

## STATE OF MINNESOTA

## EIGHTY-FIRST SESSION — 1999

---

 THIRTY-FOURTH DAY

SAINT PAUL, MINNESOTA, MONDAY, MARCH 29, 1999

The House of Representatives convened at 2:30 p.m. and was called to order by Steve Sviggum, Speaker of the House.

Prayer was offered by the Reverend Linda Koelman, North United Methodist Church, Minneapolis, 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	Dorn	Howes	Mares	Paymar	Tingelstad
Abrams	Entenza	Huntley	Mariani	Pelowski	Tomassoni
Anderson, B.	Erhardt	Jaros	Marko	Peterson	Trimble
Anderson, I.	Erickson	Jennings	McCollum	Pugh	Tuma
Bakk	Finseth	Johnson	McElroy	Rest	Tunheim
Biernat	Folliard	Juhnke	McGuire	Reuter	Van Dellen
Bishop	Fuller	Kahn	Milbert	Rhodes	Vandever
Boudreau	Gerlach	Kalis	Molnau	Rifenberg	Wagenius
Bradley	Gleason	Kelliher	Mulder	Rostberg	Wejzman
Broecker	Goodno	Kielkucki	Mullery	Rukavina	Wenzel
Buesgens	Gray	Knoblach	Munger	Schumacher	Westerberg
Carlson	Greenfield	Krinkie	Murphy	Seagren	Westfall
Carruthers	Greiling	Kubly	Ness	Seifert, J.	Westrom
Cassell	Gunther	Kuisle	Nornes	Seifert, M.	Wilkin
Chaudhary	Haake	Larsen, P.	Olson	Skoe	Winter
Clark, J.	Haas	Larsen, D.	Opatz	Skoglund	Wolf
Clark, K.	Hackbarth	Leighton	Orfield	Smith	Workman
Daggett	Harder	Lenczewski	Osskopp	Solberg	Spk. Sviggum
Davids	Hasskamp	Leppik	Osthoff	Stanek	
Dawkins	Hausman	Lieder	Otremba	Stang	
Dehler	Hilty	Lindner	Ozment	Storm	
Dempsey	Holberg	Luther	Paulsen	Swenson	
Dorman	Holsten	Mahoney	Pawlenty	Sykora	

A quorum was present.

Koskinen was excused.

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

**REPORTS OF CHIEF CLERK**

S. F. No. 1017 and H. F. No. 1035, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

**SUSPENSION OF RULES**

Larsen, P., moved that the rules be so far suspended that S. F. No. 1017 be substituted for H. F. No. 1035 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1463 and H. F. No. 1538, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Vandever moved that S. F. No. 1463 be substituted for H. F. No. 1538 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1660 and H. F. No. 2024, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Seifert, J., moved that S. F. No. 1660 be substituted for H. F. No. 2024 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1888 and H. F. No. 1986, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

**SUSPENSION OF RULES**

Nornes moved that the rules be so far suspended that S. F. No. 1888 be substituted for H. F. No. 1986 and that the House File be indefinitely postponed. The motion prevailed.

**REPORTS OF STANDING COMMITTEES**

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

H. F. No. 67, A bill for an act relating to crime; imposing penalties for killing or injuring a search and rescue dog; amending Minnesota Statutes 1998, section 609.596.

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

The report was adopted.

Mares from the Committee on Education Policy to which was referred:

H. F. No. 483, A bill for an act relating to education; modifying special education provisions; providing for rulemaking; amending Minnesota Statutes 1998, sections 121A.43; 125A.03; 125A.09, subdivisions 6 and 8; 125A.10; 125A.18; 125A.24; and 125A.75, subdivision 8, and by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1998, section 121A.41, subdivision 10, is amended to read:

Subd. 10. [SUSPENSION.] "Suspension" means an action by the school administration, under rules promulgated by the school board, prohibiting a pupil from attending school for a period of no more than ten school days. If a suspension is longer than five days, the suspending administrator must provide the superintendent with a reason for the longer suspension. This definition does not apply to dismissal from school for one school day or less, except as provided in federal law for a student with a disability. Each suspension action may include a readmission plan. The readmission plan shall include, where appropriate, a provision for implementing alternative educational services upon readmission and may not be used to extend the current suspension. The school administration may not impose consecutive suspensions against the same pupil for the same course of conduct, or incident of misconduct, except where the pupil will create an immediate and substantial danger to self or to surrounding persons or property, or where the district is in the process of initiating an expulsion, in which case the school administration may extend the suspension to a total of 15 days. In the case of a pupil student with a disability, ~~school districts must comply with applicable federal law.~~ the student's individual education plan team must meet immediately but not more than ten school days after the date on which the decision to remove the student from the student's current education placement is made. The individual education plan team shall at that meeting: conduct a review of the relationship between the child's disability and the behavior subject to disciplinary action; and determine the appropriateness of the child's education plan.

The requirements of the individual education plan team meeting apply when:

(1) the parent requests a meeting;

(2) the student is removed from the student's current placement for five or more consecutive days; or

(3) the student's total days of removal from the student's placement during the school year exceed ten cumulative days in a school year. The school administration shall implement alternative educational services when the suspension exceeds five days. A separate administrative conference is required for each period of suspension.

Sec. 2. Minnesota Statutes 1998, section 121A.43, is amended to read:

121A.43 [EXCLUSION AND EXPULSION OF PUPILS WITH A DISABILITY.]

When a pupil who has an individual education plan is excluded or expelled under sections 121A.40 to 121A.56 for misbehavior that is not a manifestation of the pupil's disability, the district shall continue to provide special education and related services after a period of suspension, if suspension is imposed. The district shall initiate a review of the student's individual education plan within five school days of and conduct a review of the relationship between the student's disability and the behavior subject to disciplinary action and determine the appropriateness of the student's education plan before commencing an expulsion, or exclusion, or a suspension.

Sec. 3. Minnesota Statutes 1998, section 125A.023, is amended to read:

125A.023 [COORDINATED INTERAGENCY SERVICES.]

Subdivision 1. [CITATION.] This section and section 125A.027 shall be cited as the "Interagency Services for Children with Disabilities Act."

Subd. 2. [PURPOSE.] It is the policy of the state to develop and implement a coordinated, multidisciplinary, interagency intervention service system for children ages three to ~~22~~ 21 with disabilities.

Subd. 3. [DEFINITIONS.] For purposes of this section and section 125A.027, the following terms have the meanings given them:

(a) "Health plan" means:

- (1) a health plan under section 62Q.01, subdivision 3;
- (2) a county-based purchasing plan under section 256B.692;
- (3) a self-insured health plan established by a local government under section 471.617; or
- (4) self-insured health coverage provided by the state to its employees or retirees.

(b) For purposes of this section, "health plan company" means an entity that issues a health plan as defined in paragraph (a).

(c) "Individual interagency intervention plan" means a standardized written plan describing those programs or services and the accompanying funding sources available to eligible children with disabilities.

(d) "Interagency intervention service system" means a system that coordinates services and programs required in state and federal law to meet the needs of eligible children with disabilities ages three to ~~22~~ 21, including:

(1) services provided under the following programs or initiatives administered by state or local agencies:

(i) the maternal and child health program under title V of the Social Security Act, United States Code, title 42, sections 701 to 709;

(ii) the Individuals with Disabilities Education Act under United States Code, title 20, chapter 33, subchapter II, sections 1411 to 1420;

(iii) medical assistance under the Social Security Act, United States Code, title 42, chapter 7, subchapter XIX, section 1396, et seq.;

(iv) the Developmental Disabilities Assistance and Bill of Rights Act, United States Code, title 42, chapter 75, subchapter II, sections 6021 to 6030, Part B;

(v) the Head Start Act, United States Code, title 42, chapter 105, subchapter II, sections 9831 to 9852;

(vi) rehabilitation services provided under chapter 268A;

(vii) Juvenile Court Act services provided under sections 260.011 to 260.301;

(viii) the children's mental health collaboratives under section 245.493;

(ix) the family service collaboratives under section 124D.23;

(x) the family community support plan under section 245.4881, subdivision 4;

(xi) the MinnesotaCare program under chapter 256L;

(xii) the community health services grants under chapter 145;

(xiii) the Community Social Services Act funding under the Social Security Act, United States Code, title 42, sections 1397 to 1397f; and

(xiv) the community interagency transition committees under section 125A.22;

(2) services provided under a health plan in conformity with an individual family service plan or an individual education plan; and

(3) additional appropriate services that local agencies and counties provide on an individual need basis upon determining eligibility and receiving a request from the interagency early intervention committee and the child's parent.

(e) "Children with disabilities" has the meaning given in section 125A.02.

(f) A "standardized written plan" means those individual services or programs available through the interagency intervention service system to an eligible child other than the services or programs described in the child's individual education plan or the child's individual family service plan.

Subd. 4. [STATE INTERAGENCY COMMITTEE.] (a) The governor shall convene an 18-member interagency committee to develop and implement a coordinated, multidisciplinary, interagency intervention service system for children ages three to ~~22~~ 21 with disabilities. The commissioners of commerce, children, families, and learning, health, human rights, human services, economic security, and corrections shall each appoint two committee members from their departments; the association of Minnesota counties shall appoint two county representatives, one of whom must be an elected official, as committee members; and the Minnesota school boards association and the school nurse association of Minnesota shall each appoint one committee member. The committee shall select a chair from among its members.

(b) The committee shall:

(1) identify and assist in removing state and federal barriers to local coordination of services provided to children with disabilities;

(2) identify adequate, equitable, and flexible funding sources to streamline these services;

(3) develop guidelines for implementing policies that ensure a comprehensive and coordinated system of all state and local agency services, including multidisciplinary assessment practices for children with disabilities ages three to ~~22~~ 21;

(4) develop, consistent with federal law, a standardized written plan for providing services to a child with disabilities;

(5) identify how current systems for dispute resolution can be coordinated and develop guidelines for that coordination;

(6) develop an evaluation process to measure the success of state and local interagency efforts in improving the quality and coordination of services to children with disabilities ages three to ~~22~~ 21;

(7) develop guidelines to assist the governing boards of the interagency early intervention committees in carrying out the duties assigned in section 125A.027, subdivision 1, paragraph (b); and

(8) carry out other duties necessary to develop and implement within communities a coordinated, multidisciplinary, interagency intervention service system for children with disabilities.

(c) The committee shall consult on an ongoing basis with the state education advisory committee for special education and the governor's interagency coordinating council in carrying out its duties under this section, including assisting the governing boards of the interagency early intervention committees.

Subd. 5. [INTERVENTION DEMONSTRATION PROJECTS.] (a) The commissioner of children, families, and learning, based on recommendations from the state interagency committee, shall issue a request for proposals by January 1, 1999, for grants to the governing boards of interagency intervention committees under section 125A.027 or a combination of one or more counties and school districts to establish five voluntary interagency intervention demonstration projects. One grant shall be used to implement a coordinated service system for all eligible children with disabilities up to age five who received services under sections 125A.26 to 125A.48. One grant shall be used to implement a coordinated service system for a population of minority children with disabilities from ages 12 to ~~22~~ 21, who may have behavioral problems and are in need of transitional services. Each project must be operational by July 1, 1999. The governing boards of the interagency early intervention committees and the counties and school districts receiving project grants must develop efficient ways to coordinate services and funding for children with disabilities ages three to ~~22~~ 21, consistent with the requirements of this section and section 125A.027 and the guidelines developed by the state interagency committee under this section.

(b) The state interagency committee shall evaluate the demonstration projects and provide the evaluation results to interagency early intervention committees.

Subd. 6. [THIRD-PARTY LIABILITY.] Nothing in this section and section 125A.027 relieves a health plan company, third party administrator or other third-party payer of an obligation to pay for, or changes the validity of an obligation to pay for, services provided to children with disabilities ages three to ~~22~~ 21 and their families.

Subd. 7. [AGENCY OBLIGATION.] Nothing in this section and section 125A.027 removes the obligation of the state, counties, local school districts, a regional agency, or a local agency or organization to comply with any federal or state law that mandates responsibility for finding, assessing, delivering, assuring, or paying for education or related services for children with disabilities and their families.

Sec. 4. Minnesota Statutes 1998, section 125A.027, is amended to read:

125A.027 [INTERAGENCY EARLY INTERVENTION COMMITTEE RESPONSIBILITIES.]

Subdivision 1. [ADDITIONAL DUTIES.] (a) The governing boards of the interagency early intervention committees are responsible for developing and implementing interagency policies and procedures to coordinate services at the local level for children with disabilities ages three to ~~22~~ 21 under guidelines established by the state interagency committee under section 125A.023, subdivision 4. Consistent with the requirements in this section and section 125A.023, the governing boards of the interagency early intervention committees shall organize as a joint powers board under section 471.59 or enter into an interagency agreement that establishes a governance structure.

(b) The governing board of each interagency early intervention committee as defined in section 125A.30, paragraph (a), which may include a juvenile justice professional, shall:

(1) identify and assist in removing state and federal barriers to local coordination of services provided to children with disabilities;

(2) identify adequate, equitable, and flexible use of funding by local agencies for these services;

(3) implement policies that ensure a comprehensive and coordinated system of all state and local agency services, including multidisciplinary assessment practices, for children with disabilities ages three to ~~22~~ 21;

(4) use a standardized written plan for providing services to a child with disabilities developed under section 125A.023;

(5) access the coordinated dispute resolution system and incorporate the guidelines for coordinating services at the local level, consistent with section 125A.023;

(6) use the evaluation process to measure the success of the local interagency effort in improving the quality and coordination of services to children with disabilities ages three to ~~22~~ 21 consistent with section 125A.023;

(7) develop a transitional plan for children moving from the interagency early childhood intervention system under sections 125A.259 to 125A.48 into the interagency intervention service system under this section;

(8) coordinate services and facilitate payment for services from public and private institutions, agencies, and health plan companies; and

(9) share needed information consistent with state and federal data practices requirements.

Subd. 2. [APPROPRIATE AND NECESSARY SERVICES.] (a) Parents, physicians, other health care professionals including school nurses, and education and human services providers jointly must determine appropriate and necessary services for eligible children with disabilities ages three to ~~22~~ 21. The services provided to the child under this section must conform with the child's standardized written plan. The governing board of an interagency early intervention committee must provide those services contained in a child's individual education plan and those services for which a legal obligation exists.

(b) Nothing in this section or section 125A.023 increases or decreases the obligation of the state, county, regional agency, local school district, or local agency or organization to pay for education, health care, or social services.

(c) A health plan may not exclude any medically necessary covered service solely because the service is or could be identified in a child's individual family service plan, individual education plan, a plan established under section 504 of the federal Rehabilitation Act of 1973, or a student's individual health plan. This paragraph reaffirms the obligation of a health plan company to provide or pay for certain medically necessary covered services, and encourages a health plan company to coordinate this care with any other providers of similar services. Also, a health plan company may not exclude from a health plan any medically necessary covered service such as an assessment or physical examination solely because the resulting information may be used for an individual education plan or a standardized written plan.

Subd. 3. [IMPLEMENTATION TIMELINE.] By July 1, 2000, all governing boards of interagency early intervention committees statewide must implement a coordinated service system for children up to age five with disabilities consistent with the requirements of this section and section 125A.023 and the evaluation results from the demonstration projects under section 125A.023, subdivision 5. Children with disabilities up to the age of ~~22~~ 21 shall be eligible for coordinated services and their eligibility to receive such services under this section shall be phased in over a four-year period as follows:

- (1) July 1, 2001, children up to age nine become eligible;
- (2) July 1, 2002, children up to age 14 become eligible; and
- (3) July 1, 2003, children up to age ~~22~~ 21 become eligible.

Sec. 5. Minnesota Statutes 1998, section 125A.03, is amended to read:

125A.03 [SPECIAL INSTRUCTION FOR CHILDREN WITH A DISABILITY.]

(a) As defined in paragraph (b), ~~to the extent required in federal law as of July 1, 1999,~~ every district must provide special instruction and services, either within the district or in another district, for children with a disability who are residents of the district and who are disabled as set forth in section 125A.02.

(b) Notwithstanding any age limits in laws to the contrary, special instruction and services must be provided from birth until ~~September~~ July 1 after the child with a disability becomes ~~22~~ 21 years old but shall not extend beyond secondary school or its equivalent, except as provided in section 124D.68, subdivision 2. Local health, education, and social service agencies must refer children under age five who are known to need or suspected of needing special instruction and services to the school district. Districts with less than the minimum number of eligible children with a disability as determined by the state board must cooperate with other districts to maintain a full range of programs for education and services for children with a disability. This section does not alter the compulsory attendance requirements of section 120A.22.

Sec. 6. Minnesota Statutes 1998, section 125A.07, is amended to read:

125A.07 [RULES OF STATE BOARD.]

(a) As defined in this paragraph, ~~but not to exceed the extent required by federal law as of July 1, 1999~~, the state board must adopt rules relative to qualifications of essential personnel, courses of study, methods of instruction, pupil eligibility, size of classes, rooms, equipment, supervision, parent consultation, and other necessary rules for instruction of children with a disability. These rules must provide standards and procedures appropriate for the implementation of and within the limitations of sections 125A.08 and 125A.09. These rules must also provide standards for the discipline, control, management, and protection of children with a disability. The state board must not adopt rules for pupils served primarily in the regular classroom establishing either case loads or the maximum number of pupils that may be assigned to special education teachers. The state board, in consultation with the departments of health and human services, must adopt permanent rules for instruction and services for children under age five and their families. These rules are binding on state and local education, health, and human services agencies. The state board must adopt rules to determine eligibility for special education services. The rules must include procedures and standards by which to grant variances for experimental eligibility criteria. The state board must, according to section 14.05, subdivision 4, notify a district applying for a variance from the rules within 45 calendar days of receiving the request whether the request for the variance has been granted or denied. If a request is denied, the board must specify the program standards used to evaluate the request and the reasons for denying the request.

(b) As provided in this paragraph, ~~but not to exceed the extent required by federal law as of July 1, 1999~~, the state's regulatory scheme should support schools by assuring that all state special education rules adopted by the state board result in one or more of the following outcomes:

(1) increased time available to teachers and, where appropriate, to support staff including school nurses for educating students through direct and indirect instruction;

(2) consistent and uniform access to effective education programs for students with disabilities throughout the state;

(3) reduced inequalities and conflict, appropriate due process hearing procedures and reduced court actions related to the delivery of special education instruction and services for students with disabilities;

(4) clear expectations for service providers and for students with disabilities;

(5) increased accountability for all individuals and agencies that provide instruction and other services to students with disabilities;

(6) greater focus for the state and local resources dedicated to educating students with disabilities; and

(7) clearer standards for evaluating the effectiveness of education and support services for students with disabilities.



Sec. 7. Minnesota Statutes 1998, section 125A.08, is amended to read:

125A.08 [SCHOOL DISTRICT OBLIGATIONS.]

(a) As defined in this section, ~~to the extent required by federal law as of July 1, 1999~~, every district must ensure the following:

(1) all students with disabilities are provided the special instruction and services which are appropriate to their needs. Where the individual education plan team has determined appropriate goals and objectives based on the student's needs, including the extent to which the student can be included in the least restrictive environment, and where there are essentially equivalent and effective instruction, related services, or assistive technology devices available to meet the student's needs, cost to the district may be among the factors considered by the team in choosing how to provide the appropriate services, instruction, or devices that are to be made part of the student's individual education plan. The student's needs and the special education instruction and services to be provided must be agreed upon through the development of an individual education plan. The plan must address the student's need to develop skills to live and work as independently as possible within the community. By grade 9 or age 14, the plan must address the student's needs for transition from secondary services to post-secondary education and training, employment, community participation, recreation, and leisure and home living. In developing the plan, districts must inform parents of the full range of transitional goals and related services that should be considered. The plan must include a statement of the needed transition services, including a statement of the interagency responsibilities or linkages or both before secondary services are concluded;

(2) children with a disability under age five and their families are provided special instruction and services appropriate to the child's level of functioning and needs;

(3) children with a disability and their parents or guardians are guaranteed procedural safeguards and the right to participate in decisions involving identification, assessment including assistive technology assessment, and educational placement of children with a disability;

(4) eligibility and needs of children with a disability are determined by an initial assessment or reassessment, which may be completed using existing data under United States Code, title 20, section 33, et seq.;

(5) to the maximum extent appropriate, children with a disability, including those in public or private institutions or other care facilities, are educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with a disability from the regular educational environment occurs only when and to the extent that the nature or severity of the disability is such that education in regular classes with the use of supplementary services cannot be achieved satisfactorily;

(6) in accordance with recognized professional standards, testing and evaluation materials, and procedures used for the purposes of classification and placement of children with a disability are selected and administered so as not to be racially or culturally discriminatory; and

(7) the rights of the child are protected when the parents or guardians are not known or not available, or the child is a ward of the state.

