids	Harder	Larson	Osterman	Smith	
Davnie	Hausman	Latz	Otremba	Soderstrom	
DeLaForest	Heidgerken	Lenczewski	Otto	Solberg	
Demmer	Hilty	Lieder	Ozment	Stang	

A quorum was present.

Anderson, B.; Clark; Hilstrom; Lesch and Olsen, S., were excused.

Kuisle was excused until 6:00 p.m.

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

PETITIONS AND COMMUNICATIONS

The following communications were received:

STATE OF MINNESOTA
OFFICE OF THE GOVERNOR
SAINT PAUL 55155

April 14, 2004

The Honorable Steve Sviggum
Speaker of the House of Representatives
The State of Minnesota

Dear Speaker Sviggum:

It is my honor to inform you that I have received, approved, signed, and deposited in the Office of the Secretary of State the following House Files:

H. F. No. 2651, relating to corrections; amending the Interstate Compact for Adult Offender Supervision by providing procedures for retaking and reincarceration of parolees and probationers; delaying the repeal of the interstate compact for the supervision of parolees and probationers to provide more transition time for adoption of rules under the new compact.

H. F. No. 2455, relating to corrections; authorizing a five-level correctional facility classification system.

H. F. No. 1836, relating to the environment; clarifying permitting for mineral tailing deposition into mine pits.

H. F. No. 3005, relating to elections; changing times for voting on changing county seats.

Sincerely,

TIM PAWLENTY
Governor

STATE OF MINNESOTA
OFFICE OF THE SECRETARY OF STATE
ST. PAUL 55155

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 Acts of the 2004 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

<i>S. F. No.</i>	<i>H. F. No.</i>	<i>Session Laws Chapter No.</i>	<i>Time and Date Approved 2004</i>	<i>Date Filed 2004</i>
	2651	155	4:40 p.m. April 14	April 15
	2455	156	4:55 p.m. April 14	April 15
	1836	157	4:05 p.m. April 14	April 15
	3005	158	4:00 p.m. April 14	April 15

Sincerely,

MARY KIFFMEYER
Secretary of State

REPORTS OF STANDING COMMITTEES

Paulsen from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 2360, A bill for an act relating to natural resources; modifying certain state park fee and permit requirements; modifying rulemaking authority; modifying provisions for the Fort Snelling lease; adding to state parks and recreation areas; amending Minnesota Statutes 2002, sections 85.052, subdivision 4; 85.054, subdivision 7, by adding a subdivision; 85.22, subdivision 2a; 85.34, by adding subdivisions; Minnesota Statutes 2003 Supplement, section 16B.24, subdivision 5; repealing Minnesota Statutes 2002, section 85.34, subdivision 4.

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

The report was adopted.

Paulsen from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 2436, A bill for an act relating to health; providing for public health emergencies; amending Minnesota Statutes 2002, sections 12.03, subdivision 4d; 12.39, subdivision 2; 144.419, subdivision 1; 144.4195, subdivisions 1, 2, 3, 5; Minnesota Statutes 2003 Supplement, section 13.37, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 12; 144; repealing Laws 2002, chapter 402, section 21.

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

The report was adopted.

Paulsen from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 2461, A bill for an act relating to agriculture; defining certain terms; providing for the validity of certain electronic documents and signatures; amending Minnesota Statutes 2002, sections 223.16, by adding subdivisions; 223.177, subdivision 3; 232.21, by adding subdivisions; 232.23, subdivision 4.

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

The report was adopted.

Paulsen from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 2874, A bill for an act relating to state employment; modifying state hiring process provisions; adding, modifying, and eliminating definitions; making technical changes; amending Minnesota Statutes 2002, sections 43A.02, subdivisions 4, 6, 11, 26, 32, 34, by adding subdivisions; 43A.04, subdivisions 3, 4; 43A.05, subdivision 1; 43A.10; 43A.11, subdivisions 5, 6, 7, 8, 9; 43A.15, subdivisions 1, 2, 4, 7, 10, 15; 43A.16, subdivision 1; 43A.191, subdivision 3; 43A.36, subdivision 1; 43A.39, subdivision 1; 197.455; Minnesota Statutes 2003 Supplement, section 43A.15, subdivision 14; proposing coding for new law in Minnesota Statutes, chapter 43A; repealing Minnesota Statutes 2002, sections 43A.02, subdivisions 7, 8, 15, 16, 19, 20, 37; 43A.11, subdivisions 3, 4; 43A.12; 43A.13, subdivisions 1, 2, 3, 4, 5, 6, 8; 43A.15, subdivisions 8, 9, 11; Minnesota Statutes 2003 Supplement, section 43A.13, subdivision 7; Minnesota Rules, parts 3900.3300; 3900.6100; 3900.6300; 3900.6400; 3900.6500; 3900.6600; 3900.7100; 3900.7200; 3900.7300; 3900.7400; 3900.8500; 3900.8600; 3900.8800.

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

The report was adopted.

Paulsen from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 2915, A bill for an act relating to workers' compensation; making technical changes; modifying the definition of "personal injury" to include injury or disease resulting from certain vaccines; authorizing qualifying employees to opt to receive alternative workers' compensation benefits; amending Minnesota Statutes 2002, sections 176.011, subdivisions 15, 16; 176.081, subdivision 1; 176.092, subdivision 1a; 176.102, subdivision 3a; 176.129, subdivisions 1b, 2a, 13; 176.135, subdivisions 1, 7; 176.1351, subdivisions 3, 5, by adding a subdivision; 176.136, subdivision 1a; 176.181, by adding a subdivision; 176.1812, subdivision 6; 176.185, subdivision 1; 176.231, subdivision 5; 176.238, subdivision 10; 176.391, subdivision 2; 176.83, subdivision 5.

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

The report was adopted.

Paulsen from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 2976, A bill for an act relating to corrections; authorizing the Fugitive Apprehension Unit to share in certain asset forfeitures under the forfeiture law; amending Minnesota Statutes 2002, sections 609.531, subdivision 1; 609.5311, subdivisions 2, 3; 609.5312, subdivision 1; 609.5314, subdivision 1; 609.5318, subdivision 1; Minnesota Statutes 2003 Supplement, sections 609.5312, subdivisions 3, 4; 609.5317, subdivision 1.

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

The report was adopted.

Paulsen from the Committee on Rules and Legislative Administration to which was referred:

S. F. No. 1080, A bill for an act relating to veterans homes; updating and correcting certain language; amending Minnesota Statutes 2002, sections 198.001, by adding a subdivision; 198.004, subdivision 1; 198.005; 198.007; repealing Minnesota Statutes 2002, sections 198.001, subdivision 7; 198.002, subdivision 5; 198.003, subdivision 2.

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

The report was adopted.

Paulsen from the Committee on Rules and Legislative Administration to which was referred:

House Resolution No. 20, A House resolution congratulating the University of Minnesota women's hockey team on winning the 2004 NCAA women's hockey championship.

Reported the same back with the recommendation that the resolution be adopted.

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. Nos. 2436, 2461, 2874, 2915 and 2976 were read for the second time.

SECOND READING OF SENATE BILLS

S. F. No. 1080 was read for the second time.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Wilkin, Huntley, Stang, Wardlow and Davids introduced:

H. F. No. 3180, A resolution memorializing the Center for Medicaid and Medicare services to designate the state of Minnesota as a single-state region under the Medicare Modernization Act.

The bill was read for the first time and referred to the Committee on Rules and Legislative Administration.

Brod, Cox and Boudreau introduced:

H. F. No. 3181, A bill for an act relating to education finance; allowing school boards to elect to levy debt service against referendum market value; amending Minnesota Statutes 2002, sections 123B.53, by adding a subdivision; 123B.55; 123B.71, subdivision 9; Minnesota Statutes 2003 Supplement, section 123B.53, subdivision 4.

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

Bernardy, Jaros, McNamara, Dempsey and Rhodes introduced:

H. F. No. 3182, A bill for an act relating to tax increment financing; authorizing authorities to establish an urban renewal area; amending Minnesota Statutes 2002, sections 469.174, by adding a subdivision; 469.176, by adding a subdivision.

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

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following House Files, herewith returned:

H. F. No. 995, A bill for an act relating to utilities; modifying notice and plan requirements before excavating around utility facilities; making technical and clarifying changes; amending Minnesota Statutes 2002, sections 216D.01, by adding a subdivision; 216D.04, subdivisions 1, 1a, 2, 3, 4; 216D.05.

H. F. No. 1983, A bill for an act relating to commerce; enacting the revisions to the general provisions of the Uniform Commercial Code and enacting a revised Article 7 of the Uniform Commercial Code recommended by the National Conference of Commissioners on Uniform State Laws; making conforming changes; amending provisions in Articles 3 and 4 of the Uniform Commercial Code relating to warranties on remotely created items; amending Minnesota Statutes 2002, sections 17.94; 84.787, subdivision 9; 84.797, subdivision 10; 84.92, subdivision 6; 86B.820, subdivision 12; 168A.01, subdivision 20; 234.27; 325L.03; 325L.16; 336.2-103; 336.2-104; 336.2-202; 336.2-310; 336.2-323; 336.2-401; 336.2-503; 336.2-505; 336.2-506; 336.2-509; 336.2-605; 336.2-705; 336.2A-103; 336.2A-501; 336.2A-514; 336.2A-518; 336.2A-519; 336.2A-526; 336.2A-527; 336.2A-528; 336.4-210; 336.4A-105; 336.4A-106; 336.4A-204; 336.5-103; 336.8-102; 336.8-103; 336.9-102; 336.9-203; 336.9-207; 336.9-208; 336.9-301; 336.9-310; 336.9-312; 336.9-313; 336.9-314; 336.9-317; 336.9-338; 336.9-601; 513.33, subdivision 1; 514.963, subdivision 9; 514.965, subdivision 10; 514.973; Minnesota Statutes 2003 Supplement, sections 336.3-103; 336.3-416; 336.3-417; 336.4-104; 336.4-207; 336.4-208; proposing coding for new law in Minnesota Statutes, chapter 336; repealing Minnesota Statutes 2002, sections 336.1-101; 336.1-102; 336.1-103; 336.1-104; 336.1-105; 336.1-106; 336.1-107; 336.1-108; 336.1-109; 336.1-110; 336.1-201; 336.1-202; 336.1-203; 336.1-204; 336.1-205; 336.1-206; 336.1-207; 336.1-208; 336.1-209; 336.2-208; 336.2A-207; 336.7-101; 336.7-102; 336.7-103; 336.7-104; 336.7-105; 336.7-201; 336.7-202; 336.7-203; 336.7-204; 336.7-205; 336.7-206; 336.7-207; 336.7-208; 336.7-209; 336.7-210; 336.7-301; 336.7-302; 336.7-303; 336.7-304; 336.7-305; 336.7-306; 336.7-307; 336.7-308; 336.7-309; 336.7-401; 336.7-402; 336.7-403; 336.7-404; 336.7-501; 336.7-502; 336.7-503; 336.7-504; 336.7-505; 336.7-506; 336.7-507; 336.7-508; 336.7-509; 336.7-601; 336.7-602; 336.7-603; 336.10-104.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 1944, A bill for an act relating to domestic abuse; providing another ground for extending an order for protection; amending Minnesota Statutes 2002, section 518B.01.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Smith moved that the House concur in the Senate amendments to H. F. No. 1944 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 1944, A bill for an act relating to domestic abuse; providing another ground for extending an order for protection; amending Minnesota Statutes 2002, section 518B.01.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 128 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dempsey	Holberg	Lindgren	Paulsen	Strachan
Abrams	Dill	Hoppe	Lindner	Paymar	Swenson
Adolphson	Dorman	Hornstein	Lipman	Pelowski	Sykora
Anderson, I.	Dorn	Howes	Magnus	Penas	Thao
Anderson, J.	Eastlund	Huntley	Mahoney	Peterson	Thissen
Atkins	Eken	Jacobson	Mariani	Powell	Tingelstad
Beard	Ellison	Jaros	Marquart	Pugh	Urdahl
Bernardy	Entenza	Johnson, J.	McNamara	Rhodes	Vandever
Biernat	Erhardt	Johnson, S.	Meslow	Rukavina	Wagenius
Blaine	Erickson	Juhnke	Mullery	Ruth	Walker
Borrell	Finstad	Kahn	Murphy	Samuelson	Walz
Boudreau	Fuller	Kelliher	Nelson, C.	Seagren	Wardlow
Bradley	Gerlach	Klinzing	Nelson, M.	Seifert	Wasiluk
Brod	Goodwin	Knoblach	Nelson, P.	Sertich	Westerberg
Buesgens	Greiling	Koenen	Newman	Severson	Westrom
Carlson	Gunther	Kohls	Nornes	Sieben	Wilkin
Cornish	Haas	Krinkie	Olson, M.	Simpson	Zellers
Cox	Hackbarth	Lanning	Opatz	Slawik	Spk. Sviggum
Davids	Harder	Larson	Osterman	Smith	
Davnie	Hausman	Latz	Otremba	Soderstrom	
DeLaForest	Heidgerken	Lenczewski	Otto	Solberg	
Demmer	Hilty	Lieder	Ozment	Stang	

The bill was repassed, as amended by the Senate, and its title agreed to.

