

STATE OF MINNESOTA

# Journal of the Senate

EIGHTIETH LEGISLATURE

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EIGHTY-FOURTH DAY

St. Paul, Minnesota, Wednesday, March 4, 1998

The Senate met at 12:00 noon and was called to order by the President.

## CALL OF THE SENATE

Mr. Betzold imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Rev. David Keippela.

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

Anderson	Hanson	Krentz	Novak	Sams
Beckman	Higgins	Laidig	Oliver	Samuelson
Belanger	Hottinger	Langseth	Olson	Scheevel
Berg	Janezich	Larson	Ourada	Scheid
Berglin	Johnson, D.H.	Lesewski	Pappas	Solon
Betzold	Johnson, D.J.	Lessard	Pariseau	Spear
Cohen	Johnson, J.B.	Limmer	Piper	Stevens
Day	Junge	Lourey	Pogemiller	Stumpf
Dille	Kelley, S.P.	Marty	Price	Ten Eyck
Fischbach	Kelly, R.C.	Metzen	Ranum	Terwilliger
Flynn	Kiscaden	Morse	Robertson	Vickerman
Foley	Kleis	Murphy	Robling	Wiener
Frederickson	Knutson	Neville	Runbeck	Wiger

The President declared a quorum present.

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

## MEMBERS EXCUSED

Messrs. Johnson, D.E. and Moe, R.D. were excused from the Session of today.

## REPORTS FILED WITH THE SECRETARY OF THE SENATE

The following reports were received and filed with the Secretary of the Senate: Department of Health, Minority Health Legislative Report, 1998; Department of Health, Chronic Disease and Environmental Epidemiology, Review of the National Research Council's Report: Toxicologic Assessment of the Army's Zinc Cadmium Sulfide Dispersion Tests, 1997; Department of Human Services, Need for Nonstandard Wheelchairs for Medical Assistance Recipients Residing in Long-Term Care Facilities, 1998; Department of Human Services, Uniform Relative Contribution Schedule to Reimburse Costs Associated With Out-of-Home Placement, 1997; Department of Public Safety, Community Oriented Policing (COPS) Overtime Grant Report, 1998; Department of Economic Security, Youth Intervention Program, Annual Report, 1997; Department of

Administration, Gasoline Consumption by Snowmobiles in Minnesota: Updating the 1992 Gasoline Consumption Model, Final Report, 1998; Advisory Council on Minnesota's Economic Future, Report to the Legislature, 1998; Department of Human Services, Ombudsman for Minnesota Health Care Programs, 1998; Department of Human Services, Prepaid Medical Assistance Program and County Based Purchasing, 1998; University of Minnesota, Efforts to Improve Opportunities for Women Athletes Consistent with Title IX, 1996; Department of Health, Complementary Medicine, 1998; Department of Health, HIV and HBV Prevention Program, 1998; Department of Labor and Industry, Parenting Leave Complaints, 1997; Department of Health, Minnesota Healthy Beginnings, Comprehensive Implementation Plan, 1998; Board of Aging, Resident and Family Advisory Council Education Program, Annual Report, 1998; Office of Technology, Quest for Data Quality, Eliminating Redundant Storage of Data, 1998; Department of Human Services, Autism Task Force, 1998; Department of Human Services, Independent Contractors and the Work Reporting System, 1998; Department of Corrections, Proposed Admission Criteria, Minnesota Correctional Facility, Red Wing, 1998; Department of Human Services, Demonstration Project for People with Disabilities, 1998; Department of Economic Security, Youthbuild Program Overview, 1998; Department of Health, Voluntary Implementation Plan for Universal Newborn Hearing Screening, 1998; Department of Human Services, Plan for Tribal Operations of Family Assistance Programs, 1998; Iron Range Resources and Rehabilitation Board, Governor's Task Force on Mining and Minerals, 1998; Department of Human Services, Bonus Incentive Program to Reward the Timely Delivery of Child Support Enforcement Services, 1998; Department of Human Services, Obligations for Parents of Minor Parents, 1998; Department of Human Services, Need for Nonstandard Wheelchairs for Medical Assistance Recipients Residing in Long-Term Care Facilities, 1998; Governor Arne H. Carlson's Task Force on Fetal Alcohol Syndrome, Preventable Tragedy of Fetal Alcohol Syndrome, 1998; Metropolitan Council, Annual Report and Appendix, 1997; Metropolitan Council, Appendix to the Report on Affordable and Life-Cycle Housing in the Twin Cities Metropolitan Area, 1997; Metropolitan Council, Executive Summary to the Report on Affordable and Life-Cycle Housing in the Twin Cities Metropolitan Area; Office of Technology, Tracking and Compiling Information Technology Expenditures, Interim Report, 1998; Department of Human Services, Integration of MinnesotaCare with County-Based Purchasing, 1998; Departments of Health and Commerce, Complaint Process Study, 1998; Departments of Health and Commerce, Consolidation and Coordination of Health Care Consumer Assistance and Advocacy Offices, 1998; Department of Administration, Risk Management Division, Annual Report, 1997.