(b) For paraprofessionals employed to work in programs for students with disabilities, the school board in each district shall ensure that:

(1) before or immediately upon employment, each paraprofessional develops sufficient knowledge and skills in emergency procedures, building orientation, roles and responsibilities, confidentiality, vulnerability, and reportability, among other things, to begin meeting the needs of the students with whom the paraprofessional works;

(2) annual training opportunities are available to enable the paraprofessional to continue to further develop the knowledge and skills that are specific to the students with whom the paraprofessional works, including understanding disabilities, following lesson plans, and implementing follow-up instructional procedures and activities; and

(3) a districtwide process obligates each paraprofessional to work under the ongoing direction of a licensed teacher and, where appropriate and possible, the supervision of a school nurse.

Sec. 8. Minnesota Statutes 1998, section 125A.09, subdivision 1, is amended to read:

Subdivision 1. [DISTRICT OBLIGATION.] As defined in this section, ~~but not to exceed the extent required by federal law as of July 1, 1999~~, every district must use the following procedures for decisions involving identification, assessment, and educational placement of children with a disability.

Sec. 9. Minnesota Statutes 1998, section 125A.09, subdivision 6, is amended to read:

Subd. 6. [IMPARTIAL DUE PROCESS HEARING.] Parents, guardians, and the district must have an opportunity to obtain an impartial due process hearing initiated and conducted by and in the district responsible for assuring that an appropriate program is provided in accordance with state board rules, if the parent or guardian continues to object to:

- (1) a proposed formal educational assessment or proposed denial of a formal educational assessment of their child;
- (2) the proposed placement of their child in, or transfer of their child to a special education program;
- (3) the proposed denial of placement of their child in a special education program or the transfer of their child from a special education program;
- (4) the proposed provision or addition of special education services for their child; or
- (5) the proposed denial or removal of special education services for their child.

A hearing officer may limit an impartial due process hearing to an amount of time sufficient for each party to present its case. The party requesting the hearing shall plead with specificity as to what issues are in dispute and all issues not pleaded with specificity are deemed waived. Parties must limit evidence to the issues specifically pleaded. A hearing officer, at the officer's discretion, may exclude cumulative evidence or may encourage parties to present only essential witnesses.

Within five business days after the request for a hearing, or as directed by the hearing officer, the objecting party must provide the other party with a brief written statement of particulars of the objection, the reasons for the objection, and the specific remedies sought. The other party shall provide the objecting party with a written response to the statement of objections within five business days of receipt of the statement.

The hearing must take place before an impartial hearing officer mutually agreed to by the school board and the parent or guardian. Within ~~four~~ three business days of the receipt of the request for the hearing, if the parties have not agreed on the hearing officer, the board must request the commissioner to appoint a hearing officer from a list maintained for that purpose. If the parties have not agreed upon a hearing officer, and the board has not requested that a hearing officer be appointed by the commissioner within four business days after the receipt of the request, the commissioner shall appoint a hearing officer upon the request of either party. A retired judge, retired court referee, or retired federal magistrate judge who is otherwise qualified under this section and wishes to be a hearing officer may be put on the list. The board must include with the request the name of the person requesting the hearing, the name of the student, the attorneys involved, if any, and the date the hearing request was received. The hearing officer must not be a board member or employee of the district where the child resides or of the child's district of residence, an employee of any other public agency involved in the education or care of the child, or any

person with a personal or professional interest that would conflict with the person's objectivity at the hearing. A person who otherwise qualifies as a hearing officer is not an employee of the district solely because the person is paid by the district to serve as a hearing officer. Any party to a hearing, except an expedited hearing under federal law, may make and serve upon the opposing party and the commissioner a notice to remove a hearing officer appointed by the commissioner. The notice shall be served and filed within two business days after the party receives notice of the appointment of the hearing officer by the commissioner.

No such notice may be filed by a party against a hearing officer who has presided at a motion or any other proceeding of which the party had notice. A hearing officer who has presided at a motion or other proceeding may not be removed except upon an affirmative showing of prejudice on the part of the hearing officer.

After the party has once disqualified a hearing officer as a matter of right, that party may disqualify the substitute hearing officer only by making an affirmative showing of prejudice or bias to the commissioner, or to the chief administrative law judge if the hearing officer is an administrative law judge.

Upon the filing of a notice to remove or if a party makes an affirmative showing of prejudice against a substitute hearing officer, the commissioner shall assign any other hearing officer to hear the matter.

If the hearing officer requests an independent educational assessment of a child, the cost of the assessment must be at district expense. The proceedings must be recorded and preserved, at the expense of the school district, pending ultimate disposition of the action.

Sec. 10. Minnesota Statutes 1998, section 125A.10, is amended to read:

125A.10 [COORDINATING INTERAGENCY SERVICES.]

If at the time of initial referral for an educational assessment, or a reassessment, the district determines that a child with disabilities who is age 3 through 21 may be eligible for interagency services, the district may request that the county of residence provide a representative to the initial assessment or reassessment team meeting or the first individual education plan team meeting following the assessment or reassessment. The district may request to have a county representative attend other individual education plan team meetings when it is necessary to facilitate coordination between district and county provided services. Upon request from a district, the resident county shall provide a representative to assist the individual education plan team in determining the child's eligibility for existing health, mental health, or other support services administered or provided by the county. The individual education plan team and the county representative must develop an interagency plan of care for an eligible child and the child's family to coordinate services required under the child's individual education plan with county services. The interagency plan of care must include appropriate family information with the consent of the family, a description of how services will be coordinated between the district and county, a description of service coordinator responsibilities and services, and a description of activities for obtaining third-party payment for eligible services, including medical assistance payments. Any state, county, or city government agency responsible for providing services or resources to students with disabilities under this section is subject to the same dispute resolution systems as local school districts, and all such agencies must comply with corrective action requirements that ensue from these systems.

Sec. 11. Minnesota Statutes 1998, section 125A.18, is amended to read:

125A.18 [SPECIAL INSTRUCTION; NONPUBLIC SCHOOLS.]

No resident of a district who is eligible for special instruction and services under this section may be denied instruction and service on a shared time basis consistent with section 126C.19, subdivision 4, because of attending a nonpublic school defined in section 123B.41, subdivision 9. If a resident pupil with a disability attends a nonpublic school located within the district of residence, the district must provide necessary transportation for that pupil within the district between the nonpublic school and the educational facility where special instruction and services are provided on a shared time basis. If a resident pupil with a disability attends a nonpublic school located in another

district and if no agreement exists under section 126C.19, subdivision 1 or 2, for providing special instruction and services on a shared time basis to that pupil by the district of attendance and where the special instruction and services are provided within the district of residence, the district of residence must provide necessary transportation for that pupil between the boundary of the district of residence and the educational facility. The district of residence may provide necessary transportation for that pupil between its boundary and the nonpublic school attended, but the nonpublic school must pay the cost of transportation provided outside the district boundary.

Parties serving students on a shared time basis have access to the due process hearing system described under United States Code, title 20, and the complaint system under Code of Federal Regulations, title 34, section 300.660-662. In the event it is determined under these systems that the nonpublic school or staff impeded the public school district's provision of a free appropriate education, the commissioner may withhold public funds available to the nonpublic school proportionally applicable to that student under section 123B.42.

Sec. 12. Minnesota Statutes 1998, section 125A.21, subdivision 2, is amended to read:

Subd. 2. [THIRD PARTY REIMBURSEMENT.] Beginning July 1, ~~1999~~ 2000, districts shall seek reimbursement from insurers and similar third parties for the cost of services provided by the district whenever the services provided by the district are otherwise covered by the child's health coverage. Districts shall request, but may not require, the child's family to provide information about the child's health coverage when a child with a disability begins to receive services from the district of a type that may be reimbursable, and shall request, but may not require, updated information after that as needed. Districts shall request, but may not require, the child's parent or legal representative to sign a consent form, permitting the school district to apply for and receive reimbursement directly from the insurer or other similar third party, to the extent permitted by the insurer or other third party and subject to their networking credentialing, prior authorization, and determination of medical necessity criteria.

Sec. 13. Minnesota Statutes 1998, section 125A.24, is amended to read:

125A.24 [PARENT ADVISORY ~~COMMITTEES~~ COUNCILS.]

Provisions of Minnesota Rules, part 3525.1100, regarding parent advisory committees apply to local boards or cooperative boards carrying out the provisions of this section. In order to increase the involvement of parents of children with disabilities in district policymaking and decision making, school districts must have a special education advisory council that is incorporated into the district's special education system plan.

(1) This advisory council may be established either for individual districts or in cooperation with other districts who are members of the same special education cooperative.

(2) A district may set up this council as a subgroup of an existing board, council, or committee.

(3) At least half of the designated council members must be parents of students with a disability. The number of members, frequency of meetings, and operational procedures are to be locally determined.

Sec. 14. Minnesota Statutes 1998, section 125A.30, is amended to read:

125A.30 [INTERAGENCY EARLY INTERVENTION COMMITTEES.]

(a) A school district, group of districts, or special education cooperative, in cooperation with the health and human service agencies located in the county or counties in which the district or cooperative is located, must establish an interagency early intervention committee for children with disabilities under age five and their families under this section, and for children with disabilities ages three to 22 consistent with the requirements under sections 125A.023 and 125A.027. Committees must include representatives of local and regional health, education, and county human service agencies, county boards, school boards, early childhood family education programs, parents of young children with disabilities under age 12, current service providers, and may also include representatives from other private or public agencies and school nurses. The committee must elect a chair from among its members and must meet at least quarterly.

(b) The committee must develop and implement interagency policies and procedures concerning the following ongoing duties:

(1) develop public awareness systems designed to inform potential recipient families of available programs and services;

(2) implement interagency child find systems designed to actively seek out, identify, and refer infants and young children with, or at risk of, disabilities and their families;

(3) establish and evaluate the identification, referral, child and family assessment systems, procedural safeguard process, and community learning systems to recommend, where necessary, alterations and improvements;

(4) assure the development of individualized family service plans for all eligible infants and toddlers with disabilities from birth through age two, and their families, and individual education plans and individual service plans when necessary to appropriately serve children with disabilities, age three and older, and their families and recommend assignment of financial responsibilities to the appropriate agencies;

(5) encourage agencies to develop individual family service plans for children with disabilities, age three and older;

(6) implement a process for assuring that services involve cooperating agencies at all steps leading to individualized programs;

(7) facilitate the development of a transitional plan if a service provider is not recommended to continue to provide services;

(8) identify the current services and funding being provided within the community for children with disabilities under age five and their families;

(9) develop a plan for the allocation and expenditure of additional state and federal early intervention funds under United States Code, title 20, section 1471 et seq. (Part H, Public Law Number 102-119) and United States Code, title 20, section 631, et seq. (Chapter I, Public Law Number 89-313); and

(10) develop a policy that is consistent with section 13.05, subdivision 9, and federal law to enable a member of an interagency early intervention committee to allow another member access to data classified as not public.

(c) The local committee shall also:

(1) participate in needs assessments and program planning activities conducted by local social service, health and education agencies for young children with disabilities and their families; and

(2) review and comment on the early intervention section of the total special education system for the district, the county social service plan, the section or sections of the community health services plan that address needs of and service activities targeted to children with special health care needs, and the section of the maternal and child health special project grants that address needs of and service activities targeted to children with chronic illness and disabilities; and.

~~(3) prepare a yearly summary on the progress of the community in serving young children with disabilities, and their families, including the expenditure of funds.~~

~~(d) The summary must be organized following a format prescribed by the commissioner of the state lead agency and must be submitted to each of the local agencies and to the state interagency coordinating council by October 1 of each year.~~

~~The departments of children, families, and learning, health, and human services must provide assistance to the local agencies in developing cooperative plans for providing services.~~

Sec. 15. Minnesota Statutes 1998, section 125A.33, is amended to read:

125A.33 [SERVICE COORDINATION.]

(a) The team developing the IFSP under section 125A.32 must select a service coordinator to carry out service coordination activities on an interagency basis. Service coordination must actively promote a family's capacity and competency to identify, obtain, coordinate, monitor, and evaluate resources and services to meet the family's needs. Service coordination activities include:

- (1) coordinating the performance of evaluations and assessments;
- (2) facilitating and participating in the development, review, and evaluation of individualized family service plans;
- (3) assisting families in identifying available service providers;
- (4) coordinating and monitoring the delivery of available services;
- (5) informing families of the availability of advocacy services;
- (6) coordinating with medical, health, and other service providers;
- (7) facilitating the development of a transition plan at least ~~six months~~ 90 days before the time the child is no longer eligible for early intervention services, if appropriate;
- (8) managing the early intervention record and submitting additional information to the local primary agency at the time of periodic review and annual evaluations; and
- (9) notifying a local primary agency when disputes between agencies impact service delivery required by an IFSP.

(b) A service coordinator must be knowledgeable about children and families receiving services under this section, requirements of state and federal law, and services available in the interagency early childhood intervention system.

Sec. 16. Minnesota Statutes 1998, section 125A.44, is amended to read:

125A.44 [COMPLAINT PROCEDURE.]

(a) An individual or organization may file a written signed complaint with the commissioner of the state lead agency alleging that one or more requirements of the Code of Federal Regulations, title 34, part 303, is not being met. The complaint must include:

- (1) a statement that the state has violated the Individuals with Disabilities Education Act, United States Code, title 20, section 1471 et seq. (Part H, Public Law Number 102-119) or Code of Federal Regulations, title 34, section 303; and
- (2) the facts on which the complaint is based.

(b) The commissioner of the state lead agency shall receive and coordinate with other state agencies the review and resolution of a complaint within 60 calendar days according to the state interagency agreement required under section 125A.48. The development and disposition of corrective action orders for nonschool agencies shall be determined by the State Agency Committee (SAC). Failure to comply with corrective orders may result in fiscal actions or other measures.

Sec. 17. Minnesota Statutes 1998, section 125A.52, subdivision 1, is amended to read:

Subdivision 1. [EDUCATIONAL SCREENING.] Secure and nonsecure residential treatment facilities licensed by the department of human services or the department of corrections must screen each juvenile who is held in a facility for at least 72 hours, excluding weekends or holidays, using an educational screening tool identified by the department, unless the facility determines that the juvenile has a current individual education plan and obtains a copy of it. ~~The department must develop or identify an education screening tool for use in residential facilities. The tool must include a life skills development component.~~

Sec. 18. Minnesota Statutes 1998, section 125A.75, subdivision 8, is amended to read:

Subd. 8. [LITIGATION AND HEARING COSTS.] (a) For fiscal year 1999 and thereafter, the commissioner of children, families, and learning, or the commissioner's designee, shall use state funds to pay school districts for the administrative costs of a due process hearing incurred under section 125A.09, subdivisions 6, 10, and 11, including hearing officer fees, court reporter fees, mileage costs, transcript costs, interpreter and transliterator fees, independent evaluations ordered by the hearing officer, and rental of hearing rooms, but not including district attorney fees. To receive state aid under this paragraph, a school district shall submit to the commissioner at the end of the school year an itemized list of unreimbursed actual costs for fees and other expenses under this paragraph. State funds used for aid to school districts under this paragraph shall be based on the unreimbursed actual costs and fees submitted by a district from previous school years.

~~(b) For fiscal year 1999 and thereafter, a school district, to the extent to which it prevails under United States Code, title 20, section 1415(i)(3)(B)(D) and Rule 68 of the Federal Rules of Civil Procedure, shall receive state aid equal to 50 percent of the total actual cost of attorney fees incurred after a request for a due process hearing under section 125A.09, subdivisions 6, 9, and 11, is served upon the parties. A district is eligible for reimbursement for attorney fees under this paragraph only if:~~

~~(1) a court of competent jurisdiction determines that the parent is not the prevailing party under United States Code, title 20, section 1415(i)(3)(B)(D), or the parties stipulate that the parent is not the prevailing party;~~

~~(2) the district has made a good faith effort to resolve the dispute through mediation, but the obligation to mediate does not compel the district to agree to a proposal or make a concession; and~~

~~(3) the district made an offer of settlement under Rule 68 of the Federal Rules of Civil Procedure.~~

~~To receive aid, a school district that meets the criteria of this paragraph shall submit to the commissioner at the end of the school year an itemized list of unreimbursed actual attorney fees associated with a due process hearing under section 125A.09, subdivisions 6, 9, and 11. Aid under this paragraph for each school district is based on unreimbursed actual attorney fees submitted by the district from previous school years.~~

~~(c) For fiscal year 1999 and thereafter, a school district is eligible to receive state aid for 50 percent of the total actual cost of attorney fees it incurs in appealing to a court of competent jurisdiction the findings, conclusions, and order of a due process hearing under section 125A.09, subdivisions 6, 9, and 11. The district is eligible for reimbursement under this paragraph only if the commissioner authorizes the reimbursement after evaluating the merits of the case. In a case where the commissioner is a named party in the litigation, the commissioner of the bureau of mediation services shall make the determination regarding reimbursement. The commissioner's decision is final.~~

~~(d) The commissioner shall provide districts with a form on which to annually report litigation costs under this section and shall base aid estimates on those reports.~~

## Sec. 19. [SPECIAL EDUCATION RULES.]

Beginning no later than July 1, 1999, the commissioner shall amend Minnesota Rules, chapter 3525, for special education using the expedited process under Minnesota Statutes 1998, section 14.389. In addition to technical changes, corrections, clarifications, and similarly needed revisions, specific rules shall be modified or repealed as indicated below:

- (1) repeal Minnesota Rules, part 3525.0200, subpart 6a, on definition of IEP;
- (2) repeal Minnesota Rules, part 3525.0200, subpart 11a, on definition of parent;
- (3) amend Minnesota Rules, part 3525.0750, to include children enrolled in nonpublic schools for child find purposes;
- (4) amend Minnesota Rules, part 3525.0800, subpart 8, on district responsibility for choice options in accordance with legislation;
- (5) amend Minnesota Rules, part 3525.0800, subpart 9, on district responsibility for upper age limit in accordance with legislation;
- (6) repeal Minnesota Rules, part 3525.1150;
- (7) amend Minnesota Rules, part 3525.1310, to add program coordination and due process facilitation to list of reimbursable activities;
- (8) amend Minnesota Rules, part 3525.1325, to revise eligibility criteria for autism to reflect professional standards;
- (9) amend Minnesota Rules, part 3525.1327, to make minor revisions necessary to update eligibility criteria for deaf-blindness;
- (10) amend Minnesota Rules, part 3525.1331, to make minor revisions necessary to update eligibility criteria for deaf and hard-of-hearing;
- (11) amend Minnesota Rules, part 3525.1333, to revise eligibility criteria for cognitive impairment to reflect professional standards;
- (12) amend Minnesota Rules, part 3525.1335, to revise eligibility criteria for other health-impaired to reflect professional standards;
- (13) amend Minnesota Rules, part 3525.1337, to make minor revisions necessary to update eligibility criteria for physical impairment;
- (14) amend Minnesota Rules, part 3525.1341, to make minor revisions necessary to update eligibility criteria for specific learning disability;
- (15) amend Minnesota Rules, part 3525.1343, to make minor revisions necessary to update eligibility criteria for speech and language impairments;
- (16) amend Minnesota Rules, part 3525.1345, to make minor revisions necessary to update eligibility criteria for blind and vision impaired;
- (17) amend Minnesota Rules, part 3525.1350, to make minor revisions necessary to update eligibility criteria for early childhood: special education;



(18) amend Minnesota Rules, part 3525.1352, to make minor revisions necessary to update eligibility criteria for developmental adapted physical education: special education;

(19) amend Minnesota Rules, part 3525.1354, to repeal subpart 2 to drop documentation requirement on override decisions;

(20) repeal Minnesota Rules, part 3525.1356, on exit procedures;

(21) amend Minnesota Rules, part 3525.2335, to make minor revisions to update standards for early childhood program options, and repeal subpart 2, item C;

(22) amend Minnesota Rules, part 3525.2340, to revise caseload standard for young children to clarify how caseload is determined and to reflect supervision and safety needs of very small children in various settings;

(23) amend Minnesota Rules, part 3525.2405, to repeal subparts 2 and 3 on reimbursement standards for directors of special education;

(24) repeal Minnesota Rules, part 3525.2420, on variance request for director of special education;

(25) repeal Minnesota Rules, part 3525.2650, as duplicative notice requirements;

(26) repeal Minnesota Rules, part 3525.3000, on periodic reviews and documentation requirement;

(27) repeal Minnesota Rules, part 3525.3150, as duplicative diploma requirements;

(28) repeal Minnesota Rules, part 3525.3200, as duplicative notice requirement;

(29) amend Minnesota Rules, part 3525.3500, to repeal duplicative notice requirements and mandate for districts to initiate a hearing when refusing request for assessment; and

(30) amend Minnesota Rules, parts 3525.3800 to 3525.4700, on due process hearings to make them compatible with state and federal legislation.