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 2906, A bill for an act relating to local government; increasing the efficiency of payroll processing; authorizing the use of electronic time recording systems; amending Minnesota Statutes 2002, section 412.271, subdivision 2.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Buesgens moved that the House concur in the Senate amendments to H. F. No. 2906 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 2906, A bill for an act relating to local government; increasing the efficiency of payroll processing; authorizing the use of electronic time recording systems; amending Minnesota Statutes 2002, section 412.271, subdivision 2.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 127 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dempsey	Holberg	Lindner	Paymar	Swenson
Abrams	Dill	Hoppe	Lipman	Pelowski	Sykora
Adolphson	Dorman	Hornstein	Magnus	Penas	Thao
Anderson, I.	Dorn	Howes	Mahoney	Peterson	Thissen
Anderson, J.	Eastlund	Jacobson	Mariani	Powell	Tingelstad
Atkins	Eken	Jaros	Marquart	Pugh	Urdahl
Beard	Ellison	Johnson, J.	McNamara	Rhodes	Vandever
Bernardy	Entenza	Johnson, S.	Meslow	Rukavina	Wagenius
Biernat	Erhardt	Juhnke	Mullery	Ruth	Walker
Blaine	Erickson	Kahn	Murphy	Samuelson	Walz
Borrell	Finstad	Kelliher	Nelson, C.	Seagren	Wardlow
Boudreau	Fuller	Klinzing	Nelson, M.	Seifert	Wasiluk
Bradley	Gerlach	Knoblach	Nelson, P.	Sertich	Westerberg
Brod	Goodwin	Koenen	Newman	Severson	Westrom
Buesgens	Greiling	Kohls	Nornes	Sieben	Wilkin
Carlson	Gunther	Krinkie	Olson, M.	Simpson	Zellers
Cornish	Haas	Lanning	Opatz	Slawik	Spk. Sviggum
Cox	Hackbarth	Larson	Osterman	Smith	
Davids	Harder	Latz	Otremba	Soderstrom	
Davnie	Hausman	Lenczewski	Otto	Solberg	
DeLaForest	Heidgerken	Lieder	Ozment	Stang	
Demmer	Hilty	Lindgren	Paulsen	Strachan	

The bill was repassed, as amended by the Senate, and its title agreed to.

Mr. Speaker:

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

S. F. Nos. 2009, 2413, 1639, 2494 and 2851.

PATRICK E. FLAHAVEN, Secretary of the Senate

FIRST READING OF SENATE BILLS

S. F. No. 2009, A bill for an act relating to state government; transferring tourism functions from Department of Employment and Economic Development to Explore Minnesota Tourism; appropriating money; amending Minnesota Statutes 2002, sections 116J.01, subdivision 5; 160.276, subdivision 5; Minnesota Statutes 2003

Supplement, sections 15.057; 15.75, subdivision 5; 116J.60; 161.20, subdivision 3; 270B.14, subdivision 13; proposing coding for new law as Minnesota Statutes, chapter 116U; repealing Minnesota Statutes 2002, sections 116J.01, subdivision 4; 116J.036; 116J.615; 116J.616; 116J.63, subdivision 4.

The bill was read for the first time.

Dauids moved that S. F. No. 2009 and H. F. No. 2044, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 2413, A bill for an act relating to employment; regulating payment for overtime work; amending Minnesota Statutes 2002, section 177.25, subdivision 1.

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, Sertich moved that the rule therein be suspended and an urgency be declared so that S. F. No. 2413 be given its second and third readings and be placed upon its final passage.

A roll call was requested and properly seconded.

The question was taken on the Sertich motion and the roll was called. There were 56 yeas and 72 nays as follows:

Those who voted in the affirmative were:

Anderson, I.	Eken	Johnson, S.	Mariani	Paymar	Strachan
Anderson, J.	Ellison	Juhnke	Marquart	Pelowski	Thao
Atkins	Entenza	Kahn	Meslow	Peterson	Thissen
Bernardy	Goodwin	Kelliher	Mullery	Pugh	Wagenius
Biernat	Greiling	Koenen	Murphy	Rhodes	Walker
Carlson	Hausman	Larson	Nelson, M.	Rukavina	Wasiluk
Davnie	Hilty	Latz	Opatz	Sertich	
Dill	Hornstein	Lenczewski	Osterman	Sieben	
Dorman	Huntley	Lieder	Otremba	Slawik	
Dorn	Jaros	Mahoney	Otto	Solberg	

Those who voted in the negative were:

Abeler	Buesgens	Erickson	Holberg	Lanning	Nornes
Abrams	Cornish	Finstad	Hoppe	Lindgren	Olson, M.
Adolphson	Cox	Fuller	Hoves	Lindner	Ozment
Beard	Dauids	Gerlach	Jacobson	Lipman	Paulsen
Blaine	DeLaForest	Gunther	Johnson, J.	Magnus	Penas
Borrell	Demmer	Haas	Klinzing	McNamara	Powell
Boudreau	Dempsey	Hackbarth	Knoblach	Nelson, C.	Ruth
Bradley	Eastlund	Harder	Kohls	Nelson, P.	Samuelson
Brod	Erhardt	Heidgerken	Krinkie	Newman	Seagren

Seifert	Smith	Swenson	Urdahl	Wardlow	Wilkin
Severson	Soderstrom	Sykora	Vandever	Westerberg	Zellers
Simpson	Stang	Tingelstad	Walz	Westrom	Spk. Sviggum

Not having received the constitutionally required two-thirds vote, the motion did not prevail.

The bill was referred to the Committee on Commerce, Jobs and Economic Development.

FIRST READING OF SENATE BILLS, Continued

S. F. No. 1639, A bill for an act relating to motor vehicles; providing for removal and disposal of unauthorized vehicles on private, nonresidential property used for servicing vehicles; amending Minnesota Statutes 2002, section 168B.04, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 168B.

The bill was read for the first time.

Pugh moved that S. F. No. 1639 and H. F. No. 1972, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 2494, A bill for an act relating to school safety; allowing certain colors for school safety patrol accessories and flags; amending Minnesota Statutes 2002, section 121A.34, by adding subdivisions.

The bill was read for the first time.

Slawik moved that S. F. No. 2494 and H. F. No. 2587, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 2851, A bill for an act relating to drivers' licenses; limiting issuance of instruction permit and provisional driver's license after certain convictions; amending Minnesota Statutes 2002, sections 169A.55, by adding a subdivision; 171.05, by adding a subdivision; 171.055, subdivision 1.

The bill was read for the first time.

Blaine moved that S. F. No. 2851 and H. F. No. 2555, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

CALENDAR FOR THE DAY

S. F. No. 1753 was reported to the House.

Westrom moved to amend S. F. No. 1753 as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 1830, the first engrossment:

"Section 1. Minnesota Statutes 2002, section 216B.16, subdivision 14, is amended to read:

Subd. 14. [LOW-INCOME ELECTRIC RATE DISCOUNT.] A public utility shall ~~provide~~ fund an affordability program for low-income customers in an amount based on a 50 percent electric rate discount on the first 300 kilowatt hours consumed in a billing period for a low-income residential ~~customer~~ customers of the utility. For the purposes of this subdivision, "low-income" ~~means~~ describes a customer who is receiving assistance from the federal low-income home energy assistance program. The affordability program must be designed to target participating customers with the lowest incomes and highest energy costs in order to lower the percentage of income they devote to energy bills, increase their payments, and lower costs associated with collection activities on their accounts. For low-income customers who are 62 years of age or older or disabled, the program must, in addition to any other program benefits, include a 50 percent electric rate discount on the first 300 kilowatt hours consumed in a billing period. For the purposes of this subdivision, "public utility" includes only those public utilities with more than 200,000 residential electric service customers. The commission may issue orders necessary to implement, administer, and recover the ~~discount rate~~ costs of the program on a timely basis.

[EFFECTIVE DATE.] This section is effective July 1, 2004.

Sec. 2. Minnesota Statutes 2003 Supplement, section 216B.241, subdivision 1b, is amended to read:

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

- (1) a cooperative electric association that provides retail service to its members;
 - (2) a municipality that provides electric service to retail customers; and
 - (3) a municipality with gross operating revenues in excess of \$5,000,000 from sales of natural gas to retail customers.
- (b) Each cooperative electric association and municipality subject to this subdivision shall spend and invest for energy conservation improvements under this subdivision the following amounts:
- (1) for a municipality, 0.5 percent of its gross operating revenues from the sale of gas and 1.5 percent of its gross operating revenues from the sale of electricity, excluding gross operating revenues from electric and gas service provided in the state to large electric customer facilities; and
 - (2) for a cooperative electric association, 1.5 percent of its gross operating revenues from service provided in the state, excluding gross operating revenues from service provided in the state to large electric customer facilities indirectly through a distribution cooperative electric association.
- (c) Each municipality and cooperative electric association subject to this subdivision shall identify and implement energy conservation improvement spending and investments that are appropriate for the municipality or association, except that a municipality or association may not spend or invest for energy conservation improvements that directly benefit a large electric customer facility for which the commissioner has issued an exemption under subdivision 1a, paragraph (b).
- (d) Each municipality and cooperative electric association subject to this subdivision may spend and invest annually up to ten percent of the total amount required to be spent and invested on energy conservation improvements under this subdivision on research and development projects that meet the definition of energy conservation improvement in subdivision 1 and that are funded directly by the municipality or cooperative electric association.

(e) Load-management activities that do not reduce energy use but that increase the efficiency of the electric system may be used to meet the following percentage of the conservation investment and spending requirements of this subdivision:

- (1) 2002 - 90 percent;
- (2) 2003 - 80 percent;
- (3) 2004 - 65 percent; and
- (4) 2005 and thereafter - 50 percent.

(f) A generation and transmission cooperative electric association that provides energy services to cooperative electric associations that provide electric service at retail to consumers may invest in energy conservation improvements on behalf of the associations it serves and may fulfill the conservation, spending, reporting, and energy savings goals on an aggregate basis. A municipal power agency or other not-for-profit entity that provides energy service to municipal utilities that provide electric service at retail may invest in energy conservation improvements on behalf of the municipal utilities it serves and may fulfill the conservation, spending, reporting, and energy savings goals on an aggregate basis, under an agreement between the municipal power agency or not-for-profit entity and each municipal utility for funding the investments.

(g) By June 1, 2002, and every two years thereafter, each municipality or cooperative shall file an overview of its conservation improvement plan with the commissioner. With this overview, the municipality or cooperative shall also provide an evaluation to the commissioner detailing its energy conservation improvement spending and investments for the previous period. The evaluation must briefly describe each conservation program and must specify the energy savings or increased efficiency in the use of energy within the service territory of the utility or association that is the result of the spending and investments. The evaluation must analyze the cost-effectiveness of the utility's or association's conservation programs, using a list of baseline energy and capacity savings assumptions developed in consultation with the department. The commissioner shall review each evaluation and make recommendations, where appropriate, to the municipality or association to increase the effectiveness of conservation improvement activities. Up to three percent of a utility's conservation spending obligation under this section may be used for program pre-evaluation, testing, and monitoring and program evaluation. The overview and evaluation filed by a municipality with less than ~~\$2,500,000~~ 60,000,000 kilowatt hours in annual ~~gross revenues from the retail sale~~ sales of electric service may consist of a letter from the governing board of the municipal utility to the department providing the amount of annual conservation spending required of that municipality and certifying that the required amount has been spent on conservation programs pursuant to this subdivision.

(h) The commissioner shall also review each evaluation for whether a portion of the money spent on residential conservation improvement programs is devoted to programs that directly address the needs of renters and low-income persons unless an insufficient number of appropriate programs are available. For the purposes of this subdivision and subdivision 2, "low-income" means an income at or below 50 percent of the state median income.

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

(j) A municipality may spend up to 50 percent of its required spending under this section to refurbish an existing district heating or cooling system. This paragraph expires July 1, 2007.

Sec. 3. [REPEALER.]

Minnesota Statutes 2002, section 325E.015, is repealed.

Delete the title and insert:

"A bill for an act relating to utilities; modifying the low-income electric rate discount program; regulating conservation improvement by cooperatives and municipalities; eliminating the budget payment plans as a required customer option; amending Minnesota Statutes 2002, section 216B.16, subdivision 14; Minnesota Statutes Supplement 2003, section 216B.241, subdivision 1b; repealing Minnesota Statutes 2002, section 325E.015."

The motion prevailed and the amendment was adopted.

Westrom moved to amend S. F. No. 1753, as amended, as follows:

Page 3, line 36, strike "By June 1, 2002, and" and strike "thereafter" and insert ", on a schedule determined by the commissioner"

The motion prevailed and the amendment was adopted.