### MESSAGES FROM THE HOUSE

Mr. President:

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

**S.F. No. 2477:** A bill for an act relating to state government; codifying reorganization order number 179 with respect to the departments of children, families, and learning and economic security; amending Minnesota Statutes 1996, sections 13.99, subdivision 81; 216B.241, subdivision 2a; 239.785, subdivision 6; and 462A.05, subdivision 15c; Minnesota Statutes 1997 Supplement, sections 119A.15, subdivision 5a; and 268.19; proposing coding for new law in Minnesota Statutes, chapters 119A; repealing Minnesota Statutes 1996, sections 4.071, subdivision 3; 268.37; 268.371; 268.38, subdivisions 1, 2, 3, 4, 5, 6, 8, 9, and 12; 268.55; and 268.92; Minnesota Statutes 1997 Supplement, sections 268.38, subdivision 7; and 268.917.

Senate File No. 2477 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 2, 1998

**CONCURRENCE AND REPASSAGE**

Mr. Stumpf moved that the Senate concur in the amendments by the House to S.F. No. 2477 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 2477 was read the third time, as amended by the House, and placed on its repassage.

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

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Foley	Kleis	Morse	Runbeck
Beckman	Frederickson	Knutson	Neuville	Sams
Belanger	Hanson	Krentz	Oliver	Samuelson
Berg	Higgins	Laidig	Olson	Scheevel
Berglin	Hottinger	Larson	Pappas	Scheid
Betzold	Janezich	Lesewski	Pariseau	Spear
Cohen	Johnson, D.H.	Lessard	Piper	Stevens
Day	Johnson, J.B.	Limmer	Price	Stumpf
Dille	Junge	Lourey	Ranum	Ten Eyck
Fischbach	Kelley, S.P.	Marty	Robertson	Vickerman
Flynn	Kiscaden	Metzen	Robling	Wiener

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

**MESSAGES FROM THE HOUSE - CONTINUED**

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 5 members of the House, on the amendments adopted by the House to the following Senate File:

**S.F. No. 2532:** A bill for an act relating to children; clarifying certain terms and applicability of certain programs; providing for licensing assistance, outreach, and training; allowing grants for school-age child care programs; allowing certain grants for statewide adult basic education; changing child care licensing requirements for employers; providing for review of certain orders by the commissioner of children, families, and learning; establishing a cash flow account for energy assistance funds; allowing migrant and seasonal farmworkers to carry out community action programs; changing provisions for family day care licensure; appropriating money; amending Minnesota Statutes 1996, sections 119B.10, by adding a subdivision; 119B.13, subdivision 3; 119B.18, subdivision 2, and by adding subdivisions; 119B.19, subdivisions 1, 4, and by adding subdivisions; 120.1701, subdivision 5; 121.8355, by adding a subdivision; 124.26, subdivision 1c; 245A.14, subdivision 4; 256.045, subdivision 6, and by adding a subdivision; 268.52, subdivisions 1 and 2; and 268.54, subdivision 2; Minnesota Statutes 1997 Supplement, sections 119B.01, subdivision 16; 119B.061, subdivisions 1, 2, 3, and 4; 119B.075; 119B.10, subdivision 1; 119B.13, subdivision 6; 119B.21, subdivisions 2, 4, 5, and 11; 256.045, subdivision 7; 268.53, subdivision 5; and 466.01, subdivision 1; Laws 1997, chapters 162, article 1, section 18, subdivision 8; article 3, section 8, subdivision 3; and article 4, section 63, subdivisions 2 and 3; 248, section 47, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 119B; and 268.

There has been appointed as such committee on the part of the House:

Kinkel, McGuire, Delmont, Slawik and Sykore.

Senate File No. 2532 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 2, 1998

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 5 members of the House, on the amendments adopted by the House to the following Senate File:

**S.F. No. 3298:** A bill for an act relating to the organization and operation of state government; appropriating money for transportation, public safety, and other purposes; redistributing five percent of highway user tax distribution fund; creating flexible highway, town road, and town bridge accounts; exempting air ambulance aircraft from registration and tax; establishing midtown planning and coordination board; establishing dealer licensing and motor vehicle registration enforcement task force; requiring vehicle registration and insurance study; amending Minnesota Statutes 1996, sections 161.081, subdivision 1, and by adding a subdivision; 161.082, subdivisions 1 and 2a; 162.081, subdivision 1; 169.733, subdivision 1; 169.825, subdivision 8; and 360.653; Laws 1997, chapter 159, article 1, section 2, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 473.

There has been appointed as such committee on the part of the House:

Lieder, Wagenius, Marko, Molnau and Kuisle.

Senate File No. 3298 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 2, 1998

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 668, 1965, 2500 and 2708.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 2, 1998

### FIRST READING OF HOUSE BILLS

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

**H.F. No. 668:** A bill for an act relating to occupations; enacting the Industrial Hygienist and Safety Professional Title Protection Act; providing title protection to the professions of industrial hygiene and safety; proposing coding for new law as Minnesota Statutes, chapter 182A.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 668, now on the Calendar.

**H.F. No. 1965:** A bill for an act relating to state agencies; codifying reorganization orders relating to the office of environmental assistance and the public service department; amending Minnesota Statutes 1996, sections 115D.08; and 216C.41, subdivision 2.