Sec. 20. [SPECIAL EDUCATION RULES.]

The commissioner shall adopt rules to update Minnesota Rules, chapter 3525, for special education. Provisions of this chapter that exceed federal requirements are deemed valid for the purposes of providing special instruction and services to children with a disability. In addition to technical changes, corrections, clarifications, and similarly needed revisions, specific rules shall be modified or repealed as indicated below:

(1) Minnesota Rules, part 3525.0200, add definition of caseload;

(2) revise Minnesota Rules, part 3525.0550, to update role of IEP manager;

(3) repeal Minnesota Rules, part 3525.1100, subpart 2, item D, on parent advisory council as duplicative;

(4) Minnesota Rules, part 3525.1329, amend eligibility criteria for emotional or behavior disorders so that the standards reflect severe emotional disorder and professional standards;

(5) amend Minnesota Rules, part 3525.2325, to revise outdated standards for students placed for care and treatment to be compatible with related legislation;

(6) repeal Minnesota Rules, part 3525.2550, on conduct before assessment except for subpart 2, item C;

(7) add a rule to make the responsibilities of the IEP team for assessment, IEP development, and placement decisions consistent with federal requirements;

(8) repeal Minnesota Rules, part 3525.2750, on educational assessment as duplicative;

(9) repeal Minnesota Rules, part 3525.2900, on IEP development and content except subparts 4 and 5 on regulated interventions; and

(10) repeal Minnesota Rules, part 3525.3300, except item B, on contents of notice as duplicative.

Sec. 21. [REPEALER.]

Laws 1998, chapter 398, article 2, section 53, and Minnesota Rules, part 3525.2470, are repealed.

Sec. 22. [EFFECTIVE DATE.]

Sections 1, 2, 5 to 18, 20, and 21 are effective July 1, 1999, except that the requirement under section 3 to provide special instruction and services until the child with a disability becomes 21 years old, instead of 22 years old, is effective July 1, 2002. Sections 3 and 4 are effective July 1, 2002. Section 19 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to education; modifying special education provisions; providing for rulemaking; amending Minnesota Statutes 1998, sections 121A.41, subdivision 10; 121A.43; 125A.023; 125A.027; 125A.03; 125A.07; 125A.08; 125A.09, subdivisions 1 and 6; 125A.10; 125A.18; 125A.21, subdivision 2; 125A.24; 125A.30; 125A.33; 125A.44; 125A.52, subdivision 1; and 125A.75, subdivision 8; repealing Laws 1998, chapter 398, article 2, section 53; Minnesota Rules, part 3525.2470."

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

The report was adopted.

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

H. F. No. 589, A bill for an act relating to retirement; employer contributions to tax-sheltered annuities; expanding qualified tax-sheltered annuity vendors; amending Minnesota Statutes 1998, section 356.24, subdivision 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

## "ARTICLE 1

### LUVERNE PUBLIC HOSPITAL PRIVATIZATION

Section 1. [LUVERNE COMMUNITY HOSPITAL EMPLOYEE PRIVATIZATION PENSION BENEFIT ACCOMMODATION; PURPOSE.]

The purpose of this act is to ensure, to the extent possible, that persons employed at the Luverne community hospital will be entitled to receive future retirement benefits under the general employees retirement plan of the public employees retirement association that are commensurate with the prior contributions made by them or on their behalf upon the privatization of the Luverne community hospital.

## Sec. 2. [DEFINITIONS.]

Subdivision 1. [GENERALLY.] As used in this act, unless the context clearly indicates otherwise, each of the terms in the following subdivisions has the meaning indicated.

Subd. 2. [ALLOWABLE SERVICE.] "Allowable service" has the meaning provided in Minnesota Statutes 1998, section 353.01, subdivision 16.

Subd. 3. [EFFECTIVE DATE.] "Effective date" means the date that the operation of the Luverne community hospital is assumed by another employer or the date that the Luverne community hospital is purchased by another employer and, in either event, active membership in the public employees retirement association consequently terminates.

Subd. 4. [TERMINATED HOSPITAL EMPLOYEE.] "Terminated hospital employee" means a person who:

(1) was employed on the day before the effective date by the Luverne community hospital;

(2) terminated employment with the Luverne community hospital on the day before the effective date; and

(3) was a participant in the general employees retirement plan of the public employees retirement association at the time of termination of employment with the Luverne community hospital.

Subd. 5. [YEARS OF ALLOWABLE SERVICE.] "Years of allowable service" means the total number of years of allowable service to the credit of a terminated hospital employee under Minnesota Statutes 1998, section 353.01, subdivision 18.

## Sec. 3. [VESTING RULE FOR CERTAIN EMPLOYEES.]

Notwithstanding any provision of Minnesota Statutes, chapter 353, to the contrary, a terminated hospital employee is eligible to receive a retirement annuity under Minnesota Statutes 1998, section 353.29, without regard to the requirement of three years of allowable service credit.

## Sec. 4. [AUGMENTATION INTEREST RATE FOR TERMINATED HOSPITAL EMPLOYEES.]

The deferred annuity of a terminated hospital employee is subject to augmentation in accordance with Minnesota Statutes 1998, section 353.71, subdivision 2, except that the rate of interest for this purpose is 5.5 percent compounded annually until January 1 following the year in which such person attains age 55. From that date to the effective date of retirement, the rate is 7.5 percent. These increased augmentation rates are no longer applicable for any time after the terminated hospital employee becomes covered again by a retirement fund enumerated in Minnesota Statutes, section 356.30, subdivision 3. These increased deferred annuity augmentation rates do not apply to a terminated transferred hospital employee who begins receipt of a retirement annuity while employed by the employer which assumed operations of the Luverne community hospital or purchased the Luverne community hospital.

## Sec. 5. [AUTHORIZATION FOR ADDITIONAL ALLOWABLE SERVICE FOR CERTAIN EARLY RETIREMENT PURPOSES.]

For the purpose of determining eligibility for early retirement benefits provided under Minnesota Statutes 1998, section 353.30, subdivision 1a, only and notwithstanding any provision of Minnesota Statutes, chapter 353, to the contrary, the years of allowable service for a terminated hospital employee who transfers employment on the effective date and does not apply for a refund of contributions under Minnesota Statutes 1998, section 353.34, subdivision 1, or any similar provision in future Minnesota Statutes, includes service with the successor employer to the Luverne community hospital following the effective date. The successor employer shall provide any reports that the executive director of the public employees retirement association may reasonably request to permit the calculation of retirement benefits.

To be eligible for early retirement benefits under this section, the individual must separate from service with the successor employer to the Luverne community hospital. The terminated eligible individual, or an individual authorized to act on behalf of that individual, may apply for an annuity following the application procedures under Minnesota Statutes, section 353.29, subdivision 4.

Sec. 6. [APPLICATION OF REEMPLOYED ANNUITANT EARNINGS LIMITATIONS.]

The reemployed annuitant earnings limitations of Minnesota Statutes, section 353.37, apply to any service by a terminated hospital employee as an employee of the successor employer to the Luverne community hospital.

Sec. 7. [EFFECT ON REFUND.]

Notwithstanding any provision of Minnesota Statutes, chapter 353, to the contrary, terminated hospital employees may receive a refund of employee accumulated contributions plus interest at the rate of six percent per year compounded annually in accordance with Minnesota Statutes 1998, section 353.34, subdivision 2, at any time after the transfer of employment to the successor employer to the Luverne community hospital. If a terminated hospital employee has received a refund from a pension plan enumerated in Minnesota Statutes, section 356.30, subdivision 3, the person may not repay that refund unless the person again becomes a member of one of those enumerated plans and complies with Minnesota Statutes, section 356.30, subdivision 2.

Sec. 8. [COUNSELING SERVICES.]

The administrator of the Luverne community hospital and the executive director of the public employees retirement association shall provide terminated hospital employees with counseling on their benefits available under the general employee retirement plan of the public employee retirement association.

Sec. 9. [REPEALER.]

Laws 1998, chapter 390, article 1, section 1, is repealed.

Sec. 10. [EFFECTIVE DATE.]

Sections 1 to 9 are effective on the day following final enactment.

## ARTICLE 2

### WACONIA RIDGEVIEW MEDICAL CENTER PRIVATIZATION

Section 1. [RIDGEVIEW MEDICAL CENTER EMPLOYEE PRIVATIZATION PENSION BENEFIT ACCOMMODATION; PURPOSE.]

The purpose of this act is to ensure, to the extent possible, that persons employed at the Ridgeview medical center, Waconia, will be entitled to receive future retirement benefits under the general employees retirement plan of the public employees retirement association that are commensurate with the prior contributions made by them or on their behalf upon the privatization of the Ridgeview medical center.

Sec. 2. [DEFINITIONS.]

Subdivision 1. [GENERALLY.] As used in this act, unless the context clearly indicates otherwise, each of the terms in the following subdivisions has the meaning indicated.

Subd. 2. [ALLOWABLE SERVICE.] "Allowable service" has the meaning provided in Minnesota Statutes 1998, section 353.01, subdivision 16.

Subd. 3. [EFFECTIVE DATE.] "Effective date" means the date that the operation of the Ridgeview medical center is assumed by another employer or the date that the Ridgeview medical center is purchased by another employer and, in either event, active membership in the public employees retirement association consequently terminates.

Subd. 4. [TERMINATED HOSPITAL EMPLOYEE.] "Terminated hospital employee" means a person who:

(1) was employed on the day before the effective date by the Ridgeview medical center;

(2) terminated employment with the Ridgeview medical center on the day before the effective date; and

(3) was a participant in the general employees retirement plan of the public employees retirement association at the time of termination of employment with the Ridgeview medical center.

Subd. 5. [YEARS OF ALLOWABLE SERVICE.] "Years of allowable service" means the total number of years of allowable service to the credit of a terminated hospital employee under Minnesota Statutes 1998, section 353.01, subdivision 18.

Sec. 3. [VESTING RULE FOR CERTAIN EMPLOYEES.]

Notwithstanding any provision of Minnesota Statutes, chapter 353, to the contrary, a terminated hospital employee is eligible to receive a retirement annuity under Minnesota Statutes 1998, section 353.29, without regard to the requirement of three years of allowable service credit.

Sec. 4. [AUGMENTATION INTEREST RATE FOR TERMINATED HOSPITAL EMPLOYEES.]

The deferred annuity of a terminated hospital employee is subject to augmentation in accordance with Minnesota Statutes 1998, section 353.71, subdivision 2, except that the rate of interest for this purpose is 5.5 percent compounded annually until January 1 following the year in which such person attains age 55. From that date to the effective date of retirement, the rate is 7.5 percent. These increased augmentation rates are no longer applicable for any time after the terminated hospital employee becomes covered again by a retirement fund enumerated in Minnesota Statutes, section 356.30, subdivision 3. These increased deferred annuity augmentation rates do not apply to a terminated transferred hospital employee who begins receipt of a retirement annuity while employed by the employer who assumed operations of the Ridgeview medical center or purchased the Ridgeview medical center.

Sec. 5. [AUTHORIZATION FOR ADDITIONAL ALLOWABLE SERVICE FOR CERTAIN EARLY RETIREMENT PURPOSES.]

For the purpose of determining eligibility for early retirement benefits provided under Minnesota Statutes 1998, section 353.30, subdivision 1a, only and notwithstanding any provision of Minnesota Statutes, chapter 353, to the contrary, the years of allowable service for a terminated hospital employee who transfers employment on the effective date and does not apply for a refund of contributions under Minnesota Statutes 1998, section 353.34, subdivision 1, or any similar provision in future Minnesota Statutes, includes service with the successor employer to the Ridgeview medical center following the effective date. The successor employer shall provide any reports that the executive director of the public employees retirement association may reasonably request to permit the calculation of retirement benefits.

To be eligible for early retirement benefits under this section, the individual must separate from service with the successor employer to the Ridgeview medical center. The terminated eligible individual, or an individual authorized to act on behalf of that individual, may apply for an annuity following the application procedures under Minnesota Statutes, section 353.29, subdivision 4.

Sec. 6. [APPLICATION OF REEMPLOYED ANNUITANT EARNINGS LIMITATIONS.]

The reemployed annuitant earnings limitations of Minnesota Statutes, section 353.37, apply to any service by a terminated hospital employee as an employee of the successor employer to the Ridgeview medical center.

Sec. 7. [EFFECT ON REFUND.]

Notwithstanding any provision of Minnesota Statutes, chapter 353, to the contrary, terminated hospital employees may receive a refund of employee accumulated contributions plus interest at the rate of six percent per year compounded annually in accordance with Minnesota Statutes 1998, section 353.34, subdivision 2, at any time after the transfer of employment to the successor employer to the Ridgeview medical center. If a terminated hospital employee has received a refund from a pension plan enumerated in Minnesota Statutes, section 356.30, subdivision 3, the person may not repay that refund unless the person again becomes a member of one of those enumerated plans and complies with Minnesota Statutes, section 356.30, subdivision 2.

Sec. 8. [COUNSELING SERVICES.]

The administrator of the Ridgeview medical center and the executive director of the public employees retirement association shall provide terminated hospital employees with counseling on their benefits available under the general employee retirement plan of the public employee retirement association.

Sec. 9. [EFFECTIVE DATE.]

Sections 1 to 8 are effective on the day following final enactment.

### ARTICLE 3

#### LOCAL POLICE AND PAID FIRE RELIEF ASSOCIATION BENEFIT MODIFICATIONS

Section 1. Laws 1977, chapter 61, section 6, as amended by Laws 1981, chapter 68, section 39, and Laws 1998, chapter 390, article 7, section 3, is amended to read:

Sec. 6. [EVELETH RETIRED POLICE AND FIRE TRUST FUND; FINANCIAL REQUIREMENTS OF THE TRUST FUND.]

(a) The city of Eveleth shall provide by annual levy amount sufficient to pay an amount which when added to the investment income of the trust fund is sufficient to pay the benefits provided under the trust fund for the succeeding year as certified by the board of trustees of the trust fund.

(b) If the city of Eveleth fails to contribute the amount required in paragraph (a) in a given year, no postretirement adjustment granted under Laws 1995, chapter 262, article 10, section 1, or Laws 1997, chapter 241, article 2, section 19 is payable in the following year.

Sec. 2. [EVELETH RETIRED POLICE AND FIRE TRUST FUND; AD HOC POSTRETIREMENT ADJUSTMENT.]

In addition to the current pensions and other retirement benefits payable, the pensions and retirement benefits payable to retired police officers and firefighters and their surviving spouses by the Eveleth police and fire trust fund are increased by \$100 a month. Increases are retroactive to January 1, 1999.

Sec. 3. [FAIRMONT POLICE RELIEF ASSOCIATION; ADDITIONAL ANNUAL POSTRETIREMENT ADJUSTMENT.]

(a) Every recipient of a pension or benefit from the Fairmont police relief association on June 30, annually, is entitled to receive a postretirement adjustment as provided in this section in addition to any pension or benefit increase by virtue of an increase in the salary of active patrol officers in the city of Fairmont on the following July 1.

(b) If the value of current assets of the relief association is equal to at least 102 percent of the actuarial accrued liability of the Fairmont police relief association as of December 31 in the prior calendar year as calculated under Minnesota Statutes, sections 356.215 and 356.216, one percent of the value of current assets of the relief association is available for the payment of the postretirement adjustment.

(c) The amount of the postretirement adjustment must be calculated by the board of trustees of the relief association. The postretirement adjustment amount is payable monthly. The total amount of all service pensions, disability pensions, and survivor benefits, without inclusion of any postretirement adjustment paid previously under this section, must be calculated and the percentage amount of each recipient's annual pension or benefit of the total amount, expressed as four digits beyond the decimal point, must be determined. The monthly postretirement adjustment payable to each pension or benefit recipient is one-twelfth of the dollar amount determined by applying each recipient's determined percentage of the total amount of pensions and benefits to the total dollar amount available for payment as a postretirement adjustment.

(d) The postretirement adjustment amount paid in any year under this section does not compound and must not be added to the pension base for the calculation of a subsequent postretirement adjustment. If a pension or benefit recipient dies before the 12 monthly postretirement adjustments under this section have been paid, the remaining monthly postretirement adjustment payments cancel and nothing in this section authorizes the payment of the postretirement adjustment to an estate or to a person who did not qualify for a postretirement adjustment in the person's own right.

(e) The secretary of the relief association will report the total amount of benefits paid under this section to the executive director of the legislative commission on pensions and retirement, the city clerk, and the state auditor.

(f) Payment of the postretirement adjustment amount provided under this section may be made only if the average time-weighted total rate of return for the total portfolio for the most recent five-year period exceeds by at least two percent the actual average percent increase in the current monthly salary of a first class patrol officer in the most recent prior five fiscal years.

Sec. 4. [FAIRMONT POLICE RELIEF ASSOCIATION; RETROACTIVITY OF SURVIVING SPOUSE BENEFIT INCREASE.]

The surviving spouse benefit amount under Laws 1963, chapter 423, is payable to all surviving spouses receiving benefits as of the date of the approval of this act.

Sec. 5. [FAIRMONT POLICE RELIEF ASSOCIATION; BYLAWS AMENDMENTS REQUIRED.]

Sections 3 and 4 must be implemented by the appropriate amendments to the bylaws of the Fairmont police relief association.

Sec. 6. [ST. CLOUD POLICE CONSOLIDATION ACCOUNT; SPECIAL ONE-TIME POSTRETIREMENT ADJUSTMENT.]

(a) Notwithstanding any provision of general or special law to the contrary, all service pensioners, disability pensioners, and survivor benefit recipients of the St. Cloud police consolidation account who had begun the receipt of pensions or benefits before December 31, 1997, the effective date of the St. Cloud police consolidation process under Minnesota Statutes, chapter 353A, that began in April 1997, are entitled to receive the pension or benefit increase granted under Laws 1997, chapter 233, article 1, section 72.

(b) The special one-time postretirement adjustment under paragraph (a) is effective retroactive to January 1, 1998. The first payment of pensions and benefits next following the effective date of this section must include any back payments of the retroactive postretirement adjustment.

(c) Nothing in this section authorizes the payment of a special postretirement adjustment to an estate.

Sec. 7. [EFFECTIVE DATE.]

(a) Sections 1 and 2 are effective on approval by the Eveleth city council and compliance with Minnesota Statutes, section 645.021.

(b) Sections 3, 4, and 5 are effective on the day following approval by the Fairmont city council and compliance with Minnesota Statutes, section 645.021.

(c) Section 6 is effective on the day following approval by the St. Cloud city council and compliance with Minnesota Statutes, section 645.021.

#### ARTICLE 4

##### TEACHER RETIREMENT PLANS PRIOR SERVICE CREDIT PURCHASE AUTHORIZATION

Section 1. [354.533] [PRIOR OR UNCREDITED MILITARY SERVICE CREDIT PURCHASE.]

Subdivision 1. [SERVICE CREDIT PURCHASE AUTHORIZED.] A teacher who has at least three years of allowable service credit with the teachers retirement association and who performed service in the United States armed forces before becoming a teacher as defined in section 354.05, subdivision 2, or who failed to obtain service credit for a military leave of absence under the provisions of section 354.53, is entitled to purchase allowable and formula service credit for the initial period of enlistment, induction, or call to active duty without any voluntary extension by making payment under section 356.55, provided the teacher is not entitled to receive a current or deferred retirement annuity from a United States armed forces pension plan and has not purchased service credit from any other defined benefit public employee pension plan for the same period of service.

Subd. 2. [APPLICATION AND DOCUMENTATION.] A teacher who desires to purchase service credit under subdivision 1 must apply with the executive director to make the purchase. The application must include all necessary documentation of the teacher's qualifications to make the purchase, signed written permission to allow the executive director to request and receive necessary verification of applicable facts and eligibility requirements, and any other relevant information that the executive director may require.

Subd. 3. [SERVICE CREDIT GRANT.] Allowable and formula service credit for the purchase period must be granted by the teachers retirement association to the purchasing teacher upon receipt of the purchase payment amount.

Sec. 2. [354.534] [PRIOR OUT-OF-STATE TEACHING SERVICE CREDIT PURCHASE.]