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

Cox, Peterson, Magnus and Demmer moved to amend S. F. No. 1753, as amended, as follows:

Page 1, after line 5, insert:

"Section 1. Minnesota Statutes 2002, section 123B.02, is amended by adding a subdivision to read:

Subd. 21. [WIND ENERGY CONVERSION SYSTEM.] The board may acquire, own in whole or in part, operate, or sell energy from a wind energy conservation system, as defined in section 216C.06, subdivision 19. The board's share of proceeds from the sale of any energy from the wind energy conservation system must not exceed the sum of the district's total energy costs for the preceding year, net of any maintenance and repair costs related to the wind energy conservation system. A board owning, operating, or selling energy from a wind energy conservation system must integrate information about wind energy conservation systems in its educational programming.

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

Page 2, after line 4, insert:

"Sec. 3. Minnesota Statutes 2002, section 216C.10, is amended to read:

216C.10 [COMMISSIONER POWERS.]

(a) The commissioner may:

(1) adopt rules under chapter 14 as necessary to carry out the purposes of sections 216C.05 to 216C.30;

(2) make all contracts under sections 216C.05 to 216C.30 and do all things necessary to cooperate with the United States government, and to qualify for, accept, and disburse any grant intended for the administration of sections 216C.05 to 216C.30;

(3) provide on-site technical assistance to school districts with wind energy conservation systems and to all units of local government in order to enhance local capabilities for dealing with energy problems;

(4) administer for the state, energy programs under federal law, regulations, or guidelines, except for the low-income home energy assistance program and low-income weatherization programs administered by the Department of Economic Security, and coordinate the programs and activities with other state agencies, units of local government, and educational institutions;

(5) develop a state energy investment plan with yearly energy conservation and alternative energy development goals, investment targets, and marketing strategies;

(6) perform market analysis studies relating to conservation, alternative and renewable energy resources, and energy recovery;

(7) assist with the preparation of proposals for innovative conservation, renewable, alternative, or energy recovery projects;

(8) manage and disburse funds made available for the purpose of research studies or demonstration projects related to energy conservation or other activities deemed appropriate by the commissioner;

(9) intervene in certificate of need proceedings before the Public Utilities Commission;

(10) collect fees from recipients of loans, grants, or other financial aid from money received from litigation or settlement of alleged violations of federal petroleum-pricing regulations, which fees must be used to pay the department's costs in administering those financial aids; and

(11) collect fees from proposers and operators of conservation and other energy-related programs that are reviewed, evaluated, or approved by the department, other than proposers that are political subdivisions or community or nonprofit organizations, to cover the department's cost in making the reviewal, evaluation, or approval and in developing additional programs for others to operate.

(b) Notwithstanding any other law, the commissioner is designated the state agent to apply for, receive, and accept federal or other funds made available to the state for the purposes of sections 216C.05 to 216C.30."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

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

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

The question was taken on the passage of the bill and the roll was called. There were 126 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Demmer	Heidgerken	Latz	Otto	Soderstrom
Abrams	Dempsey	Hilty	Lenczewski	Ozment	Solberg
Adolphson	Dill	Holberg	Lieder	Paulsen	Stang
Anderson, I.	Dorman	Hoppe	Lindgren	Paymar	Strachan
Anderson, J.	Dorn	Hornstein	Lindner	Pelowski	Swenson
Atkins	Eastlund	Howes	Lipman	Penas	Sykora
Beard	Eken	Huntley	Magnus	Peterson	Thao
Bernardy	Ellison	Jacobson	Mahoney	Powell	Thissen
Biernat	Entenza	Jaros	Mariani	Pugh	Tingelstad
Blaine	Erhardt	Johnson, J.	Marquart	Rhodes	Urdahl
Borrell	Erickson	Johnson, S.	McNamara	Rukavina	Vandevveer
Boudreau	Finstad	Juhnke	Meslow	Ruth	Wagenius
Bradley	Fuller	Kahn	Murphy	Samuelson	Walker
Brod	Gerlach	Kelliher	Nelson, C.	Seagren	Walz
Buesgens	Goodwin	Klinzing	Nelson, M.	Seifert	Wardlow
Carlson	Greiling	Knoblach	Nelson, P.	Sertich	Wasiluk
Cornish	Gunther	Koenen	Newman	Severson	Westerberg
Cox	Haas	Kohls	Nornes	Sieben	Westrom
Davids	Hackbarth	Krinkie	Opatz	Simpson	Wilkin
Davnie	Harder	Lanning	Osterman	Slawik	Zellers
DeLaForest	Hausman	Larson	Otremba	Smith	Spk. Sviggum

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

H. F. No. 2368 was reported to the House.

Seagren; Sykora; Greiling; Paymar; Nelson, C.; Kelliher; Otto; Latz; Rhodes; Lenczewski; Davnie; Erhardt; Goodwin and Samuelson moved to amend H. F. No. 2368, the third grossment, as follows:

Pages 1 and 2, delete section 1

Page 9, delete section 21

Page 12, delete section 27

Page 12, delete lines 25 and 26

Page 12, line 27, delete "(b)"

A roll call was requested and properly seconded.

The question was taken on the Seagren et al amendment and the roll was called. There were 49 yeas and 78 nays as follows:

Those who voted in the affirmative were:

Abrams	Erhardt	Jaros	Mariani	Pelowski	Thissen
Anderson, I.	Gerlach	Johnson, S.	McNamara	Pugh	Wagenius
Atkins	Goodwin	Kahn	Murphy	Rhodes	Walker
Bernardy	Greiling	Kelliher	Nelson, C.	Samuelson	Wasiluk
Biernat	Hausman	Klinzing	Nelson, P.	Seagren	
Carlson	Hilty	Latz	Opatz	Sieben	
Davnie	Holberg	Lenczewski	Osterman	Slawik	
Ellison	Hornstein	Lieder	Otto	Sykora	
Entenza	Huntley	Mahoney	Paymar	Thao	

Those who voted in the negative were:

Abeler	DeLaForest	Hackbarth	Larson	Paulsen	Stang
Adolphson	Demmer	Harder	Lindgren	Penas	Strachan
Anderson, J.	Dempsey	Heidgerken	Lindner	Peterson	Swenson
Beard	Dill	Hoppe	Lipman	Powell	Tingelstad
Blaine	Dorman	Howes	Magnus	Rukavina	Urdahl
Borrell	Dorn	Jacobson	Marquart	Ruth	Vandever
Boudreau	Eastlund	Johnson, J.	Meslow	Seifert	Walz
Bradley	Eken	Juhnke	Nelson, M.	Sertich	Wardlow
Brod	Erickson	Knoblach	Newman	Severson	Westerberg
Buesgens	Finstad	Koenen	Nornes	Simpson	Westrom
Cornish	Fuller	Kohls	Olson, M.	Smith	Wilkin
Cox	Gunther	Krinkie	Otremba	Soderstrom	Zellers
Davids	Haas	Lanning	Ozment	Solberg	Spk. Sviggum

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

Rukavina; Anderson, I.; Lieder; Dorman; Howes and Walz moved to amend H. F. No. 2368, the third engrossment, as follows:

Page 12, after line 23, insert:

"Sec. 28. [ISSUANCE OF MOOSE LICENSE.]

The commissioner of natural resources shall issue a moose license for the 2004 hunting season to any resident who will be 75 years of age or older during the 2004 moose season, who has been a state resident for at least 20 years, and who has previously applied for a moose license for ten seasons since 1985, but has never received a moose license. The license shall be valid for a party of up to three additional individuals chosen by the resident."

Page 12, line 30, delete "28" and insert "29"

ReNUMBER the sections in sequence and correct the internal references

Amend the title accordingly

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

Dill and Hackbarth moved to amend H. F. No. 2368, the third engrossment, as follows:

Page 3, after line 6, insert:

"Sec. 6. Minnesota Statutes 2002, section 97A.093, is amended to read:

97A.093 [HUNTING, TRAPPING, AND FISHING IN SCIENTIFIC AND NATURAL AREAS.]

(a) Except as otherwise provided ~~by law in statutes~~, scientific and natural areas are closed to ~~hunting, trapping, and fishing~~ unless:

(1) for scientific and natural areas designated before May 15, 1992, the designating document allows ~~hunting, trapping, or fishing~~; or

(2) for other scientific and natural areas, the commissioner allows ~~hunting, trapping, or fishing in accordance with~~ according to the procedure in section 86A.05, subdivision 5, paragraph (d).

(b) Except as otherwise provided in statutes, scientific and natural areas are open to hunting and fishing unless the commissioner prohibits hunting or fishing according to the procedure in section 86A.05, subdivision 5, paragraph (d).

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to all designated scientific and natural areas, including those where use hearings are pending on that date under Minnesota Statutes, section 86A.05, subdivision 5, paragraph (d).

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

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

Hackbarth moved to amend H. F. No. 2368, the third engrossment, as follows:

Page 12, line 27, delete everything after the first comma

Page 12, delete line 28, and insert "section 97B.935, is repealed."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Erhardt moved to amend H. F. No. 2368, the third engrossment, as amended, as follows:

Page 9, line 34, after the period, insert "The taking shall be done only with bow and arrow."

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

Kahn moved to amend H. F. No. 2368, the third engrossment, as amended, as follows:

Page 9, line 34, before the period, insert "only in flight"

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

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.

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

The question was taken on the passage of the bill and the roll was called. There were 89 yeas and 34 nays as follows:

Those who voted in the affirmative were:

Abeler	DeLaForest	Heidgerken	Lindner	Otremba	Solberg
Adolphson	Demmer	Hoppe	Lipman	Ozment	Stang
Anderson, I.	Dempsey	Howes	Magnus	Paulsen	Strachan
Anderson, J.	Dill	Jacobson	Mahoney	Pelowski	Swenson
Atkins	Dorn	Johnson, J.	Marquart	Penas	Tingelstad
Beard	Eastlund	Juhnke	McNamara	Peterson	Urdahl
Blaine	Eken	Klinzing	Meslow	Powell	Vandever
Borrell	Erickson	Knoblach	Nelson, C.	Ruth	Walz
Boudreau	Finstad	Koenen	Nelson, M.	Samuelson	Wardlow
Bradley	Fuller	Kohls	Nelson, P.	Seifert	Westerberg
Brod	Gerlach	Lanning	Newman	Sertich	Westrom
Buesgens	Gunther	Larson	Nornes	Severson	Wilkin
Cornish	Haas	Lenczewski	Olson, M.	Simpson	Zellers
Cox	Hackbarth	Lieder	Opatz	Smith	Spk. Sviggum
Davids	Harder	Lindgren	Osterman	Soderstrom	

Those who voted in the negative were:

Abrams	Carlson	Erhardt	Hausman	Huntley	Kahn
Bernardy	Davnie	Goodwin	Hilty	Jaros	Kelliher
Biernat	Entenza	Greiling	Hornstein	Johnson, S.	Krinkie

Latz
Mariani
Murphy

Otto
Paymar
Rhodes

Rukavina
Seagren
Sieben

Slawik
Sykora
Thao

Thissen
Wagenius
Walker

Wasiluk

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

H. F. No. 2151 was reported to the House.

Westrom moved to amend H. F. No. 2151, the first engrossment, as follows:

Page 1, delete section 1

Renumber the sections in sequence

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Vandever, Westerberg, Davnie, Westrom, Gunther, Paymar, Davids and Jacobson moved to amend H. F. No. 2151, the first engrossment, as amended, as follows:

Page 28, after line 10, insert:

"ARTICLE 4

CONSUMER PROTECTIONS FOR WIRELESS CUSTOMERS

Section 1. [325F.695] [CONSUMER PROTECTIONS FOR WIRELESS CUSTOMERS.]

Subdivision 1. [DEFINITIONS.] The definitions in this subdivision apply to this section.

(a) "Contract" means an oral or written agreement of definite duration between a provider and a customer, detailing the wireless telecommunications services to be provided to the customer and the terms and conditions for provision of those services.

(b) "Wireless telecommunications services" means commercial mobile radio services as defined in Code of Federal Regulations, title 47, part 20.

(c) "Provider" means a provider of wireless telecommunications services.

(d) "Substantive change" means a modification to, or addition or deletion of, a term or condition in a contract that results in an increase in the charge to the customer under that contract. "Substantive change" includes a modification in the provider's administration of an existing contract term or condition. "Substantive change" does not include a change in state or federal taxes or a change in mandated state or federal surcharges, including, but not limited to, 911 surcharges.

Subd. 2. [COPY OF CONTRACT.] A provider must provide each customer with a written or electronic copy of the customer's contract between the provider and the customer within 15 days of the date the contract is entered into. A provider must maintain verification that the customer accepted the terms of the contract for the duration of the contract period.

Subd. 3. [NOTICE OF SUBSTANTIVE CHANGE.] A provider must notify the customer in writing of any proposed provider initiated substantive change in an existing contract between the provider and the customer 30 days before that change is to take effect. The notification must be sent separately from other mailings and the envelope must be labeled "NOTICE OF PROPOSED CHANGE IN CONTRACT TERMS." The notification print must be of sufficient size to be clearly legible and it must contain clear and unambiguous language separately detailing each substantive change proposed by the provider.