Referred to the Committee on Governmental Operations and Veterans.

**H.F. No. 2500:** A bill for an act relating to financial institutions; limiting customer liability for loss or theft of a debit card; amending Minnesota Statutes 1996, section 47.69, subdivision 3.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2540, now on General Orders.

**H.F. No. 2708:** A bill for an act relating to agriculture; providing for associations of producers; setting dispute resolution procedures; establishing an advisory committee; amending Minnesota Statutes 1996, sections 17.692; 17.693, subdivisions 1, 2, and 6; 17.694, subdivisions 1, 2, 3, 6, and 7; 17.696, subdivision 2; 17.697; 17.698; 17.70, subdivisions 1, 2, and 3; 17.701; proposing

coding for new law in Minnesota Statutes, chapter 17; repealing Minnesota Statutes 1996, section 17.699.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2414, now on General Orders.

## REPORTS OF COMMITTEES

### Mr. Lessard from the Committee on Environment and Natural Resources, to which was re-referred

**S.F. No. 3109:** A bill for an act relating to agriculture; certification for manure testing laboratories; adding requirements for manure storage structures; defining "animal unit"; requiring a report on manure applicator training; expanding the purposes of the value-added agricultural product loan program; modifying requirements for environmental review of proposed feedlots; establishing a voluntary rural dispute resolution procedure; modifying provisions relative to animal cruelty; providing alternatives for animal disposal; amending Minnesota Statutes 1996, sections 18C.141; 35.82, subdivision 2; 41B.046, subdivision 1; 116D.04, subdivision 2a; 343.22, subdivision 1; 343.24, subdivision 1; 343.25; 343.40, subdivision 2; 346.38, subdivisions 4 and 5; Minnesota Statutes 1997 Supplement, section 116.07, subdivision 7; Laws 1986, chapter 398, article 1, section 18, as amended; proposing coding for new law in Minnesota Statutes, chapter 583; repealing Minnesota Statutes 1996, sections 41B.046, subdivision 4a; and 343.26.

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

Page 6, line 14, after "a" insert "liquid"

Page 6, after line 35, insert:

"Sec. 4. Minnesota Statutes 1996, section 116.07, is amended by adding a subdivision to read:

Subd. 7b. [FEEDLOT INVENTORY NOTIFICATION AND PUBLIC MEETING REQUIREMENTS.] (a) Any state agency or local government unit conducting an inventory or survey of livestock feedlots under its jurisdiction must publicize notice of the inventory in a newspaper of general circulation in the affected area and in other media as appropriate. The notice must state the dates the inventory will be conducted, the information that will be requested in the inventory, and how the information collected will be provided to the public. The notice must also specify the date for a public meeting to provide information regarding the inventory.

(b) Any state agency or local government unit conducting an inventory or survey of livestock feedlots under its jurisdiction must hold at least one public meeting in each county included in the inventory. The public meeting must provide information concerning the dates the inventory will be conducted, the procedure the agency or local unit of government will use to request the information to be included in the inventory, and how the information collected will be provided to the public.

Sec. 5. [116.0714] [DENIAL OF PERMIT APPLICATIONS.]

(a) The commissioner may reject an application for a permit filed with the commissioner upon making a specific finding that:

(1) the applicant is unsuited or unqualified to perform the obligations of a permit holder based upon a finding that the applicant or any officer, director, partner, or resident general manager of the facility for which application has been made:

(i) has misrepresented a material fact in applying for a permit;

(ii) has violated environmental laws of any state or the United States which have caused significant and material environmental damage;

(iii) has had any permit revoked under the environmental laws of any state or the United States; or

(iv) has otherwise demonstrated through previous actions that the applicant lacks competency to reliably carry out the obligations imposed by law upon the permit holder; or

(2) the application substantially duplicates an application by the same applicant denied within the past five years, which denial has not been reversed by a court of competent jurisdiction. Nothing in this section prohibits an applicant from submitting a new application for a permit previously denied if the new application represents a good faith attempt by the applicant to correct the deficiencies that served as the basis for the denial in the original application.

(b) All applications filed with the commissioner must include a certification, sworn to under oath and signed by the applicant, that the applicant is not disqualified by reason of this section from obtaining a permit. In the absence of evidence to the contrary, that certification constitutes a prima facie showing of the suitability and qualification of the applicant. If at any point in the application review, recommendation, or hearing process, the commissioner finds the applicant has made any material misrepresentation of fact in regard to this certification, consideration of the application may be suspended and the application may be rejected under this section.

(c) Rejection of an application under this section constitutes final agency action upon that application and may be appealed to a district court as provided for in statute."

Page 10, after line 2, insert:

"Sec. 8. [FEEDLOT RULES.]

By November 1, 1998, the commissioner must submit a copy of updated feedlot permit rules as prescribed in Minnesota Statutes, section 116.07, subdivision 7, paragraph (i). The updated rules must become effective no later than February 28, 1999."