Subdivision 1. [SERVICE CREDIT PURCHASE AUTHORIZED.] A teacher who has at least three years of allowable service credit with the teachers retirement association is entitled to purchase up to ten years of allowable and formula service credit for out-of-state teaching service by making payment under section 356.55, provided the out-of-state teaching service was performed for an educational institution established and operated by another state, governmental subdivision of another state, or the federal government, and the teacher is not entitled to receive a current or deferred age and service retirement annuity or disability benefit and has not purchased service credit from another defined benefit public employee pension plan for that out-of-state teaching service.



Subd. 2. [APPLICATION AND DOCUMENTATION.] A teacher who desires to purchase service credit under subdivision 1 must apply with the executive director to make the purchase. The application must include all necessary documentation of the teacher's qualifications to make the purchase, signed written permission to allow the executive director to request and receive necessary verification of applicable facts and eligibility requirements, and any other relevant information that the executive director may require.

Subd. 3. [SERVICE CREDIT GRANT.] Allowable and formula service credit for the purchase period must be granted by the teachers retirement association to the purchasing teacher on receipt of the purchase payment amount.

Sec. 3. [354.535] [MATERNITY LEAVE OF ABSENCE AND BREAKS IN SERVICE PURCHASES.]

Subdivision 1. [SERVICE CREDIT PURCHASE AUTHORIZED.] A teacher who has at least three years of allowable service credit with the teachers retirement association and who was granted a maternity leave of absence by a school district or other employing unit covered by the teachers retirement association for which the teacher did not previously receive allowable and formula service credit, or who had a maternity break in teaching service for which the teacher did not receive or purchase service credit from another defined benefit public employee pension plan, is entitled to purchase the actual period of the leave or of the break in teaching service, up to five years, of allowable and formula service credit for applicable maternity leaves of absence or applicable maternity break in teaching service periods by making payment under section 356.55.

Subd. 2. [APPLICATION AND DOCUMENTATION.] A teacher who desires to purchase service credit under subdivision 1 must apply with the executive director to make the purchase. The application must include all necessary documentation of the teacher's qualifications to make the purchase, signed written permission to allow the executive director to request and receive necessary verification of applicable facts and eligibility requirements, and any other relevant information that the executive director may require.

Subd. 3. [SERVICE CREDIT GRANT.] Allowable and formula service credit for the purchase period must be granted by the teachers retirement association to the purchasing teacher on receipt of the purchase payment amount.

Sec. 4. [354.536] [PRIVATE OR PAROCHIAL TEACHING SERVICE CREDIT PURCHASE.]

Subdivision 1. [SERVICE CREDIT PURCHASE AUTHORIZED.] A teacher who has at least three years of allowable service credit with the teachers retirement association is entitled to purchase up to ten years of allowable and formula service credit for private or parochial school teaching service by making payment under section 356.55, provided that the teacher is not entitled to receive a current or deferred age and service retirement annuity or disability benefit from the applicable employer-sponsored pension plan and has not purchased service credit from the applicable defined benefit employer sponsored pension plan for that service.

Subd. 2. [APPLICATION AND DOCUMENTATION.] A teacher who desires to purchase service credit under subdivision 1 must apply with the executive director to make the purchase. The application must include all necessary documentation of the teacher's qualifications to make the purchase, signed written permission to allow the executive director to request and receive necessary verification of applicable facts and eligibility requirements, and any other relevant information that the executive director may require.

Subd. 3. [SERVICE CREDIT GRANT.] Allowable and formula service credit for the purchase period must be granted by the teachers retirement association to the purchasing teacher on receipt of the purchase payment amount.

Sec. 5. [354.537] [PEACE CORPS OR VISTA SERVICE CREDIT PURCHASE.]

Subdivision 1. [SERVICE CREDIT PURCHASE AUTHORIZED.] A teacher who has at least three years of allowable service credit with the teachers retirement association is entitled to purchase up to ten years of allowable and formula service credit for service rendered in the federal Peace Corps program or in the federal Volunteers in Service to America program by making payment under section 356.55, provided that the teacher has not purchased service credit from any defined benefit pension plan for that service.

Subd. 2. [APPLICATION AND DOCUMENTATION.] A teacher who desires to purchase service credit under subdivision 1 must apply with the executive director to make the purchase. The application must include all necessary documentation of the teacher's qualifications to make the purchase, signed written permission to allow the executive director to request and receive necessary verification of applicable facts and eligibility requirements, and any other relevant information that the executive director may require.

Subd. 3. [SERVICE CREDIT GRANT.] Allowable and formula service credit for the purchase period must be granted by the teachers retirement association to the purchasing teacher on receipt of the purchase payment amount.

Sec. 6. [354.538] [CHARTER SCHOOL TEACHING SERVICE CREDIT PURCHASE.]

Subdivision 1. [SERVICE CREDIT PURCHASE AUTHORIZED.] A teacher who has at least three years of allowable service credit with the teachers retirement association is entitled to purchase up to ten years of allowable and formula service credit for charter school teaching service by making payment under section 356.55, provided that the teacher is not entitled to receive a current or deferred age and service retirement annuity or disability benefit from the applicable employer-sponsored pension plan and has not purchased service credit from the applicable defined benefit employer-sponsored pension plan for that service.

Subd. 2. [APPLICATION AND DOCUMENTATION.] A teacher who desires to purchase service credit under subdivision 1 must apply with the executive director to make the purchase. The application must include all necessary documentation of the teacher's qualifications to make the purchase, signed written permission to allow the executive director to request and receive necessary verification of applicable facts and eligibility requirements, and any other relevant information that the executive director may require.

Subd. 3. [SERVICE CREDIT GRANT.] Allowable and formula service credit for the purchase period must be granted by the teachers retirement association to the purchasing teacher on receipt of the purchase payment amount.

Sec. 7. [354A.097] [PRIOR OR UNCREDITED MILITARY SERVICE CREDIT PURCHASE.]

Subdivision 1. [SERVICE CREDIT PURCHASE AUTHORIZED.] A teacher who has at least three years of allowable service credit with the teachers retirement fund association and who performed service in the United States armed forces before becoming a teacher as defined in section 354A.011, subdivision 27, or who failed to obtain service credit for a military leave of absence period under section 354A.093, is entitled to purchase allowable service credit for the initial period of enlistment, induction, or call to active duty without any voluntary extension by making payment under section 356.55, provided the teacher is not entitled to receive a current or deferred retirement annuity from a United States armed forces pension plan and has not purchased service credit from another defined benefit public employee pension plan for the same period of service.

Subd. 2. [APPLICATION AND DOCUMENTATION.] A teacher who desires to purchase service credit under subdivision 1 must apply with the executive director or secretary of the respective teachers retirement fund association to make the purchase. The application must include all necessary documentation of the teacher's qualifications to make the purchase, signed written permission to allow the executive director or secretary to request and receive necessary verification of applicable facts and eligibility requirements, and any other relevant information that the executive director or secretary may require.

Subd. 3. [SERVICE CREDIT GRANT.] Allowable service credit for the purchase period must be granted by the applicable teachers retirement fund association to the purchasing teacher on receipt of the purchase payment amount.

Sec. 8. [354A.098] [PRIOR OUT-OF-STATE TEACHING SERVICE CREDIT PURCHASE.]

Subdivision 1. [SERVICE CREDIT PURCHASE AUTHORIZED.] A teacher who has at least three years of allowable service credit with one of the retirement fund associations under this chapter and who rendered out-of-state teaching service for an educational institution established and operated by another state, governmental subdivision of another state, or the federal government, is entitled to purchase up to ten years of allowable service credit for that

out-of-state service by making payment under section 356.55, provided the teacher is not entitled to receive a current or deferred age and service retirement annuity or disability benefit and has not purchased service credit from another defined benefit public employee pension plan for that out-of-state teaching service.

Subd. 2. [APPLICATION AND DOCUMENTATION.] A teacher who desires to purchase service credit under subdivision 1 must apply with the executive director or secretary of the respective teachers retirement fund association to make the purchase. The application must include all necessary documentation of the teachers' qualifications to make the purchase, signed written permission to allow the executive director or secretary to request and receive necessary verification of applicable facts and eligibility requirements, and any other relevant information that the executive director or secretary may require.

Subd. 3. [SERVICE CREDIT GRANT.] Allowable service credit for the purchase period must be granted by the applicable teachers retirement fund association to the purchasing teacher on receipt of the purchase payment amount.

Sec. 9. [354A.099] [MATERNITY BREAK IN SERVICE OR LEAVE SERVICE CREDIT PURCHASE.]

Subdivision 1. [SERVICE CREDIT PURCHASE AUTHORIZED.] A teacher who has at least three years of allowable service credit with the teachers retirement fund association and who was granted a maternity leave of absence by a school district or other employing unit covered by the teachers retirement association for which the teacher did not previously receive allowable service credit or who had a maternity break in teaching service for which the teacher did not receive or purchase service credit from another defined benefit public employee pension plan is entitled to purchase the actual period of the leave or of the break in teaching service, up to five years, of allowable service credit for applicable maternity leaves of absence or applicable maternity break in teaching service periods by making payment under section 356.55.

Subd. 2. [APPLICATION AND DOCUMENTATION.] A teacher who desires to purchase service credit under subdivision 1 must apply with the executive director or secretary of the respective retirement fund association to make the purchase. The application must include all necessary documentation of the teacher's qualifications to make the purchase, signed written permission to allow the executive director or secretary to request and receive any necessary verification of applicable facts and eligibility requirements, and any other relevant information that the executive director or secretary may require.

Subd. 3. [SERVICE CREDIT GRANT.] Allowable service credit for the purchase period must be granted by the applicable teachers retirement fund association to the purchasing teacher on receipt of the purchase payment amount.

Sec. 10. [354A.101] [PRIVATE OR PAROCHIAL TEACHING SERVICE CREDIT PURCHASE.]

Subdivision 1. [SERVICE CREDIT PURCHASE AUTHORIZED.] A teacher who has at least three years of allowable service credit with the teachers retirement fund association is entitled to purchase up to ten years of allowable service credit for private or parochial school teaching service by making payment under section 356.55, provided that the teacher is not entitled to receive a current or deferred age and service retirement annuity or disability benefit from the applicable employer-sponsored pension plan and has not purchased service credit from the applicable defined benefit employer sponsored pension plan for that service.

Subd. 2. [APPLICATION AND DOCUMENTATION.] A teacher who desires to purchase service credit under subdivision 1 must apply with the executive director to make the purchase. The application must include all necessary documentation of the teacher's qualifications to make the purchase, signed written permission to allow the executive director to request and receive necessary verification of applicable facts and eligibility requirements, and any other relevant information that the executive director may require.

Subd. 3. [SERVICE CREDIT GRANT.] Allowable service credit for the purchase period must be granted by the teachers retirement fund association to the purchasing teacher on receipt of the purchase payment amount.

Sec. 11. [354A.102] [PEACE CORPS OR VISTA SERVICE CREDIT PURCHASE.]

Subdivision 1. [SERVICE CREDIT PURCHASE AUTHORIZED.] A teacher who has at least three years of allowable service credit with the teachers retirement fund association is entitled to purchase up to ten years of allowable service credit for service rendered in the federal Peace Corps program or in the federal Volunteers in Service to America program by making payment under section 356.53, provided that the teacher has not purchased service credit from any defined benefit pension plan for that service.

Subd. 2. [APPLICATION AND DOCUMENTATION.] A teacher who desires to purchase service credit under subdivision 1 must apply with the executive director to make the purchase. The application must include all necessary documentation of the teacher's qualifications to make the purchase, signed written permission to allow the executive director to request and receive necessary verification of applicable facts and eligibility requirements, and any other relevant information that the executive director may require.

Subd. 3. [SERVICE CREDIT GRANT.] Allowable service credit for the purchase period must be granted by the teachers retirement fund association to the purchasing teacher on receipt of the purchase payment amount.

Sec. 12. [354A.103] [CHARTER SCHOOL TEACHING SERVICE CREDIT PURCHASE.]

Subdivision 1. [SERVICE CREDIT PURCHASE AUTHORIZED.] A teacher who has at least three years of allowable service credit with the teachers retirement fund association is entitled to purchase up to ten years of allowable service credit for charter school teaching service by making payment under section 356.55, provided that the teacher is not entitled to receive a current or deferred age and service retirement annuity or disability benefit from the applicable employer-sponsored pension plan and has not purchased service credit from the applicable defined benefit employer-sponsored pension plan for that service.

Subd. 2. [APPLICATION AND DOCUMENTATION.] A teacher who desires to purchase service credit under subdivision 1 must apply with the executive director to make the purchase. The application must include all necessary documentation of the teacher's qualifications to make the purchase, signed written permission to allow the executive director to request and receive necessary verification of applicable facts and eligibility requirements, and any other relevant information that the executive director may require.

Subd. 3. [SERVICE CREDIT GRANT.] Allowable service credit for the purchase period must be granted by the teachers retirement fund association to the purchasing teacher on receipt of the purchase payment amount.

Sec. 13. Minnesota Statutes 1998, section 356.55, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION.] Unless the prior service credit purchase authorization special law or general statute provision explicitly specifies a different purchase payment amount determination procedure, this section governs the determination of the prior service credit purchase payment amount of any prior service credit purchase. The purchase payment amount determination procedure must recognize any service credit accrued to the purchaser in a pension plan listed in section 356.30, subdivision 3. Any service credit in a Minnesota defined benefit public employee pension plan available to be reinstated by the purchaser through the repayment of a refund of member or employee contributions previously received must be repaid in full before any purchase of prior service credit payment is made under this section.

Sec. 14. Minnesota Statutes 1998, section 356.55, subdivision 6, is amended to read:

Subd. 6. [REPORT ON PRIOR SERVICE CREDIT PURCHASES.] (a) As part of the regular data reporting to the consulting actuary retained by the legislative commission on pensions and retirement annually, the chief administrative officer of each public pension plan that has accepted a prior service credit purchase payment under this section shall report for any purchase, the purchaser, the purchaser's employer, the age of the purchaser, the period of the purchase, the purchaser's prepurchase accrued service credit, the purchaser's postpurchase accrued service credit, the purchaser's prior service credit payment, the prior service credit payment made by the purchaser's employer, and the amount of the additional benefit or annuity purchased.

(b) As ~~part of a supplemental report to~~ the regular annual actuarial valuation for the applicable public pension plan prepared by the consulting actuary retained by the legislative commission on pensions and retirement, there must be ~~an exhibit comparing a comparison~~ for each purchase showing the total prior service credit payment received from all sources and the increased public pension plan actuarial accrued liability resulting from each purchase.

Sec. 15. [INSTRUCTION TO REVISOR.]

The revisor of statutes shall replace the current headnote for Minnesota Statutes, section 354.53, with the headnote "CREDIT FOR MILITARY SERVICE LEAVE OF ABSENCE."

Sec. 16. [EFFECTIVE DATE.]

Sections 1 to 15 are effective May 16, 1999.

## ARTICLE 5

### INDIVIDUAL AND SMALL GROUP PENSION CHANGES

Section 1. [PURCHASE OF SERVICE CREDIT; PRIOR ST. PAUL BUREAU OF HEALTH EMPLOYEE.]

(a) An eligible person, as described in paragraph (b), is entitled to purchase coordinated service credit in the public employees retirement association general plan for the period of employment described in paragraph (b), clause (2), by making payment as specified in paragraph (c).

(b) An eligible person is a person who:

(1) was born on May 22, 1932;

(2) was employed by the St. Paul bureau of health from March 17, 1958, to September 21, 1962, was covered by the St. Paul bureau of health relief association as a result of that employment, and who forfeited all service credit in that relief association upon leaving that employment; and

(3) later became a coordinated member of the general plan of the public employees retirement association and currently is a coordinated member of that plan.

(c) An eligible person described in paragraph (b) may purchase service credit from the public employees retirement association by paying the amount specified in Minnesota Statutes, section 356.55, prior to termination of public employees retirement association covered employment or prior to January 1, 2000, whichever is earlier. If the city of St. Paul agrees to make a payment under Minnesota Statutes, section 356.55, subdivision 5, an eligible person must make the employee payments prior to termination of public employees retirement association covered employment or prior to January 1, 2000, whichever is earlier. If the employee payment is made in a timely fashion, the city payment must be remitted 60 days thereafter.

(d) An eligible person must provide any relevant documentation required by the executive director to determine eligibility for the prior service credit under this section.

(e) Service credit for the purchase period must be granted by the public employees retirement association to the account of the eligible person upon receipt of the purchase payment amount specified in paragraph (c).

Sec. 2. [INDEPENDENT SCHOOL DISTRICT NO. 276, MINNETONKA, TEACHER.]

(a) Notwithstanding Minnesota Statutes, section 354.095, an eligible person described in paragraph (b) is entitled to purchase allowable and formula service credit in the teachers retirement association for the period described in paragraph (c) by paying the amount specified in Minnesota Statutes, section 356.55, subdivision 2.

(b) An eligible person is a person who:

(1) was on medical leave for a period that includes the 1994-1995 and the 1995-1996 school years;

(2) was employed by independent school district No. 276, Minnetonka, during the period that the medical leave was taken; and

(3) due to the failure of independent school district No. 276, Minnetonka, to file certain papers with the teachers retirement association, was not able to obtain service credit for the 1994-1995 and 1995-1996 school year portions of the medical leave.

(c) The period for service credit purchase is the 1994-1995 and 1995-1996 school years.

(d) Notwithstanding Minnesota Statutes, section 356.55, subdivision 5, the eligible person must pay, on or before September 1, 1999, an amount equal to the employee, employer, and employer additional contribution rates in effect during the prior service period applied to the actual salary rates in effect during the prior service period, plus annual compound interest at the rate of 8.5 percent from the date on which the contributions would have been made if made contemporaneous with the service period to the date on which the payment is actually made. Independent school district No. 276, Minnetonka, must pay one-half of the remaining balance of the prior service credit purchase payment amount calculated under Minnesota Statutes, section 356.55, within 30 days of the payment by the eligible person. Recognizing that the teachers retirement association failed to provide adequate information on the opportunity of the eligible person to make timely payments for the 1995-1996 school year following receipt of the medical leave of absence forms on August 16, 1996, the teachers retirement association is responsible for one-half of the remaining balance of the prior service credit purchase payment amount calculated under Minnesota Statutes, section 356.55. The executive director of the teachers retirement association must notify the superintendent of independent school district No. 276, Minnetonka, of its payment amount and payment due date if the eligible person makes the required payment.

(e) If independent school district No. 276, Minnetonka, fails to pay its portion of the required prior service credit purchase payment amount, the executive director may notify the commissioner of finance of that fact and the commissioner of finance may order that the required school district payment be deducted from the next subsequent payment or payments of state education aid to the school district and be transmitted to the teachers retirement association.

Sec. 3. [TEACHERS RETIREMENT ASSOCIATION; REPAYMENT OF INTEREST CHARGE ON CERTAIN MEMBER CONTRIBUTION SHORTAGE PAYMENTS.]

(a) Independent school district No. 274, Hopkins, shall pay the amount of \$1,004.08, plus compound interest on each amount at the annual rate of six percent from June 1, 1997, to the date of payment, to an eligible person described in paragraph (b) to compensate the person for a past overcharge in a member contribution shortage payment. The shortage was caused by the failure of the school district to make the required member contribution deductions during the 1968-1969 school year and the overpayment was caused by the failure of the teachers retirement association to notify the eligible person in a timely fashion of the shortage.

(b) An eligible person is a person who:

(1) was employed by independent school district No. 274, Hopkins, during the 1968-1969 school year and suffered an under deduction by the school district of \$114.66;

(2) took a member contribution refund in the early 1970's and repaid the refund in November, 1974; and

(3) had an appeal denied by the teachers retirement association board of trustees at a May 8, 1998, hearing, reflected in a May 21, 1998, findings and final order.

(c) The payments must be made within 30 days of the effective date. If independent school district No. 274, Hopkins, fails to make a timely payment of its obligation, the teacher retirement association must make the payment and may notify the commissioner of finance of the school district's failure to pay. In that event, the commissioner of finance may order that the required school district payment be deducted from the next subsequent payment of state education aid to the school district and transmitted to the teachers retirement association.

Sec. 4. [TEACHERS RETIREMENT ASSOCIATION; PURCHASE OF SERVICE CREDIT FOR CERTAIN SABBATICAL LEAVES.]

(a) Notwithstanding any provision of Minnesota Statutes, chapter 354, to the contrary, an eligible teacher as defined in paragraph (b) is entitled to purchase allowable and formula service credit from the teachers retirement association for the uncredited portion of a sabbatical leave during the 1976-1977 school year under paragraph (c).