Subd. 4. [CUSTOMER MAY OPT OUT.] The customer may choose to opt out of and terminate the contract without penalty within the 30-day notice period. The choice to opt out of and terminate the contract must be in writing. If no affirmative action is taken by the customer to opt out of and terminate the contract, the customer is considered to have agreed to the proposed substantive change and the contract is considered modified.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective on July 1, 2004, and applies to contracts for wireless service entered into on or after May 1, 2004."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Dauids and Westrom moved to amend H. F. No. 2151, the first engrossment, as amended, as follows:

Delete page 4, line 9, to page 26, line 36, and insert:

"ARTICLE 2

CABLE SYSTEM CHANGES

Section 1. Minnesota Statutes 2002, section 238.02, subdivision 3, is amended to read:

Subd. 3. [CABLE COMMUNICATIONS SYSTEM.] (a) "Cable communications system" means a system which operates that (1) provides the service of receiving and amplifying (i) programs broadcast by one or more television or radio stations and (ii) other programs originated by a person operating a cable communications company system or by another party, and distributing person, and (2) distributes those programs by wire, cable, microwave, or other means, regardless of whether the means are owned or leased, to persons who subscribe to the service.

(b) This definition does not include:

(a) (1) a system ~~which that~~ serves fewer than 50 subscribers or a system ~~which that~~ serves more than 50 but fewer than 1,000 subscribers if the governing bodies of all political subdivisions served by the system, vote, by resolution, to remove the system from the provisions of this chapter; provided that:

(i) no part of a system, nor any area within the municipality served by the system, may be removed from the provisions of this chapter if more than 1,000 subscribers are served by the system; and

(ii) any system ~~which serves~~ serving more than 50 but fewer than 1,000 subscribers that has been removed from the provisions of this chapter ~~shall be returned~~ becomes subject to the provisions of this chapter if the governing bodies of 50 percent or more of the political subdivisions served by the system vote, by resolution, in favor of the return;

(b) (2) a master antenna television system;

(c) (3) a specialized closed-circuit system ~~which that~~ does not use the public rights-of-way for the construction of its physical plant; and

(d) (4) a translator system ~~which that~~ receives and rebroadcasts over-the-air signals.

Sec. 2. Minnesota Statutes 2002, section 238.03, is amended to read:

238.03 [APPLICABILITY.]

This chapter applies to every cable communications system ~~and every cable communications company,~~ as defined in section 238.02, operating within the state, including a cable communications ~~company which constructs, operates and maintains a cable communications system~~ comprised in whole or in part ~~through the~~ of facilities ~~of a person franchised to offer common or contract carrier services subject to regulation under chapter 237.~~ Persons possessing franchises for any of the purposes of this chapter are subject to this chapter although no property has been acquired, business transacted, or franchises exercised.

Sec. 3. Minnesota Statutes 2002, section 238.08, subdivision 3, is amended to read:

Subd. 3. [MUNICIPAL OPERATION.] ~~Nothing in this chapter shall be construed to limit~~ Unless otherwise prohibited by applicable law, any municipality ~~from the right to~~ may construct, purchase, and operate cable communications systems; or, ~~to~~ operate facilities and channels for community television, including, but not limited to, public, educational, and governmental access and local origination programming. Any municipal system, including the operation of community television by a municipality, ~~shall be~~ is subject to this chapter to the same extent as ~~would~~ any nonpublic cable communications system.

Sec. 4. Minnesota Statutes 2002, section 238.08, subdivision 4, is amended to read:

Subd. 4. [FEE, TAX, OR CHARGE.] Nothing in this chapter shall be construed to limit the power of any municipality to impose upon any person operating a cable communications company system a fee, tax, or charge.

Sec. 5. Minnesota Statutes 2002, section 238.081, is amended to read:

238.081 [FRANCHISE PROCEDURE.]

Subdivision 1. [PUBLICATION OF NOTICE.] The franchising authority shall have published once each week for two successive weeks in a newspaper of general circulation in each municipality within the cable service territory, a notice of intent to consider an application for a franchise, ~~requesting applications for the franchise other than a franchise renewal pursuant to the United States Code, title 47, section 546.~~

Subd. 2. [REQUIRED INFORMATION IN NOTICE.] The notice must include at least the following information:

- (1) the name of the municipality making the request;
- (2) the closing date for submission of applications;
- (3) a statement of the application fee, if any, and the method for its submission;
- (4) a statement by the franchising authority of the ~~desired system design and~~ services to be offered;
- (5) a statement by the franchising authority of criteria and priorities against which the applicants for the franchise must be evaluated;
- (6) a statement that applications for the franchise must contain at least the information required by subdivision 4;
- (7) the date, time, and place for the public hearing, to hear proposals from franchise applicants; and
- (8) the name, address, and telephone number of the individuals who may be contacted for further information.

Subd. 3. [OTHER RECIPIENTS OF NOTICE.] In addition to the published notice, the franchising authority shall mail copies of the notice of intent to franchise to any person it has identified as being a potential candidate for the franchise.

Subd. 4. [CONTENTS OF FRANCHISING PROPOSAL.] (a) The franchising authority shall require that proposals for a cable communications franchise be notarized and contain, but not necessarily be limited to, the following information:

- (1) plans for channel capacity, including both the total number of channels capable of being energized in the system and the number of channels to be energized immediately;
- (2) a statement of the television and radio broadcast signals for which permission to carry will be requested from the Federal Communications Commission;
- (3) a description of the proposed system design and planned operation, including at least the following items:
 - (i) the general area for location of antennae and the head end, if known;
 - (ii) the schedule for activating two-way capacity;

- (iii) the type of automated services to be provided;
 - (iv) the number of channels and services to be made available for access cable broadcasting; and
 - (v) a schedule of charges for facilities and staff assistance for access cable broadcasting;
- (4) the terms and conditions under which particular service is to be provided to governmental and educational entities;
- (5) a schedule of proposed rates in relation to the services to be provided, and a proposed policy regarding unusual or difficult connection of services;
- (6) a time schedule for construction of the entire system with the time sequence for wiring the various parts of the area requested to be served in the request for proposals;
- (7) a statement indicating the applicant's qualifications and experience in the cable communications field, if any;
- (8) an identification of the municipalities in which the applicant either owns or operates a cable communications system, directly or indirectly, or has outstanding franchises for which no system has been built;
- (9) plans for financing the proposed system, which must indicate every significant anticipated source of capital and significant limitations or conditions with respect to the availability of the indicated sources of capital;
- (10) a statement of ownership detailing the corporate organization of the applicant, if any, including the names and addresses of officers and directors and the number of shares held by each officer or director, and intracompany relationship including a parent, subsidiary, or affiliated company; and
- (11) a notation and explanation of omissions or other variations with respect to the requirements of the proposal.
- (b) ~~Substantive amendments may not be made in a proposal after a proposal has been submitted to the franchising authority and before award of a franchise~~ Upon submission of a proposal, the municipality and applicant may negotiate franchise terms.
- Subd. 5. [TIME LIMIT TO SUBMIT APPLICATION.] The franchising authority shall allow at least 20 days from the first date of published notice to the closing date for submitting applications.
- Subd. 6. [PUBLIC HEARING ON FRANCHISE.] A public hearing before the franchising authority affording reasonable notice and a reasonable opportunity to be heard with respect to all applications for the franchise must be completed at least seven days before the ~~introduction of the~~ adoption of a franchise ordinance ~~in the proceedings of the franchising authority.~~
- Subd. 7. [AWARD OF FRANCHISE.] Franchises may be awarded ~~only~~ by ordinance or other official action by the franchising authority.
- Subd. 8. [COSTS OF AWARDED FRANCHISE.] Nothing in this section prohibits a franchising authority from recovering from a ~~successful~~ an applicant the entire reasonable and necessary costs of ~~the entire process of awarding the~~ processing a cable communications franchise.
- Subd. 9. [FRANCHISING NONPROFIT OR MUNICIPALLY OWNED SYSTEM.] Nothing contained in this section prohibits a franchising authority from franchising a nonprofit or municipally owned system. The municipality or nonprofit entity is considered an applicant for purposes of this section.

Subd. 10. [FRANCHISE; JOINT POWERS.] In the cases of municipalities acting in concert, the municipalities may delegate to another entity ~~such~~ any duties, responsibilities, privileges, or activities described in this section, if ~~such~~ the delegation is proper according to state and local law.

Sec. 6. Minnesota Statutes 2002, section 238.083, subdivision 2, is amended to read:

Subd. 2. [WRITTEN APPROVAL OF FRANCHISING AUTHORITY.] A sale or transfer of a franchise, including a sale or transfer by means of a fundamental corporate change, requires the written approval of the franchising authority. The parties to the sale or transfer of a franchise shall make a written request to the franchising authority for its approval of the sale or transfer. ~~The franchising authority shall reply in writing within 30 days of the request and shall indicate its approval of the request or its determination that a public hearing is necessary if it determines that a sale or transfer of a franchise may adversely affect the company's subscribers. The franchising authority shall conduct a public hearing on the request within 30 days of that determination.~~

Sec. 7. Minnesota Statutes 2002, section 238.083, subdivision 4, is amended to read:

Subd. 4. [APPROVAL OR DENIAL OF TRANSFER REQUEST.] ~~Within 30 days after the public hearing,~~ The franchising authority shall approve or deny in writing the sale or transfer request. The approval must not be unreasonably withheld.

Sec. 8. Minnesota Statutes 2002, section 238.084, subdivision 1, is amended to read:

Subdivision 1. [ALL SYSTEMS.] The following requirements apply to all ~~classes A, B, and C~~ cable communications systems unless provided otherwise:

(a) a provision that the franchise ~~complies~~ shall comply with the Minnesota franchise standards contained in this section;

(b) a provision requiring the franchisee and the franchising authority to conform to state laws and rules regarding cable communications not later than one year after they become effective, unless otherwise stated, and to conform to federal laws and regulations regarding cable as they become effective;

(c) a provision limiting the initial and renewal franchise term to not more than 15 years each;

(d) a provision specifying that the franchise is must be nonexclusive;

(e) a provision prohibiting sale or transfer of the franchise or sale or transfer of stock so as to create a new controlling interest under section 238.083, except at the approval of the franchising authority, which approval must not be unreasonably withheld, and conditioned that the sale or transfer is completed pursuant to section 238.083;

(f) a provision granting the franchising authority collecting a franchise fee the authority to audit the franchisee's accounting and financial records upon reasonable notice, and requiring that the franchisee file with the franchising authority annually reports of gross subscriber revenues and other information as the franchising authority deems appropriate;

(g) provisions specifying:

(1) current subscriber charges or that the current charges are available for public inspection in the municipality;

(2) the length and terms of residential subscriber contracts, if they exist, or that the current length and terms of residential subscriber contracts are available for public inspection in the municipality; and

(3) the procedure by which subscriber charges are established, unless such a provision is contrary to state or federal law;

(h) a provision indicating by title the office or officer of the franchising authority that is responsible for the continuing administration of the franchise;

(i) a provision requiring the franchisee to indemnify and hold harmless the franchising authority during the term of the franchise, and to maintain throughout the term of the franchise, liability insurance in an amount as the franchising authority may require insuring both the franchising authority and the franchisee with regard to damages and penalties ~~which~~ that they may legally be required to pay as a result of the exercise of the franchise;

(j) a provision that at the time the franchise becomes effective and thereafter until the franchisee has liquidated all of its obligation with the franchising authority, the franchisee shall furnish a performance bond, certificate of deposit, or other type of instrument approved by the franchising authority in an amount as the franchising authority deems to be adequate compensation for damages resulting from the franchisee's nonperformance. The franchising authority may, from year to year and in its sole discretion, reduce the amount of the performance bond or instrument;

(k) a provision that nothing contained in the franchise relieves a person from liability arising out of the failure to exercise reasonable care to avoid injuring the franchisee's facilities while performing work connected with grading, regrading, or changing the line of a street or public place or with the construction or reconstruction of a sewer or water system;

(l) a provision that the franchisee's technical ability, financial condition, and legal qualification were considered and approved by the franchising authority in a full public proceeding that afforded reasonable notice and a reasonable opportunity to be heard;

(m) ~~a provision requiring the construction of a cable system with a channel capacity available for immediate or potential use, equal to a minimum of 72 MHz of bandwidth, the equivalent of 12 television broadcast channels. For purposes of this section, a cable system with a channel capacity, available for immediate or potential use, equal to a minimum of 72 MHz of bandwidth means: the provision of a distribution system designed and constructed so that a minimum of 72 MHz of bandwidth, the equivalent of 12 television broadcast channels, can be put into use with only the addition of the appropriate headend equipment;~~

~~(n) a provision in initial franchises that there be a full description of the system proposed for construction identifying the system capacity and technical design and a schedule showing:~~

~~(1) that for franchise areas which will be served by a system proposed to have fewer than 100 plant miles of cable:~~

~~(i) that within 90 days of the granting of the franchise, the franchisee shall apply for the necessary governmental permits, licenses, certificates, and authorizations;~~

~~(ii) that energized trunk cable must be extended substantially throughout the authorized area within one year after receipt of the necessary governmental permits, licenses, certificates, and authorizations and that persons along the route of the energized cable will have individual "drops" as desired during the same period of time; and~~