Pages 11 to 13, delete sections 1 to 7 and insert:

"Section 1. Minnesota Statutes 1996, section 343.24, subdivision 1, is amended to read:

Subdivision 1. [PENALTY.] Any person who does any of the following is guilty of a misdemeanor: (a) Carries or causes to be carried, any live animals upon any vehicle or otherwise, without providing suitable racks, cars, crates, or cages in which the animals can both stand and lie down during transportation and while awaiting slaughter; (b) Carries or causes to be carried, upon a vehicle or otherwise, any live animal ~~having~~, except an animal that weighs 300 pounds or less and is cloven-hoofed and the time period does not exceed one hour, that has its feet or legs tied together, ~~or in any other~~ a cruel or ~~inhuman~~ inhumane manner; (c) Transports or detains livestock in cars or compartments for more than 28 consecutive hours without unloading the livestock in a humane manner into properly equipped pens for rest, water, and feeding for a period of at least five consecutive hours, unless requested to do so as provided in subdivision 2, or unless prevented by storm or unavoidable causes which cannot be anticipated or avoided by the exercise of due diligence and foresight; or (d) Permits livestock to be crowded together without sufficient space to stand, or so as to overlie, crush, wound, or kill each other.

Sec. 2. Minnesota Statutes 1996, section 346.38, subdivision 4, is amended to read:

Subd. 4. [SHELTER.] Equines must be provided a minimum of free choice protection ~~or of a constructed or natural shelter from direct rays of the sun when temperatures exceed 95 degrees Fahrenheit, from wind, and from freezing precipitation that is available during extreme weather conditions.~~ Natural or constructed shelters must be of sufficient size to provide the necessary protection. ~~Constructed shelters must~~, be structurally sound, free of injurious matter, maintained in good repair, and ventilated. Outdoor exercise paddocks for equines do not require constructed or natural shelters where such shelter is available to the equine elsewhere on the property.

Sec. 3. Minnesota Statutes 1996, section 346.38, subdivision 5, is amended to read:

Subd. 5. [SPACE AND CLEANLINESS REQUIREMENTS.] Constructed shelters except for

tie stalls must provide space for the animal to ~~roll with a minimum danger of being cast easily and~~ comfortably lie down and turn around. Stalls must be cleaned and kept dry to the extent the animal is not required to lie or stand in fluids. Bedding must be provided in all stalls, kept reasonably clean, and periodically changed. The nature of the bedding must not pose a health hazard to the animal."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 8, after the semicolon, insert "providing for denial of permits by the pollution control agency; requiring notification and public meetings before conducting feedlot inventories; requiring an update to feedlot rules;"

Page 1, line 13, after the first semicolon, insert "116.07, by adding a subdivision;"

Page 1, line 14, delete everything before "343.24," and delete "343.25;"

Page 1, line 15, delete everything before "346.38,"

Page 1, line 19, delete "chapter" and insert "chapters 116; and"

Page 1, line 20, delete "sections" and insert "section"

Page 1, line 21, delete "; and 343.26"

And when so amended the bill do pass. Mr. Betzold questioned the reference thereon and, under Rule 35, the bill was referred to the Committee on Rules and Administration.

### MOTIONS AND RESOLUTIONS

Mr. Johnson, D.J. moved that the names of Messrs. Pogemiller, Janezich and Ms. Johnson, J.B. be added as co-authors to S.F. No. 3389. The motion prevailed.

Mr. Lessard moved that the names of Mr. Stevens and Mrs. Scheid be added as co-authors to S.F. No. 3390. The motion prevailed.

Remaining on the Order of Business of Motions and Resolutions, Ms. Junge moved that the Senate revert to the Order of Business of Messages From the House. The motion prevailed.

### MESSAGES FROM THE HOUSE

Mr. President:

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

**S.F. No. 3345:** A bill for an act relating to criminal justice; appropriating money for the judicial branch, public safety, corrections, criminal justice, crime prevention programs, and related purposes; modifying various fees, assessments, and surcharges; implementing, clarifying, and modifying certain criminal and juvenile provisions; prescribing, clarifying, and modifying certain penalty provisions; establishing, clarifying, expanding, and making permanent various pilot programs, grant programs, task forces, working groups, reports, and studies; providing for the collection, maintenance, and reporting of certain data; expanding, clarifying, and modifying the powers of the commissioner of corrections; making various changes to the 1997 omnibus criminal justice funding bill; providing for the coordination of services for disasters; clarifying and modifying certain laws involving public defenders; appropriating public defender reimbursements to the board of public defense; requesting the supreme court to amend the Rules of Criminal Procedure; accelerating the repeal of the automobile theft prevention program; limiting the entities