(b) An eligible teacher is a person who was born on September 10, 1942, became a member of the teachers retirement association on October 31, 1968, is employed by independent school district No. 16, Spring Lake Park, and will qualify for an early normal retirement annuity under the "rule of 90" on September 16, 2000.

(c) Notwithstanding Minnesota Statutes, section 356.55, subdivision 5, the eligible person may pay, before January 1, 2000, or the date of retirement, whichever is earlier, an amount equal to the employee contribution rate or rates in effect during the prior service period applied to the actual salary rates in effect during the prior service period, plus annual compound interest at the rate of 8.5 percent from the date on which the contributions would have been made if made contemporaneous with the service period to the date on which the payment is actually made. Independent school district No. 16, Spring Lake Park, must pay the balance of the prior service credit purchase payment amount calculated under Minnesota Statutes, section 356.55, within 30 days of the payment by the eligible person. The executive director of the teachers retirement association must notify the superintendent of independent school district No. 16, Spring Lake Park, of its payment amount and payment due date if the eligible person makes the required payment.

(d) If independent school district No. 16, Spring Lake Park, fails to pay its portion of the required prior service credit purchase payment amount, the executive director may notify the commissioner of finance of that fact and the commissioner of finance may order that the required employer payment be deducted from the next subsequent payment or payments of state education aid to the school district and be transmitted to the teachers retirement association.

(e) An eligible teacher must provide any relevant documentation required by the executive director to determine eligibility for the prior service credit under this section.

(f) Service credit for the purchase period must be granted by the teachers retirement association to the account of the eligible teacher upon receipt of the purchase payment amount specified in paragraph (c).

Sec. 5. [PUBLIC EMPLOYEES RETIREMENT ASSOCIATION; STATE BOARD OF PUBLIC DEFENSE EMPLOYEE PRIOR SERVICE CREDIT PURCHASE.]

(a) An eligible person described in paragraph (b) is entitled to purchase service credit from the public employees retirement association for the period of omitted deductions December 19, 1992, through December 27, 1994.

(b) An eligible person for purposes of paragraph (a) is a person who:

(1) was born on August 17, 1950;

(2) was employed through Winona county until 1992;

(3) is currently employed by the state board of public defense in the third judicial district public defender's office; and

(4) had omitted member contributions for public employment during the period December 19, 1992, through December 27, 1994.

(c) The prior service credit purchase payment amount is governed by Minnesota Statutes, section 356.55. Authority to purchase the service credit expires on July 1, 2000.

(d) Notwithstanding Minnesota Statutes, section 356.55, subdivision 5, the eligible person must pay, on or before September 1, 1999, an amount equal to the employee contribution rate in effect during the prior service period applied to the actual salary rates in effect during the prior service period, plus annual compound interest at the rate of 8.5 percent from the date on which the contributions would have been made if made contemporaneous with the service period to the date on which the payment is actually made. The state board of public defense must pay the balance of the prior service credit purchase payment amount calculated under Minnesota Statutes, section 356.55, within 30 days of the payment by the eligible person.

(e) A person purchasing service credit under this section must provide sufficient documentation of eligibility to the executive director of the public employees retirement association.

Sec. 6. [TRA; PURCHASE OF SERVICE CREDIT FOR FINAL PORTION OF EXTENDED LEAVE OF ABSENCE BY ANOKA-HENNEPIN TEACHER.]

(a) An eligible person, as described in paragraph (b), is entitled to purchase allowable and formula service credit in the teachers retirement association for the period specified in paragraph (c) by making the payment specified in Minnesota Statutes, section 356.55.

(b) An eligible person is a person who:

(1) was born on February 1, 1943;

(2) was initially employed as a teacher by the Richfield school district in 1966;

(3) is currently employed as an elementary school principal by independent school district No. 11, Anoka-Hennepin; and

(4) was on an extended leave of absence from June 29, 1984, to June 28, 1989, but failed to obtain service credit for the final two years of the leave.

(c) The prior service credit purchase period is July 1, 1987, through June 28, 1989.

Sec. 7. [EFFECTIVE DATE.]

Sections 1 to 6 are effective on the day following final enactment.

## ARTICLE 6

### INCLUSION OF SUPPLEMENTAL NEEDS TRUSTS AS OPTIONAL ANNUITY FORM RECIPIENTS

Section 1. [356.372] [SUPPLEMENTAL NEEDS TRUST AS OPTIONAL ANNUITY FORM RECIPIENT.]

Subdivision 1. [INCLUSION AS RECIPIENT.] Notwithstanding any provision to the contrary of the laws, articles of incorporation, or bylaws governing a covered retirement plan specified in subdivision 3, a retiring member may designate a qualified supplemental needs trust under subdivision 2 as the remainder recipient on an optional retirement annuity form for a period not to exceed the lifetime of the beneficiary of the supplemental needs trust.



Subd. 2. [QUALIFIED SUPPLEMENTAL NEEDS TRUST.] A qualified supplemental needs trust is a trust that:

(1) was established on or after July 1, 1992;

(2) was established solely for the benefit of one person who has a disability under Social Security Administration supplemental security income or retirement, survivors, and disability insurance disability determination standards who was determined as such before the creation of the trust;

(3) is funded, in whole or in part, by the primary recipient of the optional annuity form and, unless the trust is a Zebley trust, is not funded by the beneficiary, the beneficiary's spouse, or a person who is required to pay a sum to or for the trust beneficiary under the terms of litigation or a litigation settlement;

(4) is established to cover reasonable living expenses and other basic needs of the disabilitant, in whole or in part, in instances when public assistance does not provide sufficiently for these needs;

(5) is not permitted to make disbursement to replace or reduce public assistance otherwise available;

(6) is irrevocable;

(7) terminates upon the death of the disabled person for whose benefit it was established; and

(8) is determined by the executive director to be a trust that contains excluded assets for purposes of the qualification for public entitlement benefits under the applicable federal and state laws and regulations.

Subd. 3. [COVERED RETIREMENT PLAN.] The provisions of this section apply to the following retirement plans:

(1) general state employees retirement plan of the Minnesota state retirement system, established under chapter 352;

(2) correctional employees retirement plan of the Minnesota state retirement system, established under chapter 352;

(3) state patrol retirement plan, established under chapter 352B;

(4) legislators retirement plan, established under chapter 3A;

(5) judges retirement plan, established under chapter 490;

(6) public employees retirement plan, established under chapter 353;

(7) public employees police and fire plan, established under chapter 353;

(8) teachers retirement plan, established under chapter 354;

(9) Duluth teachers retirement fund association, established under chapter 354A;

(10) St. Paul teachers retirement fund association, established under chapter 354A;

(11) Minneapolis teachers retirement fund association, established under chapter 354A;

(12) Minneapolis employees retirement plan, established under chapter 422A;

(13) Minneapolis firefighters relief association, established under chapter 69; and

(14) Minneapolis police relief association, established under chapter 423B.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective on the day following final enactment.

#### ARTICLE 7

#### VOLUNTEER FIRE RELIEF ASSOCIATION CHANGES

Section 1. [REPEALER.]

Minnesota Statutes 1998, section 424A.02, subdivision 5, is repealed.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective July 1, 1999."

Delete the title and insert:

"A bill for an act relating to retirement; various statewide and local pension plans; providing special benefit coverage for privatized employees of the Luverne public hospital and the Waconia Ridgeview medical center; providing an ad hoc postretirement adjustment to Eveleth police and fire trust fund benefit recipients; establishing an additional postretirement adjustment for the Fairmont police relief association; extending survivor benefit provisions to include certain Fairmont police relief association survivors; providing a special ad hoc postretirement adjustment to certain retired St. Cloud police officers; authorizing the purchase of credit for certain periods of prior military service, out-of-state public school teaching service, maternity leaves, maternity breaks in employment, parochial and private school teaching service, Peace Corps service, VISTA service, and charter school teaching service; authorizing service credit purchases by certain plan members; authorizing the designation of a supplemental needs trust as an optional annuity form beneficiary; repealing the 30-year service maximum for monthly benefit volunteer firefighter relief associations; amending Minnesota Statutes 1998, section 356.55, subdivisions 1 and 6; Laws 1977, chapter 61, section 6, as amended; proposing coding for new law in Minnesota Statutes, chapters 354; 354A; and 356; repealing Minnesota Statutes 1998, section 424A.02, subdivision 5; Laws 1998, chapter 390, article 1, section 1."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 743, A bill for an act relating to commerce; providing an appropriation for an education campaign on mortgage flipping; establishing criminal penalties; proposing coding for new law in Minnesota Statutes, chapter 82B.

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

The report was adopted.

Larsen, P., from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 805, A bill for an act relating to municipalities; making certain changes to municipal liability; amending Minnesota Statutes 1998, sections 466.01, subdivision 1; 466.03, subdivision 6e, and by adding a subdivision; 604A.20; 604A.21, subdivisions 2, 3, 4, 5, 6, and by adding a subdivision; 604A.22; and 604A.25.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1998, section 604A.24, is amended to read:

604A.24 [LIABILITY; LEASED LAND, WATER FILLED MINE PITS.]

Unless otherwise agreed in writing, sections 604A.22 and 604A.23 also apply to the duties and liability of an owner of the following land:

- (1) land leased to the state or any political subdivision for recreational purpose; ~~or~~
- (2) idled or abandoned, water-filled mine pits whose pit walls may slump or cave, and to which water the public has access from a water access site operated by a public entity; or
- (3) land owned or controlled by easement by a municipal power agency that is used for recreational purposes."

Delete the title and insert:

"A bill for an act relating to municipalities; limiting liability for municipal power agency land used for recreational purposes; amending Minnesota Statutes 1998, section 604A.24."

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

The report was adopted.

Larsen, P., from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 862, A bill for an act relating to local government; authorizing county boards to establish by ordinance procedures for imposing civil penalties for ordinance violations and allowing a county to certify fines to its county auditor as a special tax against the land; proposing coding for new law in Minnesota Statutes, chapter 375.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [103F.002] [COLLECTION OF PENALTIES.]

If a penalty imposed for violation of an ordinance enacted under this chapter is unpaid for more than 60 days after the date when payment is due, the local government unit that imposed the penalty may certify the delinquent penalty, together with any interest and additional penalties that apply to it, to the county auditor for collection to the same extent and in the same manner provided by law for the assessment and collection of real estate taxes.

Sec. 2. [375.511] [ADMINISTRATIVE PENALTIES.]

A county board may impose an administrative penalty for violation of an ordinance enacted under chapter 103F. No penalty may be imposed unless the owner has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the county board to conduct the hearing. A decision that a violation occurred must be in writing. The amount of the penalty with interest may not exceed the amount allowed for a single misdemeanor violation. A person aggrieved by a decision under this section may have the decision reviewed in the district court. If a penalty imposed under this section is unpaid for more than 60 days after the date when payment is due, the county board may certify the penalty to the county auditor for collection to the same extent and in the same manner provided by law for the assessment and collection of real estate taxes."

Delete the title and insert:

"A bill for an act relating to local government; authorizing collection of penalties and fines imposed by local governments for certain violations of water and planning laws together with taxes; establishing procedures for imposition of penalties; proposing coding for new law in Minnesota Statutes, chapters 103F; and 375."

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

The report was adopted.

Bradley from the Committee on Health and Human Services Policy to which was referred:

H. F. No. 944, A bill for an act relating to welfare; changing MFIP sanctions; amending Minnesota Statutes 1998, sections 256J.46; and 256J.57, subdivisions 1 and 2.

Reported the same back with the following amendments:

Page 1, line 6, before "is" insert "subdivision 1,"

Page 1, delete line 8

Page 4, delete lines 6 to 36

Page 5, delete lines 1 to 5 and insert:

"Sec. 2. Minnesota Statutes 1998, section 256J.46, subdivision 2a, is amended to read:"

Page 8, after line 29, insert:

"Sec. 5. [REPEALER.]

Minnesota Statutes 1998, section 256J.46, subdivision 1a, is repealed."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 3, before the semicolon, insert ", subdivisions 1 and 2a"

Page 1, line 4, before the period, insert "; repealing Minnesota Statutes 1998, section 256J.46, subdivision 1a"

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

The report was adopted.

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

H. F. No. 984, A bill for an act relating to professions; modifying provisions relating to psychologists' licensing; amending Minnesota Statutes 1998, sections 148.89, subdivisions 2a, 4, 5, and by adding a subdivision; 148.915; 148.925, subdivision 7; 148.941, subdivisions 2 and 6; and 148.96, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 148.

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

The report was adopted.

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

H. F. No. 1029, A bill for an act relating to game and fish; prohibiting the use of underwater video equipment to take fish; amending Minnesota Statutes 1998, section 97C.325.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [ANALYSIS OF ELECTRONIC DEVICES.]

The commissioner of natural resources shall assess the use of electronic devices used in consumptive activities related to fish and wildlife resources through creel surveys, other user surveys, or point of license purchase. The commissioner shall report to the legislature by January 15, 2000, the findings of the surveys and provide an analysis of the feasibility of assessing the impact of current and anticipated use of electronic devices on fish and wildlife resources.

Sec. 2. [CONSERVATION LICENSE STUDY.]

The commissioner of natural resources shall conduct a study on the feasibility of creating a conservation angling license that imposes lower catch limits. The study must at a minimum address whether a conservation angling license would substantially preserve fish resources, evaluate the fiscal impact of such a license on the game and fish fund, and recommend a fee for the license. The commissioner shall report the study findings and recommendations to the legislature by January 15, 2000."

Delete the title and insert:

"A bill for an act relating to game and fish; requiring an assessment of the use of electronic devices; requiring a study of conservation angling licenses."

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

The report was adopted.

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

H. F. No. 1067, A bill for an act relating to domestic abuse; authorizing service of short form notification in lieu of personal service for orders for protection; expanding the definition of first degree murder in situations involving domestic abuse; providing enhanced penalties based upon a previous conviction for malicious punishment of a child

and other laws; adding assault in the fifth degree and domestic assault to definition of "crimes of violence"; increasing the cash bail for individuals charged with malicious punishment of a child; providing criminal penalties; amending Minnesota Statutes 1998, sections 518B.01, subdivisions 5, 8, and by adding subdivisions; 609.185; 609.224, subdivisions 2 and 4; 609.2242, subdivisions 2 and 4; 609.342, subdivision 3; 609.343, subdivision 3; 609.344, subdivision 3; 609.345, subdivision 3; 609.377; 609.749, subdivision 3; 624.712, subdivision 5; and 629.471, subdivision 3.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1998, section 260.133, subdivision 1, is amended to read:

Subdivision 1. [PETITION.] The local welfare agency may bring an emergency petition on behalf of minor family or household members seeking relief from acts of domestic child abuse. The petition shall be brought pursuant to section 260.131 and shall allege the existence of or immediate and present danger of domestic child abuse; and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought. The court has jurisdiction over the parties to a domestic child abuse matter notwithstanding that there is a parent in the child's household who is willing to enforce the court's order and accept services on behalf of the family.

Sec. 2. Minnesota Statutes 1998, section 260.133, subdivision 2, is amended to read:

Subd. 2. [TEMPORARY ORDER.] (a) If it appears from the notarized petition ~~or by sworn affidavit~~ that there are reasonable grounds to believe the child is in immediate and present danger of domestic child abuse, the court may grant an ex parte temporary order for protection, pending a ~~full~~ hearing pursuant to section 260.135, which must be held not later than 14 days after service of the ex parte order on the respondent. The court may grant relief as it deems proper, including an order:

(1) restraining any party from committing acts of domestic child abuse; or

(2) excluding the alleged abusing party from the dwelling which the family or household members share or from the residence of the child.

~~However;~~ (b) No order excluding the alleged abusing party from the dwelling may be issued unless the court finds that:

(1) the order is in the best interests of the child or children remaining in the dwelling; and

(2) a parent remaining adult family or in the child's household member is able to care adequately for the child or children in the absence of the excluded party and to seek appropriate assistance in enforcing the provisions of the order.

(c) Before the temporary order is issued, the local welfare agency shall advise the court and the other parties who are present that appropriate social services will be provided to the family or household members during the effective period of the order. The petition shall identify the parent remaining in the child's household under paragraph (b), clause (2).

An ex parte temporary order for protection shall be effective for a fixed period not to exceed 14 days. ~~Within five days of the issuance of the temporary order, the petitioner shall file a petition with the court pursuant to section 260.131, alleging that the child is in need of protection or services and the court shall give docket priority to the petition.~~

The court may renew the temporary order for protection one time for a fixed period not to exceed 14 days ~~if a petition alleging that the child is in need of protection or services has been filed with the court and~~ if the court determines, upon informal review of the case file, that the renewal is appropriate. If the court determines that the petition states a prima facie case that there are reasonable grounds to believe that the child is in immediate danger of domestic child abuse or child abuse without the court's order, at the hearing pursuant to section 260.135, the court may continue its order issued under this subdivision pending trial under section 260.155.

Sec. 3. Minnesota Statutes 1998, section 260.191, subdivision 1b, is amended to read:

Subd. 1b. [DOMESTIC CHILD ABUSE.] (a) If the court finds that the child is a victim of domestic child abuse, as defined in section 260.015, subdivision 24, it may order any of the following dispositions of the case in addition to or as alternatives to the dispositions authorized under subdivision 1:

- (1) restrain any party from committing acts of domestic child abuse;
- (2) exclude the abusing party from the dwelling which the family or household members share or from the residence of the child;
- (3) on the same basis as is provided in chapter 518, establish temporary visitation with regard to minor children of the adult family or household members;
- (4) on the same basis as is provided in chapter 518, establish temporary support or maintenance for a period of 30 days for minor children or a spouse;
- (5) provide counseling or other social services for the family or household members; or
- (6) order the abusing party to participate in treatment or counseling services.

Any relief granted by the order for protection shall be for a fixed period not to exceed one year.

~~However,~~ (b) No order excluding the abusing party from the dwelling may be issued unless the court finds that:

- (1) the order is in the best interests of the child or children remaining in the dwelling;
- (2) a remaining adult family or household member is able to care adequately for the child or children in the absence of the excluded party; and
- (3) the local welfare agency has developed a plan to provide appropriate social services to the remaining family or household members.

(c) Upon a finding that the remaining parent is able to care adequately for the child and enforce an order excluding the abusing party from the home and that the provision of supportive services by the responsible social service agency is no longer necessary, the responsible social service agency may be dismissed as a party to the proceedings. Orders entered regarding the abusing party remain in full force and effect and may be renewed by the remaining parent as necessary for the continued protection of the child for specified periods of time, not to exceed one year.

Sec. 4. Minnesota Statutes 1998, section 518B.01, subdivision 5, is amended to read:

Subd. 5. [HEARING ON APPLICATION; NOTICE.] (a) Upon receipt of the petition, the court shall order a hearing which shall be held not later than 14 days from the date of the order. If an ex parte order has been issued under subdivision 7 and a hearing requested, the time periods under subdivision 7 for holding a hearing apply. ~~Personal service shall be made upon the respondent not less than five days prior to the hearing, if the hearing was requested by the petitioner.~~ If a hearing was requested by the petitioner, personal service of the ex parte order may

be made upon the respondent at any time up to 12 hours prior to the time set for the hearing, provided that the respondent at the hearing may request a continuance of up to five days if served less than five days prior to the hearing. If the hearing was requested by the respondent after issuance of an ex parte order under subdivision 7, service of the notice of hearing must be made upon the petitioner not less than five days prior to the hearing. The court shall serve the notice of hearing upon the petitioner by mail in the manner provided in the rules of civil procedure for pleadings subsequent to a complaint and motions and shall also mail notice of the date and time of the hearing to the respondent. In the event that service cannot be completed in time to give the respondent or petitioner the minimum notice required under this paragraph, the court may set a new hearing date.

(b) Notwithstanding the provisions of paragraph (a), service on the respondent may be made by one week published notice, as provided under section 645.11, provided the petitioner files with the court an affidavit stating that an attempt at personal service made by a sheriff or other law enforcement or corrections officer was unsuccessful because the respondent is avoiding service by concealment or otherwise, and that a copy of the petition and notice of hearing has been mailed to the respondent at the respondent's residence or that the residence is not known to the petitioner. Service under this paragraph is complete seven days after publication. The court shall set a new hearing date if necessary to allow the respondent the five-day minimum notice required under paragraph (a).