~~(iii) that the requirement of this section may be waived by the franchising authority only upon occurrence of unforeseen events or acts of God construction of the cable communications system must commence no later than 240 days after the granting of the franchise; or~~

~~(2) that for franchise areas which will be served by a system proposed to have 100 plant miles of cable or more, a provision: construction of the cable communications system must proceed at a reasonable rate of not less than 50 plant miles constructed per year of the franchise term;~~

~~(i) (3) that within 90 days of the granting of the franchise, the franchisee shall apply for the necessary governmental permits, licenses, certificates, and authorizations;~~

~~(ii) that engineering and design must be completed within one year after the granting of the franchise and that a significant amount of construction must be completed within one year after the franchisee's receipt of the necessary governmental permits, licenses, certificates, and authorizations;~~

~~(iii) that energized trunk cable must be extended substantially throughout the authorized area within five years after commencement of construction and that persons along the route of the energized cable will have individual "drops" within the same period of time, if desired construction throughout the authorized franchise area must be substantially completed within five years of the granting of the franchise; and~~

~~(iv) (4) that the requirement of this section be waived by the franchising authority only upon occurrence of unforeseen events or acts of God;~~

~~(v) (n) unless otherwise already provided for by local law, a provision that the franchisee shall obtain a permit from the proper municipal authority before commencing construction of a cable communications system, including the opening or disturbance of a street, sidewalk, driveway, or public place. The provision must specify remedies available to the franchising authority in cases where the franchisee fails to meet the conditions of the permit;~~

~~(vi) (o) unless otherwise already provided for by local law, a provision that wires, conduits, cable, and other property and facilities of the franchisee be located, constructed, installed, and maintained in compliance with applicable codes. The provision must also specify that the franchisee keep and maintain its property so as not to unnecessarily interfere with the usual and customary trade, traffic, or travel upon the streets and public places of the franchise area or endanger the life or property of any person;~~

~~(vii) (p) unless otherwise already provided for by local law, a provision that the franchising authority and the franchisee shall establish a procedure in the franchise for the relocation or removal of the franchisee's wires, conduits, cables, and other property located in the street, right-of-way, or public place whenever the franchising authority undertakes public improvements ~~which~~ that affect the cable equipment;~~

~~(viii) (q) a provision incorporating by reference as a minimum the technical standards promulgated by the Federal Communications Commission relating to cable communications systems contained in subpart K of part 76 of the Federal Communications Commission's rules and regulations relating to cable communications systems and found in Code of Federal Regulations, title 47, sections 76.601 to 76.617. The results of tests required by the Federal Communications Commission must be filed within ten days of the conduct of the tests with the franchising authority;~~

~~(ix) (r) a provision establishing how the franchising authority and the person operating a cable communications ~~company~~ system shall determine who is to bear the costs of required special testing;~~

~~(x) a provision pertaining to the franchisee's construction and maintenance of a cable communications system having the technical capacity for nonvoice return communications which, for purposes of this section, means the provision of appropriate system design techniques with the installation of cable and amplifiers suitable for the subsequent insertion of necessary nonvoice communications electronic modules.~~

~~In cases where an initial franchise is granted, the franchisee shall provide a cable communications system having the technical capacity for nonvoice return communications.~~

~~When a franchise is renewed, sold, or transferred and is served by a system that does not have the technical capacity for nonvoice return communications, the franchising authority shall determine when and if the technical capacity for nonvoice return communications is needed after appropriate public proceedings at the municipal level giving reasonable notice and a reasonable opportunity to be heard;~~

~~(u) (s) a provision stating that no signals of a class IV cable communications channel may be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the subscriber. The request for permission must be contained in a separate document with a prominent statement that the subscriber is authorizing the permission in full knowledge of its provisions. The written permission must be for a limited period of time not to exceed one year, which is renewable at the option of the subscriber. No penalty may be invoked for a subscriber's failure to provide or renew the authorization. The authorization is revocable at any time by the subscriber without penalty of any kind. The permission must be required for each type or classification of class IV cable communications activity planned for the purpose;~~

(1) No information or data obtained by monitoring transmission of a signal from a subscriber terminal, including but not limited to lists of the names and addresses of the subscribers or lists that identify the viewing habits of subscribers, may be sold or otherwise made available to any party person other than to the company and its employees for internal business use, or to the subscriber who is the subject of that information, unless the company has received specific written authorization from the subscriber to make the data available;

(2) Written permission from the subscriber must not be required for the systems conducting systemwide or individually addressed electronic sweeps for the purpose of verifying system integrity or monitoring for the purpose of billing. Confidentiality of this information is subject to clause (1);

(3) For purposes of this provision, a "class IV cable communications channel" means a signaling path provided by a cable communications system to transmit signals of any type from a subscriber terminal to another point in the communications system;

~~(v) (t) a provision specifying the procedure for the investigation and resolution by the franchisee of complaints regarding quality of service, equipment malfunction, billing disputes, and other matters;~~

~~(w) (u) a provision requiring that at least a toll-free or collect telephone number for the reception of complaints be provided to the subscriber and that the franchisee shall maintain a repair service capable of responding to subscriber complaints or requests for service within 24 hours after receipt of the complaint or request. The A provision must also state who will bear the costs included in making these repairs, adjustments, or installations;~~

~~(x) (v) a provision granting the franchising authority has the right to terminate and cancel the franchise and the rights and privileges of the franchise if the franchisee substantially violates a provision of the franchise ordinance, attempts to evade the provisions of the franchise ordinance, or practices fraud or deceit upon the franchising authority. The municipality shall provide the franchisee with a written notice of the cause for termination and its intention to terminate the franchise and shall allow the franchisee a minimum of 30 days after service of the notice in which to correct the violation. The franchisee must be provided with an opportunity to be heard at a public hearing before the governing body of the municipality before the termination of the franchise;~~

~~(y) (w) a provision that no person operating a cable communications company system, notwithstanding any provision in a franchise, may abandon a cable communications service system or a portion of it without having given three months prior written notice to the franchising authority. No person operating a cable communications company system may abandon a cable communications service system or a portion of it without compensating the franchising authority for damages resulting to it from the abandonment;~~

(z) (x) a provision requiring that upon termination or forfeiture of a franchise, unless otherwise required by applicable law, the franchisee shall remove its cable, wires, and appliances from the streets, alleys, and other public places within the franchise area if the franchising authority so requests, and a procedure to be followed in the event the franchisee fails to remove its cable, wires, and appliances from the streets, alleys, and other public places within the franchise area;

(aa) (y) a provision that when a franchise or cable system is ~~offered for sale~~ to be transferred or sold, the franchising authority ~~shall have~~ has the right to purchase the system;

(bb) (z) a provision establishing the minimum number of access channels that the franchisee shall make available. This provision must require that the franchisee shall provide to each of its subscribers who receive some or all of the services offered on the system, reception on at least one specially designated access channel. ~~The specially designated access channel may be used by local educational authorities and local government on a first-come, first-served, nondiscriminatory basis. During those hours that the specially designated access channel is not being used by the local educational authorities or local government, the franchisee shall lease time to commercial or noncommercial users on a first-come, first-served, nondiscriminatory basis if the demand for that time arises. The franchisee may also use this specially designated access channel for local origination during those hours when the channel is not in use by local educational authorities, local government, or commercial or noncommercial users who have leased time.~~ The provision may require the franchisee to provide separate public access channels available for use by the general public on a first-come, first-served, nondiscriminatory basis; local educational access channels; local governmental access channels; and channels available for lease on a first-come, first-served, nondiscriminatory basis by commercial and noncommercial users. The provision may require that whenever the specially designated access channel required by this paragraph is in use during 80 percent of the weekdays, Monday through Friday, for 80 percent of the time during a consecutive three-hour period for six weeks running, and there is a demand for use of an additional channel for the same purpose, the franchisee has six months in which to provide a new, specially designated access channel for the same purpose; provided that, the provision of the additional channel or channels does not require the cable system to install converters. The VHF spectrum must be used for one of the public, educational, or governmental specially designated access channel channels required in this paragraph. The provision must also require that the franchisee shall establish rules for the administration of the specially designated access channel. ~~Franchisees providing only alarm services or only data transmission services for computer-operated functions do not need to provide access channel reception to alarm and data service subscribers., unless such channel is administered by a municipality;~~

(aa) a provision specifying the minimum equipment that the franchisee shall make available for public use. The provision may require the franchisee to make readily available for public use at least the minimal equipment necessary for the production of programming and playback of prerecorded programs for the access channels. The provision may require that, upon request, the franchisee, at minimum, shall also make readily available the minimum equipment necessary to make it possible to record programs at remote locations with battery-operated portable equipment;

(bb) for a franchise in the metropolitan area, as defined in section 473.121, a provision designating the standard VHF channel 6 for uniform regional channel usage as required in section 238.43.

Sec. 9. Minnesota Statutes 2002, section 238.11, subdivision 2, is amended to read:

Subd. 2. [ACCESS CHANNEL.] No cable communications ~~company~~ system may prohibit or limit a program or class or type of program presented over a leased channel or a channel made available for public access, governmental or educational purposes. Neither the person operating a cable communications ~~company~~ system nor

the officers, directors, or employees of the cable communications system is liable for any penalties or damages arising from programming content not originating from or produced by the cable communications ~~company~~ system and shown on any public access channel, education access channel, government access channel, leased access channel, or regional channel.

Sec. 10. Minnesota Statutes 2002, section 238.22, subdivision 13, is amended to read:

Subd. 13. [PROPERTY OWNER.] "Property owner" means any person with a recorded interest in a multiple dwelling complex, or person known to the person operating a cable communications ~~company~~ system to be an owner, or the authorized agent of the person.

Sec. 11. Minnesota Statutes 2002, section 238.23, is amended to read:

238.23 [ACCESS REQUIRED.]

Subdivision 1. [PROVISION OF ACCESS.] A property owner or other person controlling access shall provide a cable communications ~~company~~ system access to the property owner's multiple dwelling complex. The access provided must be perpetual and freely transferable by one person operating a cable communications ~~company~~ system to another. A cable communications ~~company~~ system granted access, and its successors in interest, must fully comply with sections 238.22 to 238.27.

Subd. 2. [RESIDENT'S RIGHTS.] The intent of sections 238.22 to 238.27 is to give residents the freedom to choose among competing cable communications services and nothing in sections 238.22 to 238.27 ~~shall be interpreted to require~~ requires residents to hook up or subscribe to any services offered by any cable communications ~~company~~ system or alternative provider of cable communications services.

Sec. 12. Minnesota Statutes 2002, section 238.24, subdivision 3, is amended to read:

Subd. 3. [INSTALLATION; BOND.] The facilities must be installed in an expeditious and workmanlike manner, must comply with applicable codes, and must be installed parallel to utility lines when economically feasible. A property owner may require a person operating a cable communications ~~company~~ system to post a bond or equivalent security in an amount not exceeding the estimated cost of installation of the cable communications facilities on the premises. Any bond filed by a cable communications ~~company~~ system with a municipality ~~which that would provide coverage to the property owner as provided under this subdivision shall be considered to fulfill~~ fulfills the requirements of this subdivision.

Sec. 13. Minnesota Statutes 2002, section 238.24, subdivision 4, is amended to read:

Subd. 4. [INDEMNIFY FOR DAMAGE.] A person operating a cable communications ~~company~~ system shall indemnify a property owner for damage caused by the company in the installation, operation, maintenance, or removal of its facilities.

Sec. 14. Minnesota Statutes 2002, section 238.24, subdivision 6, is amended to read:

Subd. 6. [MASTER ANTENNA TELEVISION SYSTEM.] Nothing in sections 238.22 to 238.27 precludes a property owner from entering into an agreement for use of a master antenna television system by a person operating a cable communications ~~company~~ system or other television communications service.

Sec. 15. Minnesota Statutes 2002, section 238.24, subdivision 9, is amended to read:

Subd. 9. [NOT RETROACTIVE.] Nothing in sections 238.22 to 238.27 affects the validity of an agreement effective before June 15, 1983 between a property owner, a person operating a cable communications company system, or any other person providing cable communications services on or within the premises of the property owner.

Sec. 16. Minnesota Statutes 2002, section 238.24, subdivision 10, is amended to read:

Subd. 10. [CHANNEL CAPACITY.] (a) A property owner must provide access ~~by~~ to a franchised person operating a cable communications company system, as required under section 238.23, only if that cable company installs equipment with channel capacity sufficient to provide access to other providers of television programming or cable communications services so that residents or association members have a choice of alternative providers of those services. If the equipment is installed, the cable communications ~~company~~ system shall allow alternative providers to use the equipment. If some of the residents or association members choose to subscribe to the services of an alternative provider, the cable company that installed the equipment ~~shall~~ must be reimbursed by the other providers for the cost of equipment and installation on the property on a pro rata basis ~~which that~~ reflects the number of subscribers of each provider on that property to the total number of subscribers on that property. In determining the pro rata amount of reimbursement by any alternative provider, the cost of equipment and installation ~~shall~~ must be reduced to the extent of cumulative depreciation of that equipment at the time the alternative provider begins providing service.