that must have an affirmative action plan approved by the commissioner of human rights; conveying state land to the city of Faribault; amending Minnesota Statutes 1996, sections 3.739, subdivision 1; 12.09, by adding a subdivision; 13.99, by adding a subdivision; 168.042, subdivisions 12 and 15; 169.121, subdivision 5a; 171.16, subdivision 3; 241.01, subdivision 7, and by adding a subdivision; 242.32, subdivision 1; 244.05, subdivision 7; 299C.06; 299C.09; 299F.04, by adding a subdivision; 357.021, by adding subdivisions; 488A.03, subdivision 11; 588.01, subdivision 3; 609.3241; 611.14; 611.20, subdivision 3; 611.26, subdivisions 2 and 3; and 611.27, subdivisions 1 and 7; Minnesota Statutes 1997 Supplement, sections 97A.065, subdivision 2; 168.042, subdivision 11a; 171.29, subdivision 2; 241.277, subdivisions 6, 9, and by adding a subdivision; 357.021, subdivision 2; 363.073, subdivision 1; 401.13; 609.101, subdivision 5; 609.113, subdivision 3; and 611.25, subdivision 3; amending Laws 1996, chapter 408, article 2, section 16; and Laws 1997, chapter 239, article 1, sections 7 and 12; proposing coding for new law in Minnesota Statutes, chapters 169; 241; 299C; 609; and 611A; repealing Minnesota Statutes 1996, sections 609.101, subdivision 1; 609.563, subdivision 2; 611.216, subdivision 1a; 611.26, subdivision 9; 611.27, subdivision 2; and 626.861; Minnesota Statutes 1997 Supplement, section 611.27, subdivision 4.

Senate File No. 3345 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 2, 1998

Mr. Kelly, R.C. moved that the Senate do not concur in the amendments by the House to S.F. No. 3345, and that a Conference Committee of 5 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

### **MOTIONS AND RESOLUTIONS - CONTINUED**

Remaining on the Order of Business of Motions and Resolutions, Ms. Junge moved that the Senate take up the General Orders Calendar. The motion prevailed.

### **GENERAL ORDERS**

The Senate resolved itself into a Committee of the Whole, with Mr. Knutson in the chair.

After some time spent therein, the committee arose, and Mr. Knutson reported that the committee had considered the following:

S.F. Nos. 2730, 1258, 3036, 2869 and H.F. Nos. 2616, 3071, which the committee recommends to pass.

S.F. No. 2216, which the committee recommends be re-referred to the Committee on Governmental Operations and Veterans.

S.F. No. 2751, which the committee recommends to pass with the following amendments offered by Mses. Anderson and Krentz:

Ms. Anderson moved to amend S.F. No. 2751 as follows:

Page 1, line 10, delete "provide a" and insert "make available the nearest convenient and appropriate"

The motion prevailed. So the amendment was adopted.

Ms. Krentz moved to amend S.F. No. 2751 as follows:

Page 1, after line 18, insert:



"Sec. 2. Minnesota Statutes 1996, section 617.23, is amended to read:

617.23 [INDECENT EXPOSURE; PENALTIES.]

(a) A person is guilty of a misdemeanor who in any public place, or in any place where others are present:

(1) willfully and lewdly exposes the person's body, or the private parts thereof;

(2) procures another to expose private parts; or

(3) engages in any open or gross lewdness or lascivious behavior, or any public indecency other than behavior specified in clause (1) or (2) or this clause.

(b) A person is guilty of a gross misdemeanor if:

(1) the person violates this section in the presence of a minor under the age of 16; or

(2) the person violates this section after having been previously convicted of violating this section, sections 609.342 to 609.3451, or a statute from another state in conformity with any of those sections.

(c) A person is guilty of a felony and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person violates paragraph (b), clause (1), after having been previously convicted of or adjudicated delinquent for violating paragraph (b), clause (1); section 609.3451, subdivision 1, clause (2); or a statute from another state in conformity with paragraph (b), clause (1), or section 609.3451, subdivision 1, clause (2).

(d) It is not a violation of this section for a woman to breast-feed."

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "providing that breast-feeding is excepted from the crime of indecent exposure; amending Minnesota Statutes 1996, section 617.23;"

The motion prevailed. So the amendment was adopted.

S.F. No. 2926, which the committee recommends to pass with the following amendment offered by Mr. Larson:

Page 1, line 24, strike "to yield the right-of-way to" and insert "while"

Page 1, line 25, after "pedestrian" insert "is"

Page 2, line 1, strike "yield" and insert "stop" and after the period, insert "A stopped vehicle shall remain stopped until the pedestrian has completely crossed the roadway; except that if the roadway is divided, the vehicle shall only remain stopped until the pedestrian has reached the median."

The motion prevailed. So the amendment was adopted.

S.F. No. 2447, which the committee recommends to pass with the following amendments offered by Mr. Sams:

Page 10, line 21, after the second comma, insert "when orders or referrals are made in collaboration with a physician, chiropractor, podiatrist, or dentist,"

The motion prevailed. So the amendment was adopted.

Mr. Sams then moved to amend S.F. No. 2447 as follows:

Pages 10 to 12, delete sections 11 and 12

Page 26, line 2, delete "Section 30"

Page 26, line 3, delete "is" and insert "All other sections are"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 2416, which the committee recommends to pass with the following amendment offered by Mr. Betzold:

Page 12, line 5, after "provided" insert "and the notice gives at least 30 days to request a hearing, unless the agency statute provides for a different timeline"

The motion prevailed. So the amendment was adopted.