Sec. 5. Minnesota Statutes 1998, section 518B.01, subdivision 6, is amended to read:

Subd. 6. [RELIEF BY THE COURT.] (a) Upon notice and hearing, the court may provide relief as follows:

- (1) restrain the abusing party from committing acts of domestic abuse;
- (2) exclude the abusing party from the dwelling which the parties share or from the residence of the petitioner;
- (3) exclude the abusing party from a reasonable area surrounding the dwelling or residence, which area shall be described specifically in the order;
- (4) award temporary custody or establish temporary visitation with regard to minor children of the parties on a basis which gives primary consideration to the safety of the victim and the children. Except for cases in which custody is contested, findings under section 257.025, 518.17, or 518.175 are not required. If the court finds that the safety of the victim or the children will be jeopardized by unsupervised or unrestricted visitation, the court shall condition or restrict visitation as to time, place, duration, or supervision, or deny visitation entirely, as needed to guard the safety of the victim and the children. The court's decision on custody and visitation shall in no way delay the issuance of an order for protection granting other reliefs provided for in this section;
- (5) on the same basis as is provided in chapter 518, establish temporary support for minor children or a spouse, and order the withholding of support from the income of the person obligated to pay the support according to chapter 518;
- (6) provide upon request of the petitioner counseling or other social services for the parties, if married, or if there are minor children;
- (7) order the abusing party to participate in treatment or counseling services;
- (8) award temporary use and possession of property and restrain one or both parties from transferring, encumbering, concealing, or disposing of property except in the usual course of business or for the necessities of life, and to account to the court for all such transfers, encumbrances, dispositions, and expenditures made after the order is served or communicated to the party restrained in open court;
- (9) exclude the abusing party from the place of employment of the petitioner, or otherwise limit access to the petitioner by the abusing party at the petitioner's place of employment;
- (10) order the abusing party to pay restitution to the petitioner;



(11) order the continuance of all currently available insurance coverage without change in coverage or beneficiary designation; and

(12) order, in its discretion, other relief as it deems necessary for the protection of a family or household member, including orders or directives to the sheriff, constable, or other law enforcement or corrections officer as provided by this section.

(b) Any relief granted by the order for protection shall be for a fixed period not to exceed ~~one year~~ two years, except when the court determines a longer fixed period is appropriate. The order may be reviewed annually upon the motion of the petitioner or respondent or on the court's order. The order also may be modified at any time as provided in subdivision 11. When a referee presides at the hearing on the petition, the order granting relief becomes effective upon the referee's signature.

(c) An order granting the relief authorized in paragraph (a), clause (1), may not be vacated or modified in a proceeding for dissolution of marriage or legal separation, except that the court may hear a motion for modification of an order for protection concurrently with a proceeding for dissolution of marriage upon notice of motion and motion. The notice required by court rule shall not be waived. If the proceedings are consolidated and the motion to modify is granted, a separate order for modification of an order for protection shall be issued.

(d) An order granting the relief authorized in paragraph (a), clause (2), is not voided by the admittance of the abusing party into the dwelling from which the abusing party is excluded.

(e) If a proceeding for dissolution of marriage or legal separation is pending between the parties, the court shall provide a copy of the order for protection to the court with jurisdiction over the dissolution or separation proceeding for inclusion in its file.

(f) An order for restitution issued under this subdivision is enforceable as civil judgment.

Sec. 6. Minnesota Statutes 1998, section 518B.01, subdivision 8, is amended to read:

Subd. 8. [SERVICE; ALTERNATE SERVICE; PUBLICATION; NOTICE.] (a) The petition and any order issued under this section shall be served on the respondent personally. In lieu of personal service of an order for protection, a law enforcement officer may serve a person with a short form notification as provided in subdivision 8a.

(b) When service is made out of this state and in the United States, it may be proved by the affidavit of the person making the service. When service is made outside the United States, it may be proved by the affidavit of the person making the service, taken before and certified by any United States minister, charge d'affaires, commissioner, consul, or commercial agent, or other consular or diplomatic officer of the United States appointed to reside in the other country, including all deputies or other representatives of the officer authorized to perform their duties; or before an office authorized to administer an oath with the certificate of an officer of a court of record of the country in which the affidavit is taken as to the identity and authority of the officer taking the affidavit.

(c) If personal service cannot be made, the court may order service of the petition and any order issued under this section by alternate means, or by publication, which publication must be made as in other actions. The application for alternate service must include the last known location of the respondent; the petitioner's most recent contacts with the respondent; the last known location of the respondent's employment; the names and locations of the respondent's parents, siblings, children, and other close relatives; the names and locations of other persons who are likely to know the respondent's whereabouts; and a description of efforts to locate those persons.

The court shall consider the length of time the respondent's location has been unknown, the likelihood that the respondent's location will become known, the nature of the relief sought, and the nature of efforts made to locate the respondent. The court shall order service by first class mail, forwarding address requested, to any addresses where there is a reasonable possibility that mail or information will be forwarded or communicated to the respondent.

The court may also order publication, within or without the state, but only if it might reasonably succeed in notifying the respondent of the proceeding. Service shall be deemed complete 14 days after mailing or 14 days after court-ordered publication.

(d) A petition and any order issued under this section, including the short form notification, must include a notice to the respondent that if an order for protection is issued to protect the petitioner or a child of the parties, upon request of the petitioner in any visitation proceeding, the court shall consider the order for protection in making a decision regarding visitation.

Sec. 7. Minnesota Statutes 1998, section 518B.01, is amended by adding a subdivision to read:

Subd. 8a. [SHORT FORM NOTIFICATION.] (a) In lieu of personal service of an order for protection under subdivision 8, a law enforcement officer may serve a person with a short form notification. The short form notification must include the following clauses: the respondent's name; the respondent's date of birth, if known; the petitioner's name; the names of other protected parties; the date and county in which the ex parte order for protection or order for protection was filed; the court file number; the hearing date and time, if known; the conditions that apply to the respondent, either in checklist form or handwritten; and the name of the judge who signed the order.

The short form notification must be in bold print in the following form:

The order for protection is now enforceable. You must report to your nearest sheriff's office or county court to obtain a copy of the order for protection. You are subject to arrest and may be charged with a misdemeanor, gross misdemeanor, or felony if you violate any of the terms of the order for protection or this short form notification.

(b) Upon verification of the identity of the respondent and the existence of an unserved order for protection against the respondent, a law enforcement officer may detain the respondent for a reasonable time necessary to complete and serve the short form notification.

(c) When service is made by short form notification, it may be proved by the affidavit of the law enforcement officer making the service.

(d) For service under this section only, service upon an individual may occur at any time, including Sundays, and legal holidays.

(e) The superintendent of the bureau of criminal apprehension shall provide the short form notification to law enforcement agencies.

Sec. 8. Minnesota Statutes 1998, section 518B.01, is amended by adding a subdivision to read:

Subd. 22. [VIOLATION OF A DOMESTIC ABUSE NO CONTACT ORDER.] (a) A domestic abuse no contact order is an order issued by a court against a defendant in a criminal proceeding for domestic abuse. It includes pretrial orders before final disposition of the case and probationary orders after sentencing.

(b) A person who knows of a domestic abuse no contact order issued against the person and violates the order is guilty of a misdemeanor.

(c) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated a domestic abuse no contact order, even if the violation of the order did not take place in the presence of the peace officer, if the existence of the order can be verified by the officer. The person shall be held in custody for at least 36 hours, excluding the day of arrest, Sundays, and holidays, unless the person is released earlier by a judge or judicial officer. A peace officer acting in good faith and exercising due care in making an arrest pursuant to this paragraph is immune from civil liability that might result from the officer's actions.

Sec. 9. Minnesota Statutes 1998, section 609.185, is amended to read:

609.185 [MURDER IN THE FIRST DEGREE.]

Whoever does any of the following is guilty of murder in the first degree and shall be sentenced to imprisonment for life:

(1) causes the death of a human being with premeditation and with intent to effect the death of the person or of another;

(2) causes the death of a human being while committing or attempting to commit criminal sexual conduct in the first or second degree with force or violence, either upon or affecting the person or another;

(3) causes the death of a human being with intent to effect the death of the person or another, while committing or attempting to commit burglary, aggravated robbery, kidnapping, arson in the first or second degree, a drive-by shooting, tampering with a witness in the first degree, escape from custody, or any felony violation of chapter 152 involving the unlawful sale of a controlled substance;

(4) causes the death of a peace officer or a guard employed at a Minnesota state or local correctional facility, with intent to effect the death of that person or another, while the peace officer or guard is engaged in the performance of official duties;

(5) causes the death of a minor while committing child abuse, when the perpetrator has engaged in a past pattern of child abuse upon the child and the death occurs under circumstances manifesting an extreme indifference to human life; or

(6) causes the death of a human being while committing domestic abuse, when the perpetrator has engaged in a past pattern of domestic abuse upon the victim or upon another family or household member and the death occurs under circumstances manifesting an extreme indifference to human life.

For purposes of clause (5), "child abuse" means an act committed against a minor victim that constitutes a violation of the following laws of this state or any similar laws of the United States or any other state: section 609.221; 609.222; 609.223; 609.224; 609.2242; 609.342; 609.343; 609.344; 609.345; 609.377; 609.378; or 609.713.

For purposes of clause (6), "domestic abuse" means an act that:

(1) constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.2242, 609.342, 609.343, 609.344, 609.345, 609.713, or any similar laws of the United States or any other state; and

(2) is committed against the victim who is a family or household member as defined in section 518B.01, subdivision 2, paragraph (b).

Sec. 10. Minnesota Statutes 1998, section 609.224, subdivision 2, is amended to read:

Subd. 2. [GROSS MISDEMEANOR.] (a) Whoever violates the provisions of subdivision 1 against the same victim during the time period between a previous conviction or adjudication of delinquency under this section, sections 609.221 to 609.2231, 609.2242, 609.342 to 609.345, 609.377, or 609.713, or any similar law of another state, and the end of the five years following discharge from sentence or disposition for that conviction or adjudication, is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

(b) Whoever violates the provisions of subdivision 1 within two years of a previous conviction or adjudication of delinquency under this section or sections 609.221 to 609.2231, 609.2242, 609.377, or 609.713, or any similar law of another state, is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

(c) A caregiver, as defined in section 609.232, who is an individual and who violates the provisions of subdivision 1 against a vulnerable adult, as defined in section 609.232, is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

Sec. 11. Minnesota Statutes 1998, section 609.224, subdivision 4, is amended to read:

Subd. 4. [FELONY.] (a) Whoever violates the provisions of subdivision 1 against the same victim during the time period between the first of any combination of two or more previous convictions or adjudications of delinquency under this section or sections 609.221 to 609.2231, 609.2242, 609.342 to 609.345, 609.377, or 609.713, or any similar law of another state, and the end of the five years following discharge from sentence or disposition for that conviction or adjudication is guilty of a felony and may be sentenced to imprisonment for not more than five years or payment of a fine of not more than \$10,000, or both.

(b) Whoever violates the provisions of subdivision 1 within three years of the first of any combination of two or more previous convictions or adjudications of delinquency under this section or sections 609.221 to 609.2231, 609.2242, 609.377, or 609.713, or any similar law of another state, 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.

Sec. 12. Minnesota Statutes 1998, section 609.2242, subdivision 2, is amended to read:

Subd. 2. [GROSS MISDEMEANOR.] Whoever violates subdivision 1 during the time period between a previous conviction or adjudication of delinquency under this section or sections 609.221 to 609.2231, 609.224, 609.342 to 609.345, 609.377, or 609.713, or any similar law of another state, against a family or household member as defined in section 518B.01, subdivision 2, and the end of the five years following discharge from sentence or disposition for that conviction or adjudication is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

Sec. 13. Minnesota Statutes 1998, section 609.2242, subdivision 4, is amended to read:

Subd. 4. [FELONY.] Whoever violates the provisions of this section or section 609.224, subdivision 1, against the same victim during the time period between the first of any combination of two or more previous convictions or adjudications of delinquency under this section or sections 609.221 to 609.2231, 609.224, 609.342 to 609.345, 609.377, or 609.713, or any similar law of another state and the end of the five years following discharge from sentence or disposition for that conviction or adjudication is guilty of a felony and may be sentenced to imprisonment for not more than five years or payment of a fine of not more than \$10,000, or both.

Sec. 14. Minnesota Statutes 1998, section 609.342, subdivision 3, is amended to read:

Subd. 3. [STAY.] Except when imprisonment is required under section 609.109, if a person is convicted under subdivision 1, clause (g), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

Sec. 15. Minnesota Statutes 1998, section 609.343, subdivision 3, is amended to read:

Subd. 3. [STAY.] Except when imprisonment is required under section 609.109, if a person is convicted under subdivision 1, clause (g), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

Sec. 16. Minnesota Statutes 1998, section 609.344, subdivision 3, is amended to read:

Subd. 3. [STAY.] Except when imprisonment is required under section 609.109, if a person is convicted under subdivision 1, clause (f), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

Sec. 17. Minnesota Statutes 1998, section 609.345, subdivision 3, is amended to read:

Subd. 3. [STAY.] Except when imprisonment is required under section 609.109, if a person is convicted under subdivision 1, clause (f), the court may stay imposition or execution of the sentence if it finds that:

(a) a stay is in the best interest of the complainant or the family unit; and

(b) a professional assessment indicates that the offender has been accepted by and can respond to a treatment program.

If the court stays imposition or execution of sentence, it shall include the following as conditions of probation:

(1) incarceration in a local jail or workhouse;

(2) a requirement that the offender complete a treatment program; and

(3) a requirement that the offender have no unsupervised contact with the complainant until the offender has successfully completed the treatment program unless approved by the treatment program and the supervising correctional agent.

Sec. 18. Minnesota Statutes 1998, section 609.377, is amended to read:

609.377 [MALICIOUS PUNISHMENT OF A CHILD.]

Subdivision 1. [MALICIOUS PUNISHMENT.] A parent, legal guardian, or caretaker who, by an intentional act or a series of intentional acts with respect to a child, evidences unreasonable force or cruel discipline that is excessive under the circumstances is guilty of malicious punishment of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both as provided in subdivisions 2 to 6.

Subd. 2. [GROSS MISDEMEANOR.] If the punishment results in less than substantial bodily harm, the person may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

Subd. 3. [ENHANCEMENT TO A FELONY.] Whoever violates the provisions of subdivision 2 during the time period between a previous conviction or adjudication for delinquency under this section or sections 609.221 to 609.2231, 609.224, 609.2242, 609.342 to 609.345, or 609.713, and the end of five years following discharge from sentence or disposition for that conviction or adjudication may be sentenced to imprisonment for not more than five years or a fine of \$10,000, or both.

Subd. 4. [FELONY; CHILD UNDER AGE FOUR.] If the punishment is to a child under the age of four and causes bodily harm to the head, eyes, neck, or otherwise causes multiple bruises to the body, the person may be sentenced to imprisonment for not more than five years or a fine of \$10,000, or both.

Subd. 5. [FELONY; SUBSTANTIAL BODILY HARM.] If the punishment results in substantial bodily harm, ~~that the~~ person 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.

Subd. 6. [FELONY; GREAT BODILY HARM.] If the punishment results in great bodily harm, ~~that the~~ person may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

~~If the punishment is to a child under the age of four and causes bodily harm to the head, eyes, neck, or otherwise causes multiple bruises to the body, the person may be sentenced to imprisonment for not more than five years or a fine of \$10,000, or both.~~

Sec. 19. Minnesota Statutes 1998, section 609.749, subdivision 3, is amended to read:

Subd. 3. [AGGRAVATED VIOLATIONS.] A person who commits any of the following acts is guilty of a felony:

(1) commits any offense described in subdivision 2 because of the victim's or another's actual or perceived race, color, religion, sex, sexual orientation, disability as defined in section 363.01, age, or national origin;

(2) commits any offense described in subdivision 2 by falsely impersonating another;

(3) commits any offense described in subdivision 2 and possesses a dangerous weapon at the time of the offense;

(4) ~~engages in harassing conduct~~ harasses another, as defined in subdivision 1, with intent to influence or otherwise tamper with a juror or a judicial proceeding or with intent to retaliate against a judicial officer, as defined in section 609.415, or a prosecutor, defense attorney, or officer of the court, because of that person's performance of official duties in connection with a judicial proceeding; or

(5) commits any offense described in subdivision 2 against a victim under the age of 18, if the actor is more than 36 months older than the victim.

Sec. 20. Minnesota Statutes 1998, section 609.749, subdivision 4, is amended to read:

Subd. 4. [SECOND OR SUBSEQUENT VIOLATIONS; FELONY.] A person is guilty of a felony who violates any provision of subdivision 2 during the time period between a previous conviction or adjudication of delinquency under this section; sections 609.221 to 609.2242; 518B.01, subdivision 14; 609.748, subdivision 6; or 609.713, subdivision 1 or 3; or a similar law from another state and the end of the ten years following discharge from sentence or disposition for that conviction or adjudication.

Sec. 21. Minnesota Statutes 1998, section 611A.32, subdivision 2, is amended to read:

Subd. 2. [APPLICATIONS.] Any public or private nonprofit agency may apply to the commissioner for a grant to provide emergency shelter services, support services, or both, to battered women and their children. The application shall be submitted in a form approved by the commissioner by rule adopted under chapter 14, after consultation with the advisory council, and shall include:

(1) a proposal for the provision of emergency shelter services, support services, or both, for battered women and their children;

(2) a proposed budget;

(3) evidence of an ability to integrate into the proposed program the uniform method of data collection and program evaluation established under sections 611A.33 and 611A.34;

(4) evidence of an ability to represent the interests of battered women and their children to local law enforcement agencies and courts, county welfare agencies, and local boards or departments of health;

(5) evidence of an ability to do outreach to unserved and underserved populations and to provide culturally and linguistically appropriate services; ~~and~~

(6) evidence of a commitment to provide for the protection of children of battered women and to cooperate with the local welfare agency to ensure that appropriate safety measures are in place for both children and battered women; and

(7) any other content the commissioner may require by rule adopted under chapter 14, after considering the recommendations of the advisory council.

Programs which have been approved for grants in prior years may submit materials which indicate changes in items listed in clauses (1) to ~~(6)~~ (7), in order to qualify for renewal funding. Nothing in this subdivision may be construed to require programs to submit complete applications for each year of renewal funding.

Sec. 22. Minnesota Statutes 1998, section 611A.34, subdivision 3, is amended to read:

Subd. 3. [DUTIES.] The advisory council shall:

(1) advise the commissioner on all planning, development, data collection, rulemaking, funding, and evaluation of programs and services for battered women that are funded under section 611A.32, other than matters of a purely administrative nature;

(2) advise the commissioner on the adoption of rules under chapter 14 governing the award of grants to ensure that funded programs are consistent with section 611A.32, subdivision 1;

(3) recommend to the commissioner the names of five applicants for the position of battered women's program director;

(4) advise the commissioner on the rules adopted under chapter 14 pursuant to section 611A.33;

(5) review applications received by the commissioner for grants under section 611A.32 and make recommendations on the awarding of grants; ~~and~~

(6) advise the program director in the performance of duties in the administration and coordination of the programs funded under section 611A.32; and

(7) evaluate the level of cooperation and collaboration between battered women's programs and local welfare agencies in providing for the safety of children of battered women and make recommendations to the commissioner for improving collaboration.

Sec. 23. Minnesota Statutes 1998, section 624.712, subdivision 5, is amended to read:

Subd. 5. [CRIME OF VIOLENCE.] "Crime of violence" includes murder in the first, second, and third degrees, manslaughter in the first and second degrees, aiding suicide, aiding attempted suicide, felony violations of assault in the first, second, third, ~~and fourth,~~ and fifth degrees, assaults motivated by bias under section 609.2231, subdivision 4, felony-level domestic assault, drive-by shootings, terroristic threats, use of drugs to injure or to facilitate crime, crimes committed for the benefit of a gang, commission of a crime while wearing or possessing a bullet-resistant vest, simple robbery, aggravated robbery, kidnapping, false imprisonment, criminal sexual conduct in the first, second, third, and fourth degrees, theft of a firearm, felony theft involving the intentional taking or driving of a motor vehicle without the consent of the owner or the authorized agent of the owner, felony theft involving the taking of property from a burning, abandoned, or vacant building, or from an area of destruction caused by civil disaster, riot, bombing, or the proximity of battle, felony theft involving the theft of a controlled substance, an explosive, or an incendiary device, arson in the first and second degrees, riot, burglary in the first, second, third, and fourth degrees, harassment and stalking, shooting at a public transit vehicle or facility, reckless use of a gun or dangerous weapon, intentionally pointing a gun at or towards a human being, setting a spring gun, and unlawfully owning, possessing, operating a machine gun or short-barreled shotgun, and an attempt to commit any of these offenses, as each of those offenses is defined in chapter 609. "Crime of violence" also includes felony violations of the following: malicious punishment of a child; neglect or endangerment of a child; and chapter 152.