(b) If equipment is already installed as of June 15, 1983, with channel capacity sufficient to allow access to alternative providers, the access and pro rata reimbursement provisions of paragraph (a) apply.

Sec. 17. Minnesota Statutes 2002, section 238.242, subdivision 1, is amended to read:

Subdivision 1. [PROVIDING ALTERNATIVE SERVICE.] Other providers of television programming or cable communications services shall notify the person operating a cable communications company system when a resident or association member occupying a dwelling unit in a multiple dwelling complex requests the services provided for by this section or section 238.241. After reaching agreement with the alternative service provider for reimbursement to be paid for use of the equipment, the cable communications ~~company~~ system shall make available the equipment necessary to provide the alternative service without unreasonable delay.

Sec. 18. Minnesota Statutes 2002, section 238.242, subdivision 3, is amended to read:

Subd. 3. [FINANCIAL RECORDS MADE AVAILABLE.] The person operating a cable communications company system, upon written request, shall make available to the alternative provider financial records supporting the reimbursement cost requested.

Sec. 19. Minnesota Statutes 2002, section 238.25, subdivision 5, is amended to read:

Subd. 5. [SERVICE OF PETITION.] The petition must be served upon all persons named in the petition as property owners in the same manner as a summons in a civil action; except that, service may be made upon a property owner by three weeks' published notice if the person operating a cable communications company system, ~~its or the person's~~ agent or attorney, files an affidavit stating on belief that the property owner is not a resident of the state and that the company has mailed a copy of the notice to the property owner at the property owner's place of residence, or that after diligent inquiry the property owner's place of residence cannot be ascertained by the company. If the state is a property owner, the notice must be served upon the attorney general. Any property owner not served as provided under this paragraph is not bound by the proceeding unless the property owner voluntarily appears ~~therein~~ in the proceeding.

Sec. 20. Minnesota Statutes 2002, section 238.25, subdivision 10, is amended to read:

Subd. 10. [FINAL CERTIFICATE.] Upon completion of the proceedings, the attorney for the person operating the cable communications company system shall make a certificate describing the access acquired and the purpose or purposes for which acquired, and reciting the fact of final payment of all awards or judgments in relation thereto. The certificate must be filed with the court administrator and a certified copy thereof filed for record with the county recorder. The record is notice to all parties of the access to the premises described in the petition.

Sec. 21. Minnesota Statutes 2002, section 238.35, subdivision 1, is amended to read:

Subdivision 1. [LEGISLATIVE FINDINGS.] There is a long-standing legislative policy in the state of Minnesota to provide for the dedication or other provision of easements and public rights-of-way required by public utilities and cable communications companies systems. Except for applicable governmental rules, these easements do not include any limitation on the type, number, or size of cables or related cable communication system components. There is a public understanding and acceptance of the need of public utilities and cable communications companies systems to have the ability to use existing utility easements and public rights-of-way in order to provide new and improved cable communications services made possible by technological developments and to make changes to the cables or related cable communication systems components. Changing technology has caused and will continue to cause over time the development of new cable communications services requiring changing uses of existing utility easements and public rights-of-way. Cable communications companies systems have a need to use existing utility easements and public rights-of-way in order to deliver their services to the public. The addition of cable communications system components does not constitute an unanticipated or added burden on the real estate subject to the easements or public rights-of-way.

Sec. 22. Minnesota Statutes 2002, section 238.35, subdivision 4, is amended to read:

Subd. 4. [RESTRICTIONS ON USE.] (a) As a condition of using any utility easement, a cable communications ~~company shall be~~ system is subject to any burdens, duties, or obligations specified in the easement of the grantee of the easement.

(b) Subject to any applicable rights and obligations of sections 237.162 and 237.163 and any local right-of-way ordinance adopted under those statutes, a person operating a cable communications company system shall restore the real estate, and any landscaping or improvements thereon, to the condition they were in prior to entry within 30 days of completing the installation of the cables and related cable communications system components upon that real estate and to make changes to the cables or related cable communication systems components. Changing technology has caused and will continue to cause over time the development of new cable communications services requiring changing uses of existing utility easements. Restoration which cannot be completed during the winter months must be accomplished as promptly as weather conditions permit.

Sec. 23. Minnesota Statutes 2002, section 238.36, subdivision 2, is amended to read:

Subd. 2. [CABLE COMMUNICATIONS ~~COMPANY'S~~ SYSTEM'S EQUIPMENT.] "Cable communications ~~company's~~ system's equipment" means aerial wires, cables, amplifiers, associated power supply equipment, and other transmission apparatus necessary for the proper operation of the cable communications system in a franchised area.

Sec. 24. Minnesota Statutes 2002, section 238.39, is amended to read:

238.39 [LEGAL AUTHORITY.]

Every pole, duct, and conduit agreement must contain a provision that the cable communications ~~company~~ system shall submit to the public utility company evidence of the cable communications ~~company's~~ system's lawful authority to place, maintain, and operate its facilities within public streets, highways, and other thoroughfares and shall secure the legally necessary permits and consents from federal, state, county, and municipal authorities to construct, maintain, and operate facilities at the locations of poles or conduit systems of the public utility company ~~which that~~ it uses. The parties to the agreement shall at all times observe and comply with, and the provisions of a pole, duct, and conduit agreement are subject to, the laws, ordinances, and rules ~~which that~~ in any manner affect the rights and obligations of the parties to the agreement, so long as the laws, ordinances, or rules remain in effect.

Sec. 25. Minnesota Statutes 2002, section 238.40, is amended to read:

238.40 [LIABILITY; INDEMNIFY PUBLIC UTILITY.]

(a) Every pole, duct, and conduit agreement must contain a provision that the cable communications ~~company~~ system shall defend, indemnify, protect, and save harmless the public utility from and against any and all claims and demands for damages to property and injury or death to persons, including payments made under any worker's compensation law or under any plan for employees' disability and death benefits, which may arise out of or be caused:

(1) by the erection, maintenance, presence, use, or removal of the cable communications ~~company's~~ system's cable, equipment, and facilities or by the proximity of the cables, equipment, and facilities of the parties to the agreement; or

(2) by any act of the cable communications ~~company~~ system on or in the vicinity of the public utility company's poles and conduit system, in the performance of the agreement. Nothing contained in this section relieves the public utility company from liability for the negligence of the public utility company or anyone acting under its direction and control.

(b) The cable communications ~~company~~ system shall also indemnify, protect, and save harmless the public utility:

(1) from any and all claims and demands ~~which that~~ arise directly or indirectly from the operation of the cable communications ~~company's~~ system's facilities including taxes, special charges by others, claims, and demands (i) for damages or loss for infringement of copyright, (ii) for libel and slander, (iii) for unauthorized use of television broadcast programs, and (iv) for unauthorized use of other program material; and

(2) from and against all claims and demands for infringement of patents with respect to the manufacture, use, and operation of the cable communications equipment in combination with the public utility company's poles, conduit system, or otherwise.

(c) Nothing contained in this section relieves the public utility company from liability for the negligence of the public utility company or anyone acting under its direction and control.

Sec. 26. Minnesota Statutes 2002, section 238.43, subdivision 1, is amended to read:

Subdivision 1. [~~DEFINITION REGIONAL CHANNEL ENTITY.~~] ~~For the purposes of this section "Regional channel entity" or "entity" means an independent, nonprofit corporation to govern the operation of the regional channel.~~

Sec. 27. [REVISOR INSTRUCTIONS.]

(a) The revisor of statutes shall delete the words "shall mean" and insert "means" where found in Minnesota Statutes, section 238.02.

(b) The revisor of statutes shall change the term "cable communications company" to "cable communications system" where found in Minnesota Statutes, chapter 238.

(c) In Minnesota Statutes, section 238.18, subdivision 1, the revisor of statutes shall delete paragraph (a) and renumber paragraph (b) as section 238.02, subdivision 1b, and renumber paragraph (c) as section 238.02, subdivision 34.

(d) In Minnesota Statutes, section 238.22, the revisor of statutes shall renumber subdivision 6 as section 238.02, subdivision 1a; subdivision 7 as section 238.02, subdivision 1c; subdivision 8 as section 238.02, subdivision 1d; subdivision 10 as section 238.02, subdivision 21a; subdivision 11 as section 238.02, subdivision 28a; subdivision 12 as section 238.02, subdivision 29a; subdivision 13 as section 238.02, subdivision 31a; and subdivision 14 as section 238.02, subdivision 31d.

(e) In Minnesota Statutes, section 238.36, the revisor of statutes shall renumber subdivision 2 as section 238.02, subdivision 3a; subdivision 3 as section 238.02, subdivision 20a; and subdivision 4 as section 238.02, subdivision 31b.

(f) The revisor of statutes shall renumber Minnesota Statutes, section 238.43, subdivision 1, as section 238.02, subdivision 31c.

Sec. 28. [REPEALER.]

Minnesota Statutes 2002, sections 238.01; 238.02, subdivisions 2, 17, 18, 19, and 25; 238.082; 238.083, subdivisions 3 and 5; 238.084, subdivisions 2, 3, and 5; 238.12, subdivision 1a; and 238.36, subdivision 1, are repealed."

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Opatz moved to amend H. F. No. 2151, the first engrossment, as amended, as follows:

Page 18, after line 31, insert:

"Sec. 10. [238.115] [CABLE PROVIDER COMPLAINTS.]

A cable communications company holding a franchise to provide cable communications services in any area of this state must immediately provide a consumer complaint telephone number to any person who calls the company

or its agent and asks for a consumer complaint number. The number provided must be the telephone number of a person or agency that is unaffiliated with the cable communications company and that is organized to provide assistance to complaining consumers."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Gunther and Westrom moved to amend H. F. No. 2151, the first engrossment, as amended, as follows:

Page 28, after line 10, insert:

"ARTICLE 4

EXPANDED CALLING AREAS

Section 1. Minnesota Statutes 2002, section 237.01, subdivision 3, is amended to read:

Subd. 3. [INDEPENDENT TELEPHONE COMPANY.] "Independent telephone company" means a telephone company organized and operating under chapter 301 or 302A or authorized to do business in Minnesota under chapter 303 as of January 1, 1983, and providing local exchange service to fewer than ~~30,000~~ 50,000 subscribers within the state.

Sec. 2. [237.414] [EXPANDED CALLING AREAS; TRANSPORT FACILITIES; TERMINATIONS.]

Subdivision 1. [EXPANDED CALLING AREAS.] (a) In addition to any existing authority applicable to telephone companies, an independent telephone company may expand the area to which it can provide calling to its customers upon filing with the commission any agreements between the independent telephone company and other telephone companies and telecommunications carriers entered into under subdivision 3. Calling to these expanded areas must be optional to customers and must be in addition to the customers' existing local service and any extended area service. Subject to sections 237.06 and 237.09, the independent telephone company may determine the quantity of expanded calling to provide, the prices for that calling, and whether to offer calling alone or in combination with one or more other telephone or unregulated services.

(b) Prices for expanded calling service or for bundles of services that include expanded calling must exceed the variable cost of the expanded calling service or bundles of services, determined on an aggregate basis. An independent telephone company is not required to file cost information before implementing its prices and is not required to file cost information except on request of the department, Office of the Attorney General, or commission. Customers must be notified of local service options and prices, including options that do not include expanded calling, as required under section 237.66. The independent telephone company shall clearly identify the distinction between the expanded calling area and the basic local calling area to customers. The independent telephone company is not required to offer unlimited flat rate calling to these expanded calling areas. The independent telephone company shall file tariffs setting forth the expanded calling area along with the applicable prices and quantities of calling.

(c) A rate increase or a substantial change in terms and conditions of the expanded calling service may be effective 30 days after filing with the commission and 30 days after providing written notice to affected customers. Rate decreases may be effective immediately upon filing. Minor changes to terms and conditions may be effective

immediately upon filing and upon notice to the customers. This section does not apply to extended area service or to calling areas previously or hereafter established by order of the commission. This section does not limit the existing rights and obligations of telephone companies and telecommunications carriers to provide local calling, including the obligation to offer unlimited flat rate calling in the basic local calling area, or expanded calling.

Subd. 2. [OBTAINING TRANSPORT, SWITCHING FACILITIES.] An independent telephone company may construct, purchase, lease, or rent transport and switching facilities between its existing local area and the expanded calling area that are needed to provide the expanded calling. If the independent telephone company is unable to reach agreement with other telephone companies or telecommunications carriers, the company or carrier may petition the commission under section 237.12 to resolve issues regarding prices, terms, and conditions for use of any transport facilities that are subject to the jurisdiction of the commission.

Subd. 3. [TERMINATION OF EXPANDED CALLING TRAFFIC.] (a) An independent telephone company providing an expanded calling area under this section may enter into an agreement to terminate calls with telephone companies and telecommunications carriers providing service within the expanded calling area. Compensation to the telephone company or telecommunications carrier to terminate expanded calling into such areas must be the intrastate access charges of the telephone company or telecommunications carrier terminating the call or other rates agreed upon by the companies.

(b) Two telephone companies that provide expanded calling between their respective areas may also enter into "bill and keep" arrangements for exchange of the expanded calling traffic.