S.F. No. 2758, which the committee recommends to pass with the following amendments offered by Mr. Neuville and Ms. Kiscaden:

Mr. Neuville moved to amend S.F. No. 2758 as follows:

Page 1, after line 9, insert:

"Section 1. Minnesota Statutes 1996, section 260.155, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] (a) Except for hearings arising under section 260.261, hearings on any matter shall be without a jury and may be conducted in an informal manner, except that a child who is prosecuted as an extended jurisdiction juvenile has the right to a jury trial on the issue of guilt. The rules of evidence promulgated pursuant to section 480.0591 and the law of evidence shall apply in adjudicatory proceedings involving a child alleged to be delinquent, an extended jurisdiction juvenile, or a juvenile petty offender, and hearings conducted pursuant to section 260.125 except to the extent that the rules themselves provide that they do not apply. In all adjudicatory proceedings involving a child alleged to be in need of protection or services, the court shall admit only evidence that would be admissible in a civil trial. To be proved at trial, allegations of a petition alleging a child to be in need of protection or services must be proved by clear and convincing evidence.

(b) Except for proceedings involving a child alleged to be in need of protection or services and petitions for the termination of parental rights, hearings may be continued or adjourned from time to time. In proceedings involving a child alleged to be in need of protection or services and petitions for the termination of parental rights, hearings may not be continued or adjourned for more than one week unless the court makes specific findings that the continuance or adjournment is in the best interests of the child. If a hearing is held on a petition involving physical or sexual abuse of a child who is alleged to be in need of protection or services or neglected and in foster care, the court shall file the decision with the court administrator as soon as possible but no later than 15 days after the matter is submitted to the court. When a continuance or adjournment is ordered in any proceeding, the court may make any interim orders as it deems in the best interests of the minor in accordance with the provisions of sections 260.011 to 260.301.

(c) Except as otherwise provided in this paragraph, the court shall exclude the general public from hearings under this chapter and shall admit only those persons who, in the discretion of the court, have a direct interest in the case or in the work of the court. The court shall permit the victim of a child's delinquent act to attend any delinquency proceeding the victim chooses, except that the court may exclude the victim:

(1) as a witness under rule 26.03, subdivision 7, of the Rules of Criminal Procedure; and

(2) from portions of a certification hearing to discuss psychological material or other evidence that would not be accessible to the public in an adult proceeding.

The court shall open the hearings to the public in delinquency or extended jurisdiction juvenile proceedings where the child is alleged to have committed an offense or has been proven to have committed an offense that would be a felony if committed by an adult and the child was at least 16

years of age at the time of the offense, except that the court may exclude the public from portions of a certification hearing to discuss psychological material or other evidence that would not be accessible to the public in an adult proceeding.

(d) In all delinquency cases a person named in the charging clause of the petition as a person directly damaged in person or property shall be entitled, upon request, to be notified by the court administrator in writing, at the named person's last known address, of (1) the date of the certification or adjudicatory hearings, and (2) the disposition of the case.

(e) Adoption hearings shall be conducted in accordance with the provisions of laws relating to adoptions."

Page 3, after line 17, insert:

"Sec. 4. [EFFECTIVE DATE.]

Sections 1 and 2 are effective August 1, 1998, and apply to acts committed on or after that date."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Ms. Kiscaden moved to amend the Neuville amendment to S.F. No. 2758 as follows:

Page 2, line 15, delete "in an adult proceeding"

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

Mr. Neuville moved to amend the Neuville amendment to S.F. No. 2758 as follows:

Page 2, line 9, after "any" insert "related"

Page 2, line 10, delete "the victim chooses"

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

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

S.F. No. 2493, which the committee recommends to pass, after to the following motion:

Ms. Kiscaden moved to amend S.F. No. 2493 as follows:

Page 1, after line 16, insert:

"Sec. 2. [604A.301] [REFERENCE CHECKS; EMPLOYER IMMUNITY.]

Subdivision 1. [CAUSES OF ACTION.] No action may be brought against an employer, designated employee, or agent who discloses information regarding a former or current employee to a prospective employer as provided under this section. This subdivision does not preclude a charge or action under chapter 363 or an action arising from a disclosure that the plaintiff proves, by clear and convincing evidence, was made fraudulently or with deliberate disregard as to its truth or falsity.

Subd. 2. [REFERENCE CHECKS.] (a) Upon request, an employer may disclose the following information about one of its current or former employees to a prospective employer:

- (1) dates of employment;
- (2) current compensation and wage history; and
- (3) job description and duties.

(b) With the written authorization of the current or former employee, an employer may also disclose the following information in writing to a prospective employer:

- (1) written evaluations;
- (2) written notice of discipline issued at the time of a disciplinary action; and
- (3) reasons for separation from employment, in the case of a former employee.

(c) The employer must provide a written copy of a disclosure made under paragraph (b) to the current or former employee upon request. The prospective employer must notify the employee in writing of the right to dispute the contents of the disclosure under sections 181.960 to 181.966.

Sec. 3. [EFFECTIVE DATE; APPLICATION.]

Section 2 is effective August 1, 1998, and applies to causes of action arising on or after that date."

Amend the title accordingly

Ms. Junge questioned whether the amendment was germane.

The Chair ruled that the amendment was not germane.

Mr. Neuville appealed the decision of the Chair.

The question was taken on "Shall the decision of the Chair be the judgment of the Senate?"