Sec. 24. Minnesota Statutes 1998, section 626.556, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section 609.341, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342, 609.343, 609.344, or 609.345. Sexual abuse also includes any act which involves a minor which constitutes a violation of sections 609.321 to 609.324 or 617.246. Sexual abuse includes threatened sexual abuse.

(b) "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.



(c) "Neglect" means:

(1) failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter or medical care when reasonably able to do so, failure to protect a child from conditions or actions which imminently and seriously endanger the child's physical or mental health when reasonably able to do so, or failure to take steps to ensure that a child is educated in accordance with state law. Nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious danger to the child's health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care. ~~Neglect includes:~~

(2) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance. ~~Neglect also means:~~

(3) "medical neglect" as defined in section 260.015, subdivision 2a, clause (5); or

(4) that the parent or other person responsible for the care of the child:

(i) engages in violent behavior that demonstrates a disregard for the well-being of the child as indicated by action that could reasonably result in serious physical, mental, or threatened injury, or emotional damage to the child;

(ii) engages in repeated domestic assault that would constitute a violation of section 609.2242, subdivision 2 or 4;

(iii) commits domestic assault that would constitute a violation of section 609.2242 within sight or sound of the child; or

(iv) subjects the child to the ongoing domestic violence by the abuser in the home environment that is likely to have a detrimental effect on the well-being of the child.

(d) "Physical abuse" means any physical or mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive and deprivation procedures that have not been authorized under section 245.825.

(e) "Report" means any report received by the local welfare agency, police department, or county sheriff pursuant to this section.

(f) "Facility" means a day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed pursuant to sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16.

(g) "Operator" means an operator or agency as defined in section 245A.02.

(h) "Commissioner" means the commissioner of human services.

(i) "Assessment" includes authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing the risk to the child, and formulating a plan.

(j) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem and visitation expeditor services.

(k) "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

(l) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury.

Sec. 25. Minnesota Statutes 1998, section 626.558, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT OF THE TEAM.] A county shall establish a multidisciplinary child protection team that may include, but not be limited to, the director of the local welfare agency or designees, the county attorney or designees, the county sheriff or designees, representatives of health and education, representatives of mental health or other appropriate human service or community-based agencies, and parent groups. As used in this section, a "community-based agency" may include, but is not limited to, schools, social service agencies, family service and mental health collaboratives, early childhood and family education programs, Head Start, or other agencies serving children and families. A member of the team must be designated as the lead person of the team responsible for coordinating its activities with battered women's programs and services.

Sec. 26. Minnesota Statutes 1998, section 629.471, subdivision 3, is amended to read:

Subd. 3. [SIX TIMES THE FINE.] For offenses under sections 518B.01, 609.224, ~~and 609.2242,~~ and 609.377, the maximum cash bail that may be required for a person charged with a misdemeanor or gross misdemeanor violation is six times the highest cash fine that may be imposed for the offense.

Sec. 27. Minnesota Statutes 1998, section 630.36, is amended to read:

630.36 [ISSUES, HOW DISPOSED OF.]

Subdivision 1. [ORDER.] The issues on the calendar shall be disposed of in the following order, unless, upon the application of either party, for good cause, the court directs an indictment or complaint to be tried out of its order:

- (1) indictments or complaints for felony, where the defendant is in custody;
- (2) indictments or complaints for misdemeanor, where the defendant is in custody;
- (3) indictments or complaints alleging child abuse, as defined in subdivision 2, where the defendant is on bail;
- (4) indictments or complaints alleging domestic ~~assault~~ abuse, as defined in subdivision 3, where the defendant is on bail;
- (5) indictments or complaints for felony, where the defendant is on bail; and
- (6) indictments or complaints for misdemeanor, where the defendant is on bail.

After a plea, the defendant shall be entitled to at least four days to prepare for trial, if the defendant requires it.

Subd. 2. [CHILD ABUSE DEFINED.] As used in subdivision 1, "child abuse" means ~~any~~ an act which involves a minor victim and which constitutes a violation of section 609.221, 609.222, 609.223, 609.2231, 609.2242, 609.255, 609.321, 609.322, 609.324, 609.342, 609.343, 609.344, 609.345, 609.377, 609.378, 617.246, or 609.224 if the minor victim is a family or household member of the defendant.

Subd. 3. [~~DOMESTIC ASSAULT ABUSE DEFINED.~~] As used in subdivision 1, "domestic assault abuse" means ~~an assault committed by the actor against a family or household member, as defined~~ has the meaning given in section 518B.01, subdivision 2.

Sec. 28. Minnesota Statutes 1998, section 634.20, is amended to read:

634.20 [EVIDENCE OF PRIOR CONDUCT.]

Evidence of similar prior conduct by the accused against the victim of domestic abuse, ~~as defined under section 518B.01, subdivision 2, including evidence of a violation against a family or household member of:~~

- (1) ~~an order for protection under section 518B.01;~~
- (2) ~~section 609.713, subdivision 1;~~
- (3) ~~a harassment restraining order under section 609.748; or~~
- (4) ~~section 609.79, subdivision 1;~~

or against other family or household members, is admissible unless the probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issue, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. "Similar prior conduct" includes, but is not limited to, evidence of domestic abuse, violation of an order for protection under section 518B.01; violation of a harassment restraining order under section 609.748; or violation of section 609.749 or 609.79, subdivision 1. "Domestic abuse" and "family or household members" have the meanings given under section 518B.01, subdivision 2.

Sec. 29. [EFFECTIVE DATES.]

Section 4 is effective the day following final enactment. Sections 6, 7, 21, 22, 23, 27, and 28 are effective August 1, 1999. Sections 8 to 20 and 26 are effective August 1, 1999, and apply to crimes committed on or after that date.

Delete the title and insert:

"A bill for an act relating to domestic abuse; requiring battered women programs to coordinate services with child protection agencies; authorizing service of short form notification in lieu of personal service for orders for protection; expanding the definition of first degree murder in situations involving domestic abuse; providing enhanced penalties based upon a previous conviction or adjudication for malicious punishment of a child and other laws; adding assault in the fifth degree and domestic assault to definition of "crimes of violence"; increasing the cash bail for individuals charged with malicious punishment of a child; clarifying when evidence of similar prior conduct of an accused related to domestic abuse is admissible; changing a definition in the law related to the order of disposition of issues on a court's calendar; providing criminal penalties; amending Minnesota Statutes 1998, sections 260.133, subdivisions 1 and 2; 260.191, subdivision 1b; 518B.01, subdivisions 5, 6, 8, and by adding subdivisions; 609.185; 609.224, subdivisions 2 and 4; 609.2242, subdivisions 2 and 4; 609.342, subdivision 3; 609.343, subdivision 3; 609.344, subdivision 3; 609.345, subdivision 3; 609.377; 609.749, subdivisions 3 and 4; 611A.32, subdivision 2; 611A.34, subdivision 3; 624.712, subdivision 5; 626.556, subdivision 2; 626.558, subdivision 1; 629.471, subdivision 3; 630.36; and 634.20."

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

The report was adopted.

Davids from the Committee on Commerce to which was referred:

H. F. No. 1106, A bill for an act relating to health; limiting use of health information secured as part of HIV vaccine research for insurance underwriting; amending Minnesota Statutes 1998, section 72A.20, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1998, section 72A.20, is amended by adding a subdivision to read:

Subd. 29a. [HIV TESTS; VACCINE RESEARCH.] (a) No insurer regulated under chapter 61A or 62B, or providing health, medical, hospitalization, or accident and sickness insurance regulated under chapter 62A, or nonprofit health services corporation regulated under chapter 62C, health maintenance organization regulated under chapter 62D, or fraternal benefit society regulated under chapter 64B, may make an underwriting decision, cancel, fail to renew, or take any other action with respect to a policy, plan, certificate, or contract based solely on a person's participation in a human immunodeficiency virus (HIV) vaccine clinical trial.

(b) If a test to determine the presence of the HIV antibody is performed at the insurer's direction, as part of the insurer's normal underwriting requirements or on any other basis, and an applicant or covered person is a participant or former participant in a vaccine clinical trial and tests positive for the HIV antibody in the insurer-directed test, the person shall disclose the person's status as a participant or former participant in a vaccine clinical trial and provide the insurance company with certification from the trial sponsor of the person's participation or former participation in the vaccine trial. Upon that notification, an insurer shall stay any adverse decision or refrain from making an underwriting decision to cancel, fail to renew, or take any other action based solely on the positive test result until the insurer obtains a confidential certificate from the sponsor of the trial verifying the person's HIV status. If the confidential certificate indicates that the person's HIV antibodies are a result of exposure to the vaccine and that the person does not have the HIV virus, the insurer shall ignore the presence of the HIV antibody in the insurer-directed test.

(c) This subdivision does not affect any tests to determine the presence of the HIV antibody, except as provided under paragraph (b).

(d) This subdivision does not apply to persons who are confirmed as having the HIV virus.

(e) For purposes of this subdivision, "vaccine clinical trial" means a clinical trial conducted by a sponsor under an investigational new drug application as provided by Code of Federal Regulations, title 21, section 312. "Sponsor" means the hospital, clinic, or health care professional that is conducting the vaccine clinical trial."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1109, A bill for an act relating to game and fish; requiring a fishing guide license on the St. Louis river estuary; amending Minnesota Statutes 1998, sections 97A.475, subdivision 15; and 97C.311, subdivision 1.

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

The report was adopted.

Larsen, P., from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 1290, A bill for an act relating to public administration; dealing with the impact of expansion of the Minneapolis-St. Paul International Airport; authorizing the establishment of airport impact zones and tax increment financing districts in the cities of Bloomington, Minneapolis, and Richfield; creating an airport impact fund in the state treasury; authorizing certain related activities by the Metropolitan Council.

Reported the same back with the following amendments:

Page 1, line 11, after the headnote insert paragraph coding

Page 1, line 20, delete "RESIGNATION" and insert "DESIGNATION"

Page 1, line 26, before "airport" insert "an" and delete "on"

Page 3, line 16, after the period, insert "Notwithstanding Minnesota Statutes, section 297A.44," and after "return" insert ", as provided in this section,"

Page 3, line 17, delete everything after "collected"

Page 3, delete lines 18 and 19 and insert "under this subdivision."

Page 4, line 32, after the period, insert "The money needed to make the payments to the cities under this paragraph is appropriated annually to the commissioner of revenue."

Page 5, line 34, after the headnote insert paragraph coding and delete "governing body"

Page 5, line 35, delete "of the"

Page 6, line 12, delete "areas" and insert "area"

Page 7, line 29, before "and" insert "relocation of existing single-family or multifamily housing."

Amend the title as follows:

Page 1, line 9, before the period, insert "; appropriating money"

With the recommendation that when so amended the bill be re-referred to the Committee on K-12 Education Finance without further recommendation.

The report was adopted.

Bishop from the Committee on Ways and Means to which was referred:

H. F. No. 1301, A bill for an act relating to natural resources; renaming a state park; adding to and deleting from state parks; authorizing a land exchange in a state park; transferring land from a state wayside to a state park and abolishing a state wayside; authorizing a private sale of surplus land in Rock county; amending Minnesota Statutes 1998, section 85.012, subdivision 19; proposing coding for new law in Minnesota Statutes, chapter 85; repealing Minnesota Statutes 1998, section 85.013, subdivision 8.

Reported the same back with the following amendments:

Page 4, line 29, after "FORESTVILLE" insert "MYSTERY CAVE"

Page 4, line 30, after "Forestville" insert "Mystery Cave"

Page 11, after line 33, insert:

"Sec. 7. [JOE ALEXANDER VISITOR'S CENTER AT GOOSEBERRY FALLS STATE PARK.]

The visitor's center at Gooseberry Falls state park is renamed the Joe Alexander Visitor's Center."

Page 11, line 34, delete "7" and insert "8"

Amend the title as follows:

Page 1, line 7, after the semicolon, insert "renaming the visitor's center at Gooseberry Falls state park;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Larsen, P., from the Committee on Local Government and Metropolitan Affairs to which was referred:

H. F. No. 1348, A bill for an act relating to municipalities; clarifying an exception to tort liability; amending Minnesota Statutes 1998, section 466.03, subdivision 4.

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

The report was adopted.

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

H. F. No. 1352, A bill for an act relating to children; authorizing counties to establish programs for alternative responses to child maltreatment reports; proposing coding for new law in Minnesota Statutes, chapter 626.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1  
CHILD SUPPORT

Section 1. Minnesota Statutes 1998, section 13.46, subdivision 2, is amended to read:

Subd. 2. [GENERAL.] (a) Unless the data is summary data or a statute specifically provides a different classification, data on individuals collected, maintained, used, or disseminated by the welfare system is private data on individuals, and shall not be disclosed except:

(1) according to section 13.05;

(2) according to court order;

(3) according to a statute specifically authorizing access to the private data;

(4) to an agent of the welfare system, including a law enforcement person, attorney, or investigator acting for it in the investigation or prosecution of a criminal or civil proceeding relating to the administration of a program;

(5) to personnel of the welfare system who require the data to determine eligibility, amount of assistance, and the need to provide services of additional programs to the individual;

(6) to administer federal funds or programs;

(7) between personnel of the welfare system working in the same program;

(8) the amounts of cash public assistance and relief paid to welfare recipients in this state, including their names, social security numbers, income, addresses, and other data as required, upon request by the department of revenue to administer the property tax refund law, supplemental housing allowance, early refund of refundable tax credits, and the income tax. "Refundable tax credits" means the dependent care credit under section 290.067, the Minnesota working family credit under section 290.0671, the property tax refund under section 290A.04, and, if the required federal waiver or waivers are granted, the federal earned income tax credit under section 32 of the Internal Revenue Code;

(9) between the department of human services and the Minnesota department of economic security for the purpose of monitoring the eligibility of the data subject for reemployment insurance, for any employment or training program administered, supervised, or certified by that agency, for the purpose of administering any rehabilitation program, whether alone or in conjunction with the welfare system, or to monitor and evaluate the statewide Minnesota family investment program by exchanging data on recipients and former recipients of food stamps, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;

(10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons;

(11) data maintained by residential programs as defined in section 245A.02 may be disclosed to the protection and advocacy system established in this state according to Part C of Public Law Number 98-527 to protect the legal and human rights of persons with mental retardation or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person;

(12) to the county medical examiner or the county coroner for identifying or locating relatives or friends of a deceased person;

(13) data on a child support obligor who makes payments to the public agency may be disclosed to the higher education services office to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5);

(14) participant social security numbers and names collected by the telephone assistance program may be disclosed to the department of revenue to conduct an electronic data match with the property tax refund database to determine eligibility under section 237.70, subdivision 4a;

(15) the current address of a recipient of aid to families with dependent children or Minnesota family investment program-statewide may be disclosed to law enforcement officers who provide the name of the recipient and notify the agency that:

(i) the recipient:

(A) is a fugitive felon fleeing to avoid prosecution, or custody or confinement after conviction, for a crime or attempt to commit a crime that is a felony under the laws of the jurisdiction from which the individual is fleeing; or

(B) is violating a condition of probation or parole imposed under state or federal law;

(ii) the location or apprehension of the felon is within the law enforcement officer's official duties; and

(iii) the request is made in writing and in the proper exercise of those duties;

(16) the current address of a recipient of general assistance or general assistance medical care may be disclosed to probation officers and corrections agents who are supervising the recipient and to law enforcement officers who are investigating the recipient in connection with a felony level offense;

(17) information obtained from food stamp applicant or recipient households may be disclosed to local, state, or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act, according to Code of Federal Regulations, title 7, section 272.1(c);

(18) the address, social security number, and, if available, photograph of any member of a household receiving food stamps shall be made available, on request, to a local, state, or federal law enforcement officer if the officer furnishes the agency with the name of the member and notifies the agency that:

(i) the member:

(A) is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime or attempt to commit a crime that is a felony in the jurisdiction the member is fleeing;

(B) is violating a condition of probation or parole imposed under state or federal law; or

(C) has information that is necessary for the officer to conduct an official duty related to conduct described in subitem (A) or (B);

(ii) locating or apprehending the member is within the officer's official duties; and

(iii) the request is made in writing and in the proper exercise of the officer's official duty;

(19) certain information regarding child support obligors who are in arrears may be made public according to section 518.575;

(20) data on child support payments made by a child support obligor and data on the distribution of those payments excluding identifying information on obligees may be disclosed to all obligees to whom the obligor owes support, and data on the enforcement actions undertaken by the public authority, the status of those actions, and data on the income of the obligor or obligee may be disclosed to the other party;

(21) data in the work reporting system may be disclosed under section 256.998, subdivision 7;

(22) to the department of children, families, and learning for the purpose of matching department of children, families, and learning student data with public assistance data to determine students eligible for free and reduced price meals, meal supplements, and free milk according to United States Code, title 42, sections 1758, 1761, 1766, 1766a, 1772, and 1773; to produce accurate numbers of students receiving aid to families with dependent children or Minnesota family investment program-statewide as required by section 126C.06; to allocate federal and state funds that are distributed based on income of the student's family; and to verify receipt of energy assistance for the telephone assistance plan;

(23) the current address and telephone number of program recipients and emergency contacts may be released to the commissioner of health or a local board of health as defined in section 145A.02, subdivision 2, when the commissioner or local board of health has reason to believe that a program recipient is a disease case, carrier, suspect case, or at risk of illness, and the data are necessary to locate the person;



(24) to other state agencies, statewide systems, and political subdivisions of this state, including the attorney general, and agencies of other states, interstate information networks, federal agencies, and other entities as required by federal regulation or law for the administration of the child support enforcement program;

(25) to personnel of public assistance programs as defined in section 256.741, for access to the child support system database for the purpose of administration, including monitoring and evaluation of those public assistance programs; ~~or~~

(26) to monitor and evaluate the statewide Minnesota family investment program by exchanging data between the departments of human services and children, families, and learning, on recipients and former recipients of food stamps, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L; or

(27) to evaluate child support program performance and to identify and prevent fraud in the child support program by exchanging data between the department of human services, department of revenue, department of health, department of economic security, and other state agencies as is reasonably necessary to perform these functions.

(b) Information on persons who have been treated for drug or alcohol abuse may only be disclosed according to the requirements of Code of Federal Regulations, title 42, sections 2.1 to 2.67.

(c) Data provided to law enforcement agencies under paragraph (a), clause (15), (16), (17), or (18), or paragraph (b), are investigative data and are confidential or protected nonpublic while the investigation is active. The data are private after the investigation becomes inactive under section 13.82, subdivision 5, paragraph (a) or (b).

(d) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but is not subject to the access provisions of subdivision 10, paragraph (b).

Sec. 2. Minnesota Statutes 1998, section 256.01, subdivision 2, is amended to read:

Subd. 2. [SPECIFIC POWERS.] Subject to the provisions of section 241.021, subdivision 2, the commissioner of human services shall:

(1) Administer and supervise all forms of public assistance provided for by state law and other welfare activities or services as are vested in the commissioner. Administration and supervision of human services activities or services includes, but is not limited to, assuring timely and accurate distribution of benefits, completeness of service, and quality program management. In addition to administering and supervising human services activities vested by law in the department, the commissioner shall have the authority to:

(a) require county agency participation in training and technical assistance programs to promote compliance with statutes, rules, federal laws, regulations, and policies governing human services;

(b) monitor, on an ongoing basis, the performance of county agencies in the operation and administration of human services, enforce compliance with statutes, rules, federal laws, regulations, and policies governing welfare services and promote excellence of administration and program operation;

(c) develop a quality control program or other monitoring program to review county performance and accuracy of benefit determinations;

(d) require county agencies to make an adjustment to the public assistance benefits issued to any individual consistent with federal law and regulation and state law and rule and to issue or recover benefits as appropriate;

(e) delay or deny payment of all or part of the state and federal share of benefits and administrative reimbursement according to the procedures set forth in section 256.017;

(f) make contracts with and grants to public and private agencies and organizations, both profit and nonprofit, and individuals, using appropriated funds; and

(g) enter into contractual agreements with federally recognized Indian tribes with a reservation in Minnesota to the extent necessary for the tribe to operate a federally approved family assistance program or any other program under the supervision of the commissioner. The commissioner shall consult with the affected county or counties in the contractual agreement negotiations, if the county or counties wish to be included, in order to avoid the duplication of county and tribal assistance program services. The commissioner may establish necessary accounts for the purposes of receiving and disbursing funds as necessary for the operation of the programs.