(c) The independent telephone company shall file with the commission any agreements for termination of calling by telephone companies and telecommunications carriers providing service within the expanded calling area.

Subd. 4. [AMENDING OR TERMINATING EXPANDED CALLING SERVICE.] Except for calling areas that result from a prior or subsequent order of the commission, an independent telephone company may amend or terminate the expanded calling service upon 30 days' written notice to customers, the commission, and other telephone companies and telecommunications carriers providing local service in the expanded area. The notice to customers of an amendment to the expanded calling area or termination of an expanded calling area must be sent separately from other mailings and clearly explain how the expanded calling area is being changed. The notice to customers of an amendment must also clearly identify that calls to areas outside of the expanded calling area will be long distance calls billed at the applicable rate of the customer's long distance carrier. The notice to customers of a termination must clearly identify that calls to the terminated expanded calling area will become long distance calls billed at the applicable rate of the customer's long distance carrier.

Sec. 3. [237.435] [ANNUAL UNIVERSAL SERVICE FUNDING CERTIFICATION.]

In determining whether to provide the annual certification of any eligible telecommunications carrier for continued receipt of federal universal service funding, the commission shall apply the same standards and criteria to all eligible telecommunications carriers."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Sertich moved to amend H. F. No. 2151, the first engrossment, as amended, as follows:

Page 25, after line 34, insert:

"Sec. 27. [BINDING ARBITRATION REQUIRED.]

Class C cable systems as defined in Minnesota Statutes, section 238.02, subdivision 19, must carry Victory Sports One productions of Minnesota Twins baseball games for the 2004 season, Showtime, the Disney Channel and the Movie Channel as part of expanded basic cable service and not as a premium service. The monthly subscriber fee which is fair and reasonable and may be charged for these broadcasts shall be as determined by binding arbitration conducted pursuant to Minnesota Statutes, sections 572.08 to 572.30, by one court-appointed arbitrator.

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

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

Abrams moved to amend the Sertich amendment to H. F. No. 2151, the first engrossment, as amended, as follows:

Page 1, line 8, after "season" insert ", Home Box Office"

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

Kahn moved to amend the Sertich amendment, as amended, to H. F. No. 2151, the first engrossment, as amended, as follows:

Page 1, line 8, delete ", Showtime, the Disney Channel and the Movie Channel"

A roll call was requested and properly seconded.

The question was taken on the amendment to the amendment, as amended, and the roll was called. There were 41 yeas and 85 nays as follows:

Those who voted in the affirmative were:

Anderson, I.	Ellison	Jaros	Lieder	Otremba	Solberg
Atkins	Greiling	Johnson, S.	Lipman	Otto	Thao
Bernardy	Hausman	Juhnke	Mahoney	Paymar	Thissen
Carlson	Heidgerken	Kahn	Mariani	Pugh	Wagenius
Davnie	Hilty	Koenen	Marquart	Rukavina	Walker
Dill	Hornstein	Larson	Murphy	Sertich	Wasiluk
Eken	Huntley	Latz	Nelson, M.	Sieben	

Those who voted in the negative were:

Abeler	Anderson, J.	Borrell	Brod	Cox	Demmer
Abrams	Beard	Boudreau	Buesgens	Dauids	Dempsey
Adolphson	Blaine	Bradley	Cornish	DeLaForest	Dorman

Dorn	Harder	Lenczewski	Osterman	Severson	Walz
Eastlund	Holberg	Lindgren	Ozment	Simpson	Wardlow
Entenza	Hoppe	Lindner	Paulsen	Slawik	Westerberg
Erhardt	Howes	Magnus	Pelowski	Smith	Westrom
Erickson	Jacobson	McNamara	Penas	Soderstrom	Wilkin
Finstad	Johnson, J.	Meslow	Peterson	Stang	Zellers
Fuller	Kelliher	Nelson, C.	Powell	Strachan	Spk. Sviggum
Gerlach	Klinzing	Nelson, P.	Rhodes	Swenson	
Goodwin	Knoblach	Newman	Ruth	Sykora	
Gunther	Kohls	Nornes	Samuelson	Tingelstad	
Haas	Krinkie	Olson, M.	Seagren	Urdahl	
Hackbarth	Lanning	Opatz	Seifert	Vandev eer	

The motion did not prevail and the amendment to the amendment, as amended, was not adopted.

Sertich withdrew the Sertich amendment, as amended, to H. F. No. 2151, the first engrossment, as amended.

Bernardy and Goodwin moved to amend H. F. No. 2151, the first engrossment, as amended, as follows:

Page 27, delete line 2 and insert:

"CONSUMER PROTECTION"

Page 28, after line 4, insert:

"Sec. 3. [325E.317] [LONG DISTANCE PHONE CARDS.]

If a prepaid long distance telephone usage card has an expiration date, the date must be clearly expressed in bold nine-point type on both the front of the card and its packaging."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Bernardy and Goodwin amendment and the roll was called. There were 55 yeas and 71 nays as follows:

Those who voted in the affirmative were:

Abeler	Davnie	Greiling	Johnson, S.	Lenczewski	Newman
Anderson, I.	Dill	Hausman	Juhnke	Lieder	Opatz
Atkins	Dorn	Hilty	Kahn	Mahoney	Otremba
Bernardy	Eken	Hornstein	Kelliher	Mariani	Otto
Biernat	Ellison	Howes	Koenen	Marquart	Paymar
Brod	Entenza	Huntley	Larson	Murphy	Pelowski
Carlson	Goodwin	Jaros	Latz	Nelson, M.	Peterson

Pugh	Sertich	Solberg	Wagenius	Westerberg
Rhodes	Sieben	Thao	Walker	
Rukavina	Slawik	Thissen	Wasiluk	

Those who voted in the negative were:

Abrams	DeLaForest	Harder	Lindner	Penas	Swenson
Adolphson	Demmer	Heidgerken	Lipman	Powell	Sykora
Anderson, J.	Dempsey	Holberg	Magnus	Ruth	Tingelstad
Beard	Dorman	Hoppe	McNamara	Samuelson	Urdahl
Blaine	Eastlund	Jacobson	Meslow	Seagren	Vandevier
Borrell	Erickson	Johnson, J.	Nelson, C.	Seifert	Walz
Boudreau	Finstad	Klinzing	Nelson, P.	Severson	Wardlow
Bradley	Fuller	Knoblach	Nornes	Simpson	Westrom
Buesgens	Gerlach	Kohls	Olson, M.	Smith	Wilkin
Cornish	Gunther	Krinkie	Osterman	Soderstrom	Zellers
Cox	Haas	Lanning	Ozment	Stang	Spk. Sviggum
Davids	Hackbarth	Lindgren	Paulsen	Strachan	

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

Beard, Pelowski and Westrom moved to amend H. F. No. 2151, the first engrossment, as amended, as follows:

Page 28, after line 10, insert:

"ARTICLE 4

ALTERNATIVE REGULATION PLANS FOR TELEPHONE COMPANIES

Section 1. Minnesota Statutes 2002, section 237.766, is amended to read:

237.766 [PLAN DURATION AND EXTENSION.]

Subdivision 1. [PLAN DURATION.] An alternative regulation plan approved by the commission under section 237.764 must remain in force as approved for the term specified in the plan, which must be for no less than three years. Except as otherwise provided in this section, within six months prior to the termination of the plan, ~~the plan must be reviewed by the commission and, with the consent of the company, revised or renewed consistent with sections 237.76 to 237.774, except that the justification of earnings levels in section 237.764, subdivision 1, paragraph (c), if required and the provisions prohibiting rate increases at the initiation of or during the first three years of a plan contained in section 237.762, shall not apply to a revised or renewed plan. Any revised or renewed plan must be approved by the commission and shall contain a mechanism under which a telephone company may reduce the rates for price-regulated services below the initial rates or prices or increase the rates or prices during the term of the revised or renewed plan. The plan must specify the reports required of the telephone company for review of the plan and specify that the telephone company shall maintain records in sufficient detail to facilitate the review~~ the company shall give notice that it will propose a new plan, extend an existing plan, or revert to rate of return regulation.

Subd. 2. [NEW PLAN.] A new plan proposed by a company must be reviewed by the commission and, with the consent of the company, revised or approved consistent with sections 237.76 to 237.774, except that the justification of earnings levels in section 237.764, subdivision 1, paragraph (c), if required, and the provisions prohibiting rate increases at the initiation of or during the first three years of a plan contained in section 237.762, shall not apply to a

new plan. Any new plan must be approved by the commission and shall contain a mechanism under which a telephone company may reduce the rates for price-regulated services below the initial rates or prices or increase the rates or prices during the term of the plan. The plan must specify the reports required of the telephone company for review of the plan and specify that the telephone company shall maintain records in sufficient detail to facilitate the review. A new plan is not an extension, which must be made pursuant to subdivision 3.

Subd. 3. [PLAN EXTENSION.] (a) Notwithstanding the provisions of its plan, a telephone company operating under a plan as of the effective date of this section, may elect to extend that plan for up to three years from the expiration date of the plan or until December 31, 2007, whichever is earlier. The election is effective upon notification to customers, the commission, the department, and the Office of the Attorney General. A telephone company must provide notification of its election within 30 days of the effective date of this section, or within six months of the expiration of its current or expired plan, whichever is later. Once a telephone company has elected to exercise the option provided under this subdivision, the company may elect at any time to terminate the plan by notifying customers, the commission, the department, and the Office of the Attorney General, in writing, six months prior to the termination date. Upon termination of a plan, the company shall be regulated as provided in this chapter.

(b) A telephone company may elect to extend a plan entered into after the effective date of this section in lieu of proposing a new plan only if the company is in substantial compliance with the plan's service quality provisions and has met its infrastructure obligations under the plan. If the company elects to extend a plan, the rates for price-regulated services shall be capped at the rate levels in effect at the time the extension commences, provided, however, exceptions to a price cap contained in the plan being extended may remain in force. Unless otherwise specified in the plan, all other provisions of the plan shall continue in effect throughout the extension period. A plan may not be extended for less than one year or more than three years, and may only be extended once.

(c) The Department of Commerce or the Office of the Attorney General may file an objection to the extension with the commission if the company is not in substantial compliance with the service quality provisions of its plan or has not met its infrastructure obligations under the plan. An objection must be filed within 45 days of the company's notice of its intention to extend the plan.

(d) If an objection is filed by the Department of Commerce or the Office of the Attorney General, the commission may hold a hearing on the issues raised in the objection. The hearings shall be completed within 30 days of the deadline for filing the objections. If the commission finds that the issues raised in the objection are valid, it may reject the extension. If the commission finds that the issues raised in the objection are not valid, it shall approve the extension. The commission shall issue its decision within 15 days of the completion of the hearings concerning the objection.

(e) If the Department of Commerce or the Office of the Attorney General does not file an objection, the commission shall approve the extension within 60 days of the company's filing of its notice of its intention to extend the plan.

Sec. 2. Minnesota Statutes 2002, section 237.773, subdivision 3, is amended to read:

Subd. 3. [LOCAL RATE.] (a) Except as provided in paragraph (b), a small telephone company shall not implement a rate increase for any service listed in section 237.761, subdivision 3, beyond the level in effect 60 days prior to an election under subdivision 2, until the later of January 1, 1998, or two years after making an election. However, a small telephone company may implement any new service and establish rates for any new service and may change rates for any other service at any time subject to the requirements of section 237.761, subdivision 4. A small company shall provide to its customers the ability to block, at no extra charge, any new service which it offers, provides, or bills. This requirement shall not apply to services that require affirmative subscription by the customer. Nothing in this section shall prevent the commission from requiring blocking or other privacy or safety protections for other types of telecommunications services under section 237.081.

(b) At any time following one year after electing under subdivision 2, a small telephone company may change rates for local services except switched network access services, listed in section 237.761, subdivision 3, to reflect:

(1) changes in state and federal taxes;

(2) changes in jurisdictional allocations from the Federal Communications Commission, the amount of which the small telephone company cannot control and for which equal and opposite exogenous changes are made on the federal level;

(3) substantial financial impacts of investments in network upgrades which are made; or

(i) if the investment exceeds 20 percent of the gross plant investment of the company; or

(ii) as the result of government mandates to construct specific telephone infrastructure, if the mandate applies to local telephone companies and the company would not otherwise be compensated.

A small telephone company may change rates for local services listed in section 237.761, subdivision 3, at any time, to implement extended area service or any successor to that service on an income-neutral basis.

A small telephone company proposing an increase under this subdivision shall provide 60 days' advance written notice to the department and each of the company's customers including the individual rates affected and the procedure necessary for the customers to petition for investigation. If the department receives a petition within 45 days after the notice from five percent or 500, whichever is fewer, of the customers of the small telephone company, the department and the company shall jointly determine if the petition is valid and, if so, may investigate the rate change to determine if it conforms to the limitations of this subdivision. Within 30 days of validating the petition, the department shall report its findings to the commission, which shall either adopt the report or order changes to conform to this subdivision.