The roll was called, and there were yeas 41 and nays 17, as follows:

Those who voted in the affirmative were:

Anderson	Janezich	Laidig	Oliver	Spear
Beckman	Johnson, D.H.	Langseth	Ourada	Stumpf
Berglin	Johnson, D.J.	Lessard	Pappas	Ten Eyck
Betzold	Johnson, J.B.	Lourey	Piper	Vickerman
Cohen	Junge	Marty	Pogemiller	Wiger
Flynn	Kelley, S.P.	Metzen	Ranum	
Foley	Kelly, R.C.	Morse	Samuelson	
Hanson	Knutson	Murphy	Scheid	
Higgins	Krentz	Novak	Solon	

Those who voted in the negative were:

Berg	Frederickson	Limmer	Robertson	Stevens
Day	Kiscaden	Neuville	Robling	
Dille	Kleis	Olson	Runbeck	
Fischbach	Lesewski	Pariseau	Scheevel	

The decision of the Chair was sustained.

S.F. No. 2756, which the committee reports progress, subject to the following motions:

Mr. Novak moved to amend S.F. No. 2756 as follows:

Page 2, after line 16, insert:

"Sec. 2. Minnesota Statutes 1997 Supplement, section 115A.916, is amended to read:

115A.916 [MOTOR VEHICLE FLUIDS AND FILTERS; PROHIBITIONS.]

(a) A person may not knowingly place motor oil, brake fluid, power steering fluid, transmission fluid, motor oil filters, or motor vehicle antifreeze:

(1) in solid waste or in a solid waste management facility other than a recycling facility or a household hazardous waste collection facility;

(2) in or on the land, unless approved by the agency; or

(3) in or on the waters of the state, in an individual sewage treatment system as defined in section 115.55, or in a stormwater or wastewater collection or treatment system except as described in paragraph (c).

(b) For the purposes of this section, "antifreeze" does not include small amounts of antifreeze contained in water used to flush the cooling system of a vehicle after the antifreeze has been drained and does not include deicer that has been used on the exterior of a vehicle.

~~(c) For businesses that purchase or use an annual average of over 50 gallons of motor vehicle antifreeze per month for on-site installation in motor vehicles, this section does not apply to antifreeze placed in a wastewater collection system that includes a publicly owned treatment works that is permitted by the agency until December 31, 1997. For businesses that purchase or use an annual average of 50 gallons or less of motor vehicle antifreeze per month for on-site installation in motor vehicles, this section does not apply to antifreeze placed in a wastewater collection system that includes a publicly owned treatment works that is permitted by the agency until July 1, 1998.~~

(c) A person may place waste motor vehicle antifreeze in a wastewater collection or treatment system permitted by the agency, unless prohibited by the operator of the system, if the person:

(1) generates an annual average of less than 50 gallons per month of waste motor vehicle antifreeze; and

(2) keeps records of the amount of waste antifreeze generated. Records must be maintained on site and made available for inspection for a minimum of three years following generation of the waste antifreeze.

(d) Notwithstanding paragraph (a), motor oil filters and portions of motor oil filters may be processed at a permitted mixed municipal solid waste resource recovery facility that directly burns the waste if:

(1) the facility is subject to an industrial waste management plan that addresses management of motor oil filters and the owner or operator of the facility can demonstrate to the satisfaction of the commissioner that the facility is in compliance with that plan;

(2) the facility recovers ferrous metal after incineration for recycling as part of its operation; and

(3) the motor oil filters are collected separately from mixed municipal solid waste and are not combined with it except for the purpose of incinerating the waste.

(e) The commissioner of the pollution control agency, in conjunction with the director of the office of environmental assistance, industry organizations representing automotive repair businesses and antifreeze recycling businesses, and environmental organizations shall work together to develop and promote opportunities to recycle waste motor vehicle antifreeze and to review the impact of alternative antifreeze disposal or recycling methods on businesses and the environment."

Page 3, line 18, delete "Minnesota Rules, parts 7150.0100"

Page 3, line 19, delete "and 7150.0120" and insert "rules adopted under section 116.49"

Page 3, line 20, after "notification" insert "requirements"

Page 3, line 22, delete "Minnesota Rules, part 7150.0110" and insert "rules adopted under section 116.49"

Page 3, line 25, delete "Minnesota Rules, parts 7150.0200"

Page 3, line 26, delete "to 7150.0240" and insert "rules adopted under section 116.49"

Page 3, line 28, delete "Minnesota Rules, parts 7150.0300"

Page 3, line 29, delete "to 7150.0350" and insert "rules adopted under section 116.49"

Page 3, line 31, delete "Minnesota Rules, parts 7150.0400"

Page 3, line 32, delete "to 7150.0500" and insert "rules adopted under section 116.49"

Page 4, line 4, delete "to 3" and insert ", 3, and 4"

Page 4, line 5, after the period, insert "Section 2 is effective on the day following final enactment."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Ms. Johnson, J.B. requested division as follows:

First portion:

Page 2, after line 16, insert:

"Sec. 2. Minnesota Statutes 1997 Supplement, section 115A.916, is amended to read:

115A.916 [MOTOR VEHICLE FLUIDS AND FILTERS; PROHIBITIONS.]

