

STATE OF MINNESOTA

Journal of the Senate

EIGHTIETH LEGISLATURE

EIGHTY-SEVENTH DAY

St. Paul, Minnesota, Monday, March 9, 1998

The Senate met at 11:00 a.m. 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. Leslie G. Svendsen.

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

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

Anderson	Hanson	Krentz	Novak	Sams
Beckman	Higgins	Laidig	Oliver	Samuelson
Belanger	Hottinger	Langseth	Olson	Scheevel
Berg	Janezich	Larson	Ourada	Scheid
Berglin	Johnson, D.E.	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	Wiger
Frederickson	Knutson	Neville	Runbeck	

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.H.; Moe, R.D. and Ms. Wiener were excused from the Session of today.

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communication was received.

March 6, 1998

The Honorable Allan H. Spear
President of the Senate

Dear President Spear:

It is my honor to inform you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. No. 2354.

Warmest regards,
Arne H. Carlson, Governor

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 1151, 2047 and 2457.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 9, 1998

MOTIONS AND RESOLUTIONS

Mr. Belanger moved that his name be stricken as a co-author to S.F. No. 3081. The motion prevailed.

Messrs. Stumpf and Moe, R.D. introduced--

Senate Resolution No. 90: A Senate resolution congratulating the East Grand Forks High School Boys Hockey Team on winning the Region 8A championship and earning a berth in the 1998 state tournament.

Referred to the Committee on Rules and Administration.

Mr. Knutson introduced--

Senate Resolution No. 91: A Senate resolution congratulating the Apple Valley Girls High School Hockey Team on winning the 1998 State High School Girls Hockey Championship.

Referred to the Committee on Rules and Administration.

Ms. Pappas moved that S.F. No. 3164 be withdrawn from the Committee on Health and Family Security and returned to its author. The motion prevailed.

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. Belanger in the chair.

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

S.F. Nos. 2268, 2161, 2911, 2846, 2783, 3084 and H.F. Nos. 2500, 2708, 2222, which the committee recommends to pass.

S.F. No. 2276, which the committee recommends to pass with the following amendments offered by Messrs. Cohen and Betzold:

Mr. Cohen moved to amend S.F. No. 2276 as follows:

Page 2, after line 6, insert:

"Sec. 3. Minnesota Statutes 1996, section 518.54, subdivision 8, is amended to read:

Subd. 8. [OBLIGOR.] "Obligor" means a person obligated to pay maintenance or support. A person who is designated as the sole physical custodian of a child is presumed not to be an obligor for purposes of section 518.551 unless the court makes specific written findings to overcome this presumption."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Cohen then moved to amend S.F. No. 2276 as follows:

Page 11, after line 36, insert:

"Sec. 8. Minnesota Statutes 1997 Supplement, section 518.5511, is amended by adding a subdivision to read:

Subd. 4a. [PRIORITY OF ORDERS.] If more than one order for child support exists involving the same obligor and child, the most current order controls. If a court enters an order continuing existing orders in effect, the most current order contained in the court file controls."

Page 12, after line 5, insert:

"Sec. 10. Minnesota Statutes 1997 Supplement, section 518.6111, subdivision 9, is amended to read:

Subd. 9. [PRIORITY.] (a) An order for or notice of withholding under this section or execution or garnishment upon a judgment for child support arrearage or preadjudicated expenses shall have priority over an attachment, execution, garnishment, or wage assignment and shall not be subject to the statutory limitations on amounts levied against the income of the obligor. Amounts withheld from an employee's income must not exceed the maximum permitted under the Consumer Credit Protection Act, title 15 of the United States Code, section 1673(b).