(c) On or after the later of January 1998, or two years after making an election under subdivision 2, a small telephone company may increase rates for local services, except switched network access services, listed in section 237.761, subdivision 3. A small telephone company proposing an increase shall provide 60 days' advance written notice to its customers including individual rates affected and the procedure necessary for the customers to petition for investigation. If the commission receives a petition within 45 days after such notice, from five percent or 500, whichever is fewer, of the customers of the small telephone company, the department and the company shall jointly determine if the petition is valid and, if so, may investigate the proposed rate increase to determine if it is appropriate in light of rates charged by other local exchange telephone companies for comparable services, taking into account calling scope, quality of service, the availability of competitive alternatives, service costs, and the features available to the customers. Within 30 days of validating the petition, the department shall file a report with the commission which shall then approve appropriate rates for those services. Rates established by the commission under this paragraph shall not be increased within one year of implementation.

Sec. 3. [AFOR PLAN EXTENDED; EXPEDITED APPROVAL OF NEW PLAN.]

(a) A telephone company that has received an order from the Federal Communications Commission, pursuant to United States Code, title 47, section 271, to provide in-region interLATA services in the state and that was operating under an alternative form of regulation plan approved under Minnesota Statutes 2003, sections 237.73 to 237.775, as of December 1, 2003, shall continue to be regulated under the provisions of that plan until December 31, 2005, notwithstanding any contrary provision in the plan or in Minnesota Statutes, sections 237.73 to 237.773. During this period, the telephone company may elect to be regulated under traditional rate of return regulation under Minnesota Statutes, chapter 237, but must give six months' notice of that election to the Public Utilities Commission, the Office of the Attorney General, and the Department of Commerce.

(b) If, on or before December 31, 2004, a telephone company described in paragraph (a), the Department of Commerce and the Office of the Attorney General jointly file with the Public Utilities Commission a new alternative form of regulation plan for the telephone company under Minnesota Statutes 2003, sections 237.73 to 237.775, the new plan shall be effective 60 days after the date of filing. Prior to the filing, the Department of Commerce and the Office of the Attorney General shall consult with interested stakeholders, including consumer groups, regarding the new alternative form of regulation plan.

Sec. 4. [EFFECTIVE DATE.]

Sections 1 and 3 are effective the day following final enactment."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

H. F. No. 2151, A bill for an act relating to telecommunications; regulating certain payments, credits, and interest charges; changing various cable system provisions; establishing consumer protections for wireless customers; expanding call areas; providing alternative regulation plans for telephone companies; amending Minnesota Statutes 2002, sections 237.01, subdivision 3; 237.06; 237.766; 237.773, subdivision 3; 238.02, subdivision 3; 238.03; 238.08, subdivisions 3, 4; 238.081; 238.083, subdivisions 2, 4; 238.084, subdivision 1; 238.11, subdivision 2; 238.22, subdivision 13; 238.23; 238.24, subdivisions 3, 4, 6, 9, 10; 238.242, subdivisions 1, 3; 238.25, subdivisions 5, 10; 238.35, subdivisions 1, 4; 238.36, subdivision 2; 238.39; 238.40; 238.43, subdivision 1; 325E.02; proposing coding for new law in Minnesota Statutes, chapters 237; 325F; repealing Minnesota Statutes 2002, sections 238.01; 238.02, subdivisions 2, 17, 18, 19, 25; 238.082; 238.083, subdivisions 3, 5; 238.084, subdivisions 2, 3, 5; 238.12, subdivision 1a; 238.36, subdivision 1.

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

The question was taken on the passage of the bill and the roll was called. There were 122 yeas and 3 nays as follows:

Those who voted in the affirmative were:

Abeler	Carlson	Entenza	Holberg	Knoblach	Mahoney
Abrams	Cornish	Erhardt	Hoppe	Koenen	Mariani
Adolphson	Cox	Erickson	Hornstein	Kohls	Marquart
Anderson, J.	Dauids	Finstad	Howes	Krinkie	McNamara
Atkins	DeLaForest	Fuller	Huntley	Lanning	Meslow
Beard	Demmer	Gerlach	Jacobson	Larson	Murphy
Bernardy	Dempsey	Goodwin	Jaros	Latz	Nelson, C.
Blaine	Dill	Gunther	Johnson, J.	Lenczewski	Nelson, M.
Borrell	Dorman	Haas	Johnson, S.	Lieder	Nelson, P.
Boudreau	Dorn	Hackbarth	Juhnke	Lindgren	Newman
Bradley	Eastlund	Harder	Kahn	Lindner	Nornes
Brod	Eken	Heidgerken	Kelliher	Lipman	Olson, M.
Buesgens	Ellison	Hilty	Klinzing	Magnus	Opatz

Osterman	Peterson	Seifert	Solberg	Urdahl	Westrom
Otremba	Powell	Sertich	Stang	Vandevveer	Wilkin
Otto	Pugh	Severson	Strachan	Wagenius	Zellers
Ozment	Rhodes	Sieben	Swenson	Walker	Spk. Sviggum
Paulsen	Rukavina	Simpson	Sykora	Walz	
Paymar	Ruth	Slawik	Thao	Wardlow	
Pelowski	Samuelson	Smith	Thissen	Wasiluk	
Penas	Seagren	Soderstrom	Tingelstad	Westerberg	

Those who voted in the negative were:

Anderson, I.	Biernat	Greiling
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The bill was passed, as amended, and its title agreed to.

S. F. No. 2609, A bill for an act relating to education; including a mental health community representative on a community transition team; amending Minnesota Statutes 2002, section 125A.22.

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 127 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dempsey	Holberg	Lindgren	Paymar	Swenson
Abrams	Dill	Hoppe	Lindner	Pelowski	Sykora
Adolphson	Dorman	Hornstein	Lipman	Penas	Thao
Anderson, I.	Dorn	Howes	Magnus	Peterson	Thissen
Anderson, J.	Eastlund	Huntley	Mahoney	Powell	Tingelstad
Atkins	Eken	Jacobson	Mariani	Pugh	Urdahl
Beard	Ellison	Jaros	Marquart	Rhodes	Vandevveer
Bernardy	Entenza	Johnson, J.	McNamara	Rukavina	Wagenius
Biernat	Erhardt	Johnson, S.	Meslow	Ruth	Walker
Blaine	Erickson	Juhnke	Murphy	Samuelson	Walz
Borrell	Finstad	Kahn	Nelson, C.	Seagren	Wardlow
Boudreau	Fuller	Kelliher	Nelson, M.	Seifert	Wasiluk
Bradley	Gerlach	Klinzing	Nelson, P.	Sertich	Westerberg
Brod	Goodwin	Knoblach	Newman	Severson	Westrom
Buesgens	Greiling	Koenen	Nornes	Sieben	Wilkin
Carlson	Gunther	Kohls	Olson, M.	Simpson	Zellers
Cornish	Haas	Krinkie	Opatz	Slawik	Spk. Sviggum
Cox	Hackbarth	Lanning	Osterman	Smith	
Davids	Harder	Larson	Otremba	Soderstrom	
Davnie	Hausman	Latz	Otto	Solberg	
DeLaForest	Heidgerken	Lenczewski	Ozment	Stang	
Demmer	Hilty	Lieder	Paulsen	Strachan	

The bill was passed and its title agreed to.

H. F. No. 2005 was reported to the House.

McNamara moved to amend H. F. No. 2005 as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 18C.60, subdivision 2, is amended to read:

Subd. 2. [PHOSPHORUS USE RESTRICTIONS.] (a) A person may not apply a fertilizer containing the plant nutrient phosphorus to turf ~~in a metropolitan county~~ statewide, except under conditions listed in paragraph ~~(d)~~ (b).

~~(b) A person may not apply granular fertilizer containing greater than three percent phosphate (P205) by weight, or liquid fertilizer at a rate greater than 0.3 pound phosphate (P205) per 1,000 square feet, to turf in a county other than a metropolitan county, except under conditions listed in paragraph (d).~~

~~(c) A local unit of government in a county other than a metropolitan county may adopt paragraph (a) in place of paragraph (b). The local unit of government must notify the commissioner of the adoption of paragraph (a) within 30 days of its adoption. The commissioner shall maintain a list of local units of government in counties other than a metropolitan county that have adopted paragraph (a).~~

~~(d) Paragraphs Paragraph (a) and (b) do~~ does not apply when:

(1) a tissue, soil, or other test by a laboratory or method approved by the commissioner and performed within the last three years indicates that the level of available phosphorus in the soil is insufficient to support healthy turf growth;

(2) the property owner or an agent of the property owner is first establishing turf via seed or sod procedures, and only during the first growing season; or

(3) the fertilizer containing the plant food phosphorus is used on a golf course under the direction of a person licensed, certified, or approved by an organization with an ongoing training program approved by the commissioner.

~~(e) (c)~~ Applications of phosphorous fertilizer authorized under paragraph ~~(d), clause (1) or (2),~~ (b) must not exceed rates recommended by the University of Minnesota and approved by the commissioner.

Sec. 2. [EFFECTIVE DATE; APPLICATION.]

Section 1 is effective January 1, 2005, and applies to fertilizer to be used for turf purchased at retail after August 1, 2004.

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Westrom and Dorman moved to amend H. F. No. 2005, as amended, as follows:

Page 1, line 7, strike "to" and insert "on any surface, including but not limited to sidewalks and streets, other than" and reinstate the stricken language and delete the new language

Page 1, line 8, to page 2, line 13, reinstate the stricken language and delete the new language

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

H. F. No. 2005, as amended, was read for the third time.

Dorman moved that H. F. No. 2005, as amended, be re-referred to the Committee on Agriculture Policy. The motion did not prevail.

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

The bill, as amended, was placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 88 yeas and 40 nays as follows:

Those who voted in the affirmative were:

Abeler	Dill	Huntley	Mahoney	Paymar	Swenson
Abrams	Dorn	Jaros	Mariani	Pelowski	Sykora
Adolphson	Eken	Johnson, J.	McNamara	Peterson	Thao
Atkins	Ellison	Johnson, S.	Meslow	Powell	Thissen
Beard	Entenza	Kahn	Murphy	Pugh	Tingelstad
Bernardy	Erhardt	Kelliher	Nelson, C.	Rhodes	Urdahl
Biernat	Gerlach	Klinzing	Nelson, M.	Ruth	Vandever
Boudreau	Goodwin	Koenen	Nelson, P.	Samuelson	Wagenius
Brod	Greiling	Kohls	Newman	Seagren	Walker
Carlson	Hackbarth	Lanning	Opatz	Sieben	Walz
Cornish	Hausman	Larson	Osterman	Simpson	Wasiluk
Cox	Hilty	Latz	Otremba	Slawik	Westerberg
Davnie	Hoppe	Lenczewski	Otto	Smith	Spk. Sviggum
DeLaForest	Hornstein	Lindgren	Ozment	Soderstrom	
Dempsey	Howes	Lipman	Paulsen	Strachan	

Those who voted in the negative were:

Anderson, I.	Demmer	Haas	Krinkie	Olson, M.	Stang
Anderson, J.	Dorman	Harder	Kuisle	Penas	Wardlow
Blaine	Eastlund	Heidgerken	Lieder	Rukavina	Westrom
Borrell	Erickson	Holberg	Lindner	Seifert	Wilkin
Bradley	Finstad	Jacobson	Magnus	Sertich	Zellers
Buesgens	Fuller	Juhnke	Marquart	Severson	
Davids	Gunther	Knoblach	Nornes	Solberg	

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

Paulsen moved that the remaining bills on the Calendar for the Day be continued. The motion prevailed.

MOTIONS AND RESOLUTIONS

Davnie moved that the name of Clark be added as an author on H. F. No. 1382. The motion prevailed.

Osterman moved that the name of Tingelstad be added as an author on H. F. No. 1897. The motion prevailed.

Bradley moved that the name of Nelson, C., be added as an author on H. F. No. 2391. The motion prevailed.

Lanning moved that the name of Erhardt be added as an author on H. F. No. 2525. The motion prevailed.

Blaine moved that the names of Erickson and Soderstrom be added as authors on H. F. No. 2555. The motion prevailed.

Abrams moved that the name of Nelson, C., be added as an author on H. F. No. 2643. The motion prevailed.

Tingelstad moved that the name of Paulsen be added as an author on H. F. No. 2753. The motion prevailed.

Knoblach moved that the name of Magnus be added as an author on H. F. No. 2772. The motion prevailed.

Nelson, C., moved that the name of Bradley be added as an author on H. F. No. 3174. The motion prevailed.

McNamara moved that his name be stricken as an author on H. F. No. 3175. The motion prevailed.

Hornstein moved that the name of Bernardy be added as an author on H. F. No. 3178. The motion prevailed.

Johnson, J., moved that H. F. No. 2915, now on the General Register, be re-referred to the Committee on Ways and Means. The motion prevailed.

ADJOURNMENT

Paulsen moved that when the House adjourns today it adjourn until 12:00 noon, Wednesday, April 21, 2004. The motion prevailed.

Paulsen moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 12:00 noon, Wednesday, April 21, 2004.

EDWARD A. BURDICK, Chief Clerk, House of Representatives