(a) A person may not knowingly place motor oil, brake fluid, power steering fluid, transmission fluid, motor oil filters, or motor vehicle antifreeze:

(1) in solid waste or in a solid waste management facility other than a recycling facility or a household hazardous waste collection facility;

(2) in or on the land, unless approved by the agency; or

(3) in or on the waters of the state, in an individual sewage treatment system as defined in section 115.55, or in a stormwater or wastewater collection or treatment system except as described in paragraph (c).

(b) For the purposes of this section, "antifreeze" does not include small amounts of antifreeze contained in water used to flush the cooling system of a vehicle after the antifreeze has been drained and does not include deicer that has been used on the exterior of a vehicle.

~~(c) For businesses that purchase or use an annual average of over 50 gallons of motor vehicle antifreeze per month for on-site installation in motor vehicles, this section does not apply to antifreeze placed in a wastewater collection system that includes a publicly owned treatment works that is permitted by the agency until December 31, 1997. For businesses that purchase or use an annual average of 50 gallons or less of motor vehicle antifreeze per month for on-site installation in motor vehicles, this section does not apply to antifreeze placed in a wastewater collection system that includes a publicly owned treatment works that is permitted by the agency until July 1, 1998.~~

(c) A person may place waste motor vehicle antifreeze in a wastewater collection or treatment system permitted by the agency, unless prohibited by the operator of the system, if the person:

(1) generates an annual average of less than 50 gallons per month of waste motor vehicle antifreeze; and

(2) keeps records of the amount of waste antifreeze generated. Records must be maintained on site and made available for inspection for a minimum of three years following generation of the waste antifreeze.

(d) Notwithstanding paragraph (a), motor oil filters and portions of motor oil filters may be processed at a permitted mixed municipal solid waste resource recovery facility that directly burns the waste if:

(1) the facility is subject to an industrial waste management plan that addresses management of motor oil filters and the owner or operator of the facility can demonstrate to the satisfaction of the commissioner that the facility is in compliance with that plan;

(2) the facility recovers ferrous metal after incineration for recycling as part of its operation; and

(3) the motor oil filters are collected separately from mixed municipal solid waste and are not combined with it except for the purpose of incinerating the waste.

(e) The commissioner of the pollution control agency, in conjunction with the director of the office of environmental assistance, industry organizations representing automotive repair businesses and antifreeze recycling businesses, and environmental organizations shall work together to develop and promote opportunities to recycle waste motor vehicle antifreeze and to review the impact of alternative antifreeze disposal or recycling methods on businesses and the environment."

Page 4, line 4, delete "to 3" and insert ", 3, and 4"

Page 4, line 5, after the period, insert "Section 2 is effective on the day following final enactment."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Second portion:

Page 3, line 18, delete "Minnesota Rules, parts 7150.0100"

Page 3, line 19, delete "and 7150.0120" and insert "rules adopted under section 116.49"

Page 3, line 20, after "notification" insert "requirements"

Page 3, line 22, delete "Minnesota Rules, part 7150.0110" and insert "rules adopted under section 116.49"

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Page 3, line 29, delete "to 7150.0350" and insert "rules adopted under section 116.49"

Page 3, line 31, delete "Minnesota Rules, parts 7150.0400"

Page 3, line 32, delete "to 7150.0500" and insert "rules adopted under section 116.49"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the second portion of the Novak amendment. The motion prevailed. So the second portion of the Novak amendment was adopted.

Ms. Anderson questioned whether the first portion of the Novak amendment was germane.

The Chair ruled that the first portion of the Novak amendment was germane.

The question was taken on the adoption of the first portion of the Novak amendment. The motion prevailed. So the first portion of the Novak amendment was adopted.

S.F. No. 2756 was then progressed.

On motion of Ms. Junge, the report of the Committee of the Whole, as kept by the Secretary, was adopted.

### **MOTIONS AND RESOLUTIONS - CONTINUED**

Ms. Flynn moved that S.F. No. 3124, No. 43 on General Orders, be stricken and returned to its author. The motion prevailed.

Ms. Junge, for Mr. Spear, moved that S.F. No. 2369, No. 9 on General Orders, be stricken and re-referred to the Committee on Crime Prevention. The motion prevailed.

Mrs. Scheid moved that S.F. No. 3071, No. 32 on General Orders, be stricken and re-referred to the Committee on Election Laws. The motion prevailed.

Mr. Kelly, R.C. moved that S.F. No. 2963, No. 46 on General Orders, be stricken and returned to its author. The motion prevailed.

### **MEMBERS EXCUSED**

Mr. Beckman was excused from the Session of today from 12:00 noon to 1:00 p.m. Mr. Terwilliger was excused from the Session of today from 12:00 noon to 1:30 p.m. Messrs. Murphy and Novak were excused from the Session of today from 12:00 noon to 2:30 p.m. Mr. Johnson, D.J. was excused from the Session of today from 12:00 noon to 3:00 p.m. Mr. Larson was excused from the Session of today at 2:30 p.m. Mr. Hottinger was excused from the Session of today at 3:15 p.m.

### **ADJOURNMENT**

Ms. Junge moved that the Senate do now adjourn until 9:00 a.m., Thursday, March 5, 1998. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate



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