(b) Subject to section 518.5511, subdivision 4a, if more than one order for or notice of withholding exists involving the same obligor and child, the public authority shall enforce the most current order or notice. An order for or notice of withholding that was previously implemented according to this section shall end as of the date of the most current order. The public authority shall notify the payor of funds to withhold under the most current withholding order or notice."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Mr. Cohen then moved to amend the second Cohen amendment to S.F. No. 2276 as follows:

Page 1, lines 7 and 8, delete "current" and insert "recent"

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

Mr. Betzold moved to amend the second Cohen amendment to S.F. No. 2276 as follows:

Page 1, lines 26, 28, and 30, strike "current" and insert "recent"

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

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

S.F. No. 2718, which the committee recommends to pass, subject to the following motions:

Ms. Robertson moved to amend S.F. No. 2718 as follows:

Page 2, delete section 2

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

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Ms. Kiscaden moved to amend S.F. No. 2718 as follows:

Pages 7 and 8, delete section 4

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

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 26 and nays 30, as follows:

Those who voted in the affirmative were:

Beckman	Kelly, R.C.	Lesewski	Pariseau	Stevens
Belanger	Kiscaden	Limmer	Robertson	Terwilliger
Berg	Kleis	Neuville	Robling	
Day	Knutson	Oliver	Runbeck	
Fischbach	Laidig	Olson	Scheevel	
Johnson, D.E.	Larson	Ourada	Scheid	

Those who voted in the negative were:

Anderson	Higgins	Kelley, S.P.	Novak	Solon
Berglin	Hottinger	Krentz	Pappas	Spear
Betzold	Janezich	Langseth	Piper	Stumpf
Cohen	Johnson, D.J.	Lourey	Price	Ten Eyck
Flynn	Johnson, J.B.	Metzen	Ranum	Vickerman
Foley	Junge	Morse	Sams	Wiger

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

The question was taken on the recommendation to pass S.F. No. 2718.

The roll was called, and there were yeas 32 and nays 23, as follows:

Those who voted in the affirmative were:

Anderson	Foley	Junge	Novak	Spear
Beckman	Frederickson	Kelley, S.P.	Piper	Stumpf
Berg	Higgins	Kelly, R.C.	Pogemiller	Ten Eyck
Berglin	Hottinger	Krentz	Price	Vickerman
Betzold	Janezich	Lourey	Ranum	
Cohen	Johnson, D.J.	Metzen	Sams	
Flynn	Johnson, J.B.	Morse	Solon	

Those who voted in the negative were:

Belanger	Kleis	Limmer	Pariseau	Scheid
Day	Knutson	Neuville	Robertson	Stevens
Fischbach	Laidig	Oliver	Robling	Terwilliger
Johnson, D.E.	Larson	Olson	Runbeck	
Kiscaden	Lesewski	Ourada	Scheevel	

The motion prevailed. So S.F. No. 2718 was recommended to pass.

H.F. No. 2489, which the committee recommends to pass with the following amendment offered by Ms. Krentz:

Ms. Krentz moved to amend H.F. No. 2489, as amended pursuant to Rule 49, adopted by the Senate February 23, 1998, as follows:

(The text of the amended House File is identical to S.F. No. 2381.)

Page 1, line 25, reinstate the stricken language

The motion prevailed. So the amendment was adopted.

S.F. No. 2078, which the committee recommends to pass with the following amendment offered by Mr. Laidig:

Page 2, after line 3, insert:

"Sec. 2. Minnesota Statutes 1996, section 609.11, subdivision 8, is amended to read:

Subd. 8. [MOTION BY PROSECUTOR.] (a) Except as otherwise provided in ~~paragraph~~ paragraphs (b) and (c), prior to the time of sentencing, the prosecutor may file a motion to have the defendant sentenced without regard to the mandatory minimum sentences established by this section. The motion shall be accompanied by a statement on the record of the reasons for it. When presented with the motion, or on its own motion, the court may sentence the defendant without regard to the mandatory minimum sentences established by this section if the court finds substantial and compelling reasons to do so. A sentence imposed under this subdivision is a departure from the sentencing guidelines.

(b) The court may not, on its own motion or the prosecutor's motion, sentence a defendant without regard to the mandatory minimum sentences established by this section if the defendant previously has been convicted of an offense listed in subdivision 9 in which the defendant used or possessed a firearm or other dangerous weapon.

(c) The court may not, on its own motion or the prosecution's motion, sentence a defendant without regard to the mandatory minimum sentence established by subdivision 5, paragraph (b)."

Page 2, line 5, delete "Section 1 is" and insert "Sections 1 and 2 are" and delete "applies" and insert "apply"

Re-number the sections in sequence

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

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

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

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. 2351: A bill for an act relating to natural resources; adding to and deleting from state parks; creating a new recreation area; providing for a state park permit exemption; amending Minnesota Statutes 1996, section 85.054, by adding a subdivision.

Senate File No. 2351 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 9, 1998

Mr. Vickerman moved that the Senate do not concur in the amendments by the House to S.F. No. 2351, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

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

S.F. No. 2402: A bill for an act relating to commerce; prohibiting the unauthorized possession of, or damage to, merchandise pallets; providing penalties and remedies; proposing coding for new law in Minnesota Statutes, chapter 325F.

Senate File No. 2402 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 9, 1998

CONCURRENCE AND REPASSAGE

Mr. Stevens moved that the Senate concur in the amendments by the House to S.F. No. 2402 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 2402 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 60 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Kelly, R.C. moved that his name be stricken as chief author, shown as a co-author, and the name of Ms. Flynn be added as chief author to S.F. No. 3046. The motion prevailed.

Ms. Flynn moved that the name of Mr. Laidig be added as a co-author to S.F. No. 3046. The motion prevailed.

RECESS

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

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

APPOINTMENTS

Ms. Junge, for Mr. Moe, R.D., from the Subcommittee on Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

S.F. No. 2351: Messrs. Vickerman, Stumpf and Mrs. Pariseau.

Ms. Junge moved that the foregoing appointments be approved. The motion prevailed.

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Messrs. Frederickson, Laidig, Meses. Johnson, J.B.; Higgins and Mr. Dille introduced--

S.F. No. 3395: A bill for an act relating to game and fish; prohibiting taking fish with underwater video cameras; amending Minnesota Statutes 1996, section 97C.325.

Referred to the Committee on Environment and Natural Resources.

Ms. Ranum, Messrs. Betzold and Knutson introduced--

S.F. No. 3396: A bill for an act relating to legislative enactments; correcting miscellaneous noncontroversial oversights, inconsistencies, ambiguities, unintended results, and technical errors; amending Minnesota Statutes 1996, section 115C.08, subdivision 3.

Referred to the Committee on Rules and Administration.

Mr. Spear, Ms. Ranum and Mr. Solon introduced--

S.F. No. 3397: A bill for an act relating to commerce; eliminating retroactive exemption from the franchise law of agreements between air carriers; amending Laws 1997, chapter 222, section 61.

Referred to the Committee on Commerce.

Mr. Stevens introduced--

S.F. No. 3398: A bill for an act relating to lawful gambling; reducing rates of taxation; amending Minnesota Statutes 1996, section 297E.02, subdivisions 1, 4, and 6.

Referred to the Committee on Local and Metropolitan Government.

MEMBERS EXCUSED

Mr. Ten Eyck was excused from the Session of today from 11:00 to 11:45 a.m. Mr. Dille was excused from the Session of today from 11:00 a.m. to 2:30 p.m. Mr. Lessard was excused from the Session of today from 12:00 noon to 12:30 and from 2:10 to 2:45 p.m. Ms. Johnson, J.B. was excused from the Session of today at 1:45 p.m. Mr. Novak was excused from the Session of today at 1:55 p.m.

ADJOURNMENT

Ms. Junge moved that the Senate do now adjourn until 9:00 a.m., Tuesday, March 10, 1998.
The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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