(2) Inform county agencies, on a timely basis, of changes in statute, rule, federal law, regulation, and policy necessary to county agency administration of the programs.

(3) Administer and supervise all child welfare activities; promote the enforcement of laws protecting handicapped, dependent, neglected and delinquent children, and children born to mothers who were not married to the children's fathers at the times of the conception nor at the births of the children; license and supervise child-caring and child-placing agencies and institutions; supervise the care of children in boarding and foster homes or in private institutions; and generally perform all functions relating to the field of child welfare now vested in the state board of control.

(4) Administer and supervise all noninstitutional service to handicapped persons, including those who are visually impaired, hearing impaired, or physically impaired or otherwise handicapped. The commissioner may provide and contract for the care and treatment of qualified indigent children in facilities other than those located and available at state hospitals when it is not feasible to provide the service in state hospitals.

(5) Assist and actively cooperate with other departments, agencies and institutions, local, state, and federal, by performing services in conformity with the purposes of Laws 1939, chapter 431.

(6) Act as the agent of and cooperate with the federal government in matters of mutual concern relative to and in conformity with the provisions of Laws 1939, chapter 431, including the administration of any federal funds granted to the state to aid in the performance of any functions of the commissioner as specified in Laws 1939, chapter 431, and including the promulgation of rules making uniformly available medical care benefits to all recipients of public assistance, at such times as the federal government increases its participation in assistance expenditures for medical care to recipients of public assistance, the cost thereof to be borne in the same proportion as are grants of aid to said recipients.

(7) Establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of the department.

(8) Act as designated guardian of both the estate and the person of all the wards of the state of Minnesota, whether by operation of law or by an order of court, without any further act or proceeding whatever, except as to persons committed as mentally retarded. For children under the guardianship of the commissioner whose interests would be best served by adoptive placement, the commissioner may contract with a licensed child-placing agency to provide adoption services. A contract with a licensed child-placing agency must be designed to supplement existing county efforts and may not replace existing county programs, unless the replacement is agreed to by the county board and the appropriate exclusive bargaining representative or the commissioner has evidence that child placements of the county continue to be substantially below that of other counties.

(9) Act as coordinating referral and informational center on requests for service for newly arrived immigrants coming to Minnesota.

(10) The specific enumeration of powers and duties as hereinabove set forth shall in no way be construed to be a limitation upon the general transfer of powers herein contained.

(11) Establish county, regional, or statewide schedules of maximum fees and charges which may be paid by county agencies for medical, dental, surgical, hospital, nursing and nursing home care and medicine and medical supplies under all programs of medical care provided by the state and for congregate living care under the income maintenance programs.

(12) Have the authority to conduct and administer experimental projects to test methods and procedures of administering assistance and services to recipients or potential recipients of public welfare. To carry out such experimental projects, it is further provided that the commissioner of human services is authorized to waive the enforcement of existing specific statutory program requirements, rules, and standards in one or more counties. The order establishing the waiver shall provide alternative methods and procedures of administration, shall not be in conflict with the basic purposes, coverage, or benefits provided by law, and in no event shall the duration of a project exceed four years. It is further provided that no order establishing an experimental project as authorized by the provisions of this section shall become effective until the following conditions have been met:

(a) The secretary of health, education, and welfare of the United States has agreed, for the same project, to waive state plan requirements relative to statewide uniformity.

(b) A comprehensive plan, including estimated project costs, shall be approved by the legislative advisory commission and filed with the commissioner of administration.

(13) According to federal requirements, establish procedures to be followed by local welfare boards in creating citizen advisory committees, including procedures for selection of committee members.

(14) Allocate federal fiscal disallowances or sanctions which are based on quality control error rates for the aid to families with dependent children, Minnesota family investment program-statewide, medical assistance, or food stamp program in the following manner:

(a) One-half of the total amount of the disallowance shall be borne by the county boards responsible for administering the programs. For the medical assistance, MFIP-S, and AFDC programs, disallowances shall be shared by each county board in the same proportion as that county's expenditures for the sanctioned program are to the total of all counties' expenditures for the AFDC, MFIP-S, and medical assistance programs. For the food stamp program, sanctions shall be shared by each county board, with 50 percent of the sanction being distributed to each county in the same proportion as that county's administrative costs for food stamps are to the total of all food stamp administrative costs for all counties, and 50 percent of the sanctions being distributed to each county in the same proportion as that county's value of food stamp benefits issued are to the total of all benefits issued for all counties. Each county shall pay its share of the disallowance to the state of Minnesota. When a county fails to pay the amount due hereunder, the commissioner may deduct the amount from reimbursement otherwise due the county, or the attorney general, upon the request of the commissioner, may institute civil action to recover the amount due.

(b) Notwithstanding the provisions of paragraph (a), if the disallowance results from knowing noncompliance by one or more counties with a specific program instruction, and that knowing noncompliance is a matter of official county board record, the commissioner may require payment or recover from the county or counties, in the manner prescribed in paragraph (a), an amount equal to the portion of the total disallowance which resulted from the noncompliance, and may distribute the balance of the disallowance according to paragraph (a).

(15) Develop and implement special projects that maximize reimbursements and result in the recovery of money to the state. For the purpose of recovering state money, the commissioner may enter into contracts with third parties. Any recoveries that result from projects or contracts entered into under this paragraph shall be deposited in the state treasury and credited to a special account until the balance in the account reaches \$1,000,000. When the balance in the account exceeds \$1,000,000, the excess shall be transferred and credited to the general fund. All money in the account is appropriated to the commissioner for the purposes of this paragraph.

(16) Have the authority to make direct payments to facilities providing shelter to women and their children according to section 256D.05, subdivision 3. Upon the written request of a shelter facility that has been denied payments under section 256D.05, subdivision 3, the commissioner shall review all relevant evidence and make a determination within 30 days of the request for review regarding issuance of direct payments to the shelter facility. Failure to act within 30 days shall be considered a determination not to issue direct payments.

(17) Have the authority to establish and enforce the following county reporting requirements:

(a) The commissioner shall establish fiscal and statistical reporting requirements necessary to account for the expenditure of funds allocated to counties for human services programs. When establishing financial and statistical reporting requirements, the commissioner shall evaluate all reports, in consultation with the counties, to determine if the reports can be simplified or the number of reports can be reduced.

(b) The county board shall submit monthly or quarterly reports to the department as required by the commissioner. Monthly reports are due no later than 15 working days after the end of the month. Quarterly reports are due no later than 30 calendar days after the end of the quarter, unless the commissioner determines that the deadline must be shortened to 20 calendar days to avoid jeopardizing compliance with federal deadlines or risking a loss of federal funding. Only reports that are complete, legible, and in the required format shall be accepted by the commissioner.

(c) If the required reports are not received by the deadlines established in clause (b), the commissioner may delay payments and withhold funds from the county board until the next reporting period. When the report is needed to account for the use of federal funds and the late report results in a reduction in federal funding, the commissioner shall withhold from the county boards with late reports an amount equal to the reduction in federal funding until full federal funding is received.

(d) A county board that submits reports that are late, illegible, incomplete, or not in the required format for two out of three consecutive reporting periods is considered noncompliant. When a county board is found to be noncompliant, the commissioner shall notify the county board of the reason the county board is considered noncompliant and request that the county board develop a corrective action plan stating how the county board plans to correct the problem. The corrective action plan must be submitted to the commissioner within 45 days after the date the county board received notice of noncompliance.

(e) The final deadline for fiscal reports or amendments to fiscal reports is one year after the date the report was originally due. If the commissioner does not receive a report by the final deadline, the county board forfeits the funding associated with the report for that reporting period and the county board must repay any funds associated with the report received for that reporting period.

(f) The commissioner may not delay payments, withhold funds, or require repayment under paragraph (c) or (e) if the county demonstrates that the commissioner failed to provide appropriate forms, guidelines, and technical assistance to enable the county to comply with the requirements. If the county board disagrees with an action taken by the commissioner under paragraph (c) or (e), the county board may appeal the action according to sections 14.57 to 14.69.

(g) Counties subject to withholding of funds under paragraph (c) or forfeiture or repayment of funds under paragraph (e) shall not reduce or withhold benefits or services to clients to cover costs incurred due to actions taken by the commissioner under paragraph (c) or (e).

(18) Allocate federal fiscal disallowances or sanctions for audit exceptions when federal fiscal disallowances or sanctions are based on a statewide random sample for the foster care program under title IV-E of the Social Security Act, United States Code, title 42, in direct proportion to each county's title IV-E foster care maintenance claim for that period.

(19) Be responsible for ensuring the detection, prevention, investigation, and resolution of fraudulent activities or behavior by applicants, recipients, and other participants in the human services programs administered by the department.

(20) Require county agencies to identify overpayments, establish claims, and utilize all available and cost-beneficial methodologies to collect and recover these overpayments in the human services programs administered by the department.

(21) Have the authority to administer a drug rebate program for drugs purchased pursuant to the senior citizen drug program established under section 256.955 after the beneficiary's satisfaction of any deductible established in the program. The commissioner shall require a rebate agreement from all manufacturers of covered drugs as defined in section 256B.0625, subdivision 13. For each drug, the amount of the rebate shall be equal to the basic rebate as defined for purposes of the federal rebate program in United States Code, title 42, section 1396r-8(c)(1). This basic rebate shall be applied to single-source and multiple-source drugs. The manufacturers must provide full payment within 30 days of receipt of the state invoice for the rebate within the terms and conditions used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act. The manufacturers must provide the commissioner with any information necessary to verify the rebate determined per drug. The rebate program shall utilize the terms and conditions used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act.

(22) Have the authority to make rules to distribute to county child support agencies federal incentive funds and state funds distributed to county agencies pursuant to sections 256.979, 256.9791, and 518.5511. The rules may allow the commissioner to retain funds to effectively administer the child support program.

Sec. 3. Minnesota Statutes 1998, section 256.87, subdivision 1a, is amended to read:

Subd. 1a. [CONTINUING SUPPORT CONTRIBUTIONS.] In addition to granting the county or state agency a money judgment, the court may, upon a motion or order to show cause, order continuing support contributions by a parent found able to reimburse the county or state agency. The order shall be effective for the period of time during which the recipient receives public assistance from any county or state agency and thereafter. The order shall require support according to chapter 518 and include the names and social security numbers of the father, mother, and the child or children. An order for continuing contributions is reinstated without further hearing upon notice to the parent by any county or state agency that public assistance, as defined in section 256.741, is again being provided for the child of the parent. The notice shall be in writing and shall indicate that the parent may request a hearing for modification of the amount of support or maintenance.

Sec. 4. Minnesota Statutes 1998, section 256.978, subdivision 1, is amended to read:

Subdivision 1. [REQUEST FOR INFORMATION.] (a) The public authority responsible for child support in this state or any other state, in order to locate a person or to obtain information necessary to establish paternity and child support or to modify or enforce child support or distribute collections, may request information reasonably necessary to the inquiry from the records of (1) all departments, boards, bureaus, or other agencies of this state, which shall, notwithstanding the provisions of section 268.19 or any other law to the contrary, provide the information necessary for this purpose; and (2) employers, utility companies, insurance companies, financial institutions, credit grantors, and labor associations doing business in this state. ~~They shall provide information as provided under subdivision 2 a response upon written or electronic request by an agency responsible for child support enforcement regarding individuals owing or allegedly owing a duty to support~~ within 30 days of service of the request made by the public authority. Information requested and used or transmitted by the commissioner according to the authority conferred by this section may be made available to other agencies, statewide systems, and political subdivisions of this state, and agencies of other states, interstate information networks, federal agencies, and other entities as required by federal regulation or law for the administration of the child support enforcement program.

(b) For purposes of this section, "state" includes the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

Sec. 5. Minnesota Statutes 1998, section 257.62, subdivision 5, is amended to read:

Subd. 5. [POSITIVE TEST RESULTS.] (a) If the results of blood or genetic tests completed in a laboratory accredited by the American Association of Blood Banks indicate that the likelihood of the alleged father's paternity, calculated with a prior probability of no more than 0.5 (50 percent), is 92 percent or greater, upon motion the court

shall order the alleged father to pay temporary child support determined according to chapter 518. The alleged father shall pay the support money to the public authority if the public authority is a party and is providing services to the parties or, if not, into court pursuant to the rules of civil procedure to await the results of the paternity proceedings.

(b) If the results of blood or genetic tests completed in a laboratory accredited by the American Association of Blood Banks indicate that likelihood of the alleged father's paternity, calculated with a prior probability of no more than 0.5 (50 percent), is 99 percent or greater, the alleged father is presumed to be the parent and the party opposing the establishment of the alleged father's paternity has the burden of proving by clear and convincing evidence that the alleged father is not the father of the child.

Sec. 6. Minnesota Statutes 1998, section 257.75, subdivision 2, is amended to read:

Subd. 2. [REVOCAION OF RECOGNITION.] A recognition may be revoked in a writing signed by the mother or father before a notary public and filed with the state registrar of vital statistics within the earlier of ~~30~~ 60 days after the recognition is executed or the date of an administrative or judicial hearing relating to the child in which the revoking party is a party to the related action. A joinder in a recognition may be revoked in a writing signed by the man who executed the joinder and filed with the state registrar of vital statistics within ~~30~~ 60 days after the joinder is executed. Upon receipt of a revocation of the recognition of parentage or joinder in a recognition, the state registrar of vital statistics shall forward a copy of the revocation to the nonrevoking parent, or, in the case of a joinder in a recognition, to the mother and father who executed the recognition.

Sec. 7. Minnesota Statutes 1998, section 518.10, is amended to read:

518.10 [REQUISITES OF PETITION.]

The petition for dissolution of marriage or legal separation shall state and allege:

(a) the name, address, and, in circumstances in which child support or spousal maintenance will be addressed, social security number of the petitioner and any prior or other name used by the petitioner;

(b) the name and, if known, the address and, in circumstances in which child support or spousal maintenance will be addressed, social security number of the respondent and any prior or other name used by the respondent and known to the petitioner;

(c) the place and date of the marriage of the parties;

(d) in the case of a petition for dissolution, that either the petitioner or the respondent or both:

(1) has resided in this state for not less than 180 days immediately preceding the commencement of the proceeding, or

(2) has been a member of the armed services and has been stationed in this state for not less than 180 days immediately preceding the commencement of the proceeding, or

(3) has been a domiciliary of this state for not less than 180 days immediately preceding the commencement of the proceeding;

(e) the name at the time of the petition and any prior or other name, social security number, age and date of birth of each living minor or dependent child of the parties born before the marriage or born or adopted during the marriage and a reference to, and the expected date of birth of, a child of the parties conceived during the marriage but not born;

(f) whether or not a separate proceeding for dissolution, legal separation, or custody is pending in a court in this state or elsewhere;

(g) in the case of a petition for dissolution, that there has been an irretrievable breakdown of the marriage relationship;

(h) in the case of a petition for legal separation, that there is a need for a decree of legal separation;

(i) any temporary or permanent maintenance, child support, child custody, disposition of property, attorneys' fees, costs and disbursements applied for without setting forth the amounts; and

(j) whether an order for protection under chapter 518B or a similar law of another state that governs the parties or a party and a minor child of the parties is in effect and, if so, the district court or similar jurisdiction in which it was entered.

The petition shall be verified by the petitioner or petitioners, and its allegations established by competent evidence.

Sec. 8. [518.146] [SOCIAL SECURITY NUMBERS; TAX RETURNS; IDENTITY PROTECTION.]

The social security numbers and tax returns required under this chapter are private data, except that they must be disclosed to the other parties to a proceeding.

Sec. 9. Minnesota Statutes 1998, section 518.551, is amended by adding a subdivision to read:

Subd. 15. [LICENSE SUSPENSION.] (a) Upon motion of an obligee or the public authority, which has been properly served on the obligor by first class mail at the last known address or in person, and if at a hearing, the court or an administrative law judge finds (1) the obligor is in arrears in court-ordered child support or maintenance payments, or both, in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments and is not in compliance with a written payment agreement regarding both current support and arrearages, or (2) has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding, the court or administrative law judge may direct the commissioner of natural resources to suspend or bar receipt of the obligor's recreational license or licenses.

(b) For the purposes of this subdivision, a recreational license includes all licenses, permits, and stamps issued centrally by the commissioner of natural resources under sections 97B.301, 97B.401, 97B.501, 97B.515, 97B.601, 97B.715, 97B.721, 97B.801, 97C.301, and 97C.305.

(c) An obligor whose recreational license or licenses have been suspended or barred may provide proof to the court or administrative law judge that the obligor is in compliance with all written payment agreements regarding both current support and arrearages. Within 15 days of receipt of that proof, the court or administrative law judge may notify the commissioner of natural resources that the obligor's recreational license or licenses should no longer be suspended nor should receipt be barred.

Sec. 10. Minnesota Statutes 1998, section 518.57, subdivision 3, is amended to read:

Subd. 3. [SATISFACTION OF CHILD SUPPORT OBLIGATION.] The court ~~may~~ must conclude that an obligor has satisfied a child support obligation by providing a home, care, and support for the child while the child is living with the obligor, if the court finds that the child was integrated into the family of the obligor with the consent or acquiescence of the obligee and child support payments were not assigned to the public agency under section 256.74.

Sec. 11. Minnesota Statutes 1998, section 518.5851, is amended by adding a subdivision to read:

Subd. 6. [CREDITOR COLLECTIONS.] The central collections unit under this section is not a third party under chapters 550, 552, and 571 for purposes of creditor collection efforts against child support and maintenance order obligors or obligees, and shall not be subject to creditor levy, attachment, or garnishment.

Sec. 12. Minnesota Statutes 1998, section 518.5853, is amended by adding a subdivision to read:

Subd. 11. [COLLECTIONS UNIT RECOUPMENT ACCOUNT.] The commissioner of human services may establish a revolving account to cover funds issued in error due to insufficient funds or other reasons. Appropriations for this purpose and all recoupments against payments from the account shall be deposited in the collections unit's recoupment account and are appropriated to the commissioner. Any unexpended balance in the account does not cancel, but is available until expended.

Sec. 13. Minnesota Statutes 1998, section 518.64, subdivision 2, is amended to read:

Subd. 2. [MODIFICATION.] (a) The terms of an order respecting maintenance or support may be modified upon a showing of one or more of the following: (1) substantially increased or decreased earnings of a party; (2) substantially increased or decreased need of a party or the child or children that are the subject of these proceedings; (3) receipt of assistance under sections 256.72 to 256.87 or 256B.01 to 256B.40; (4) a change in the cost of living for either party as measured by the federal bureau of statistics, any of which makes the terms unreasonable and unfair; (5) extraordinary medical expenses of the child not provided for under section 518.171; or (6) the addition of work-related or education-related child care expenses of the obligee or a substantial increase or decrease in existing work-related or education-related child care expenses.

On a motion to modify support, the needs of any child the obligor has after the entry of the support order that is the subject of a modification motion shall be considered as provided by section 518.551, subdivision 5f.

(b) It is presumed that there has been a substantial change in circumstances under paragraph (a) and the terms of a current support order shall be rebuttably presumed to be unreasonable and unfair if:

(1) the application of the child support guidelines in section 518.551, subdivision 5, to the current circumstances of the parties results in a calculated court order that is at least 20 percent and at least \$50 per month higher or lower than the current support order;

(2) the medical support provisions of the order established under section 518.171 are not enforceable by the public authority or the custodial parent;

(3) health coverage ordered under section 518.171 is not available to the child for whom the order is established by the parent ordered to provide; or

(4) the existing support obligation is in the form of a statement of percentage and not a specific dollar amount.

(c) On a motion for modification of maintenance, including a motion for the extension of the duration of a maintenance award, the court shall apply, in addition to all other relevant factors, the factors for an award of maintenance under section 518.552 that exist at the time of the motion. On a motion for modification of support, the court:

(1) shall apply section 518.551, subdivision 5, and shall not consider the financial circumstances of each party's spouse, if any; and

(2) shall not consider compensation received by a party for employment in excess of a 40-hour work week, provided that the party demonstrates, and the court finds, that:

(i) the excess employment began after entry of the existing support order;

(ii) the excess employment is voluntary and not a condition of employment;

(iii) the excess employment is in the nature of additional, part-time employment, or overtime employment compensable by the hour or fractions of an hour;



(iv) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation;

(v) in the case of an obligor, current child support payments are at least equal to the guidelines amount based on income not excluded under this clause; and

(vi) in the case of an obligor who is in arrears in child support payments to the obligee, any net income from excess employment must be used to pay the arrearages until the arrearages are paid in full.

(d) A modification of support or maintenance, including interest that accrued pursuant to section 548.091, may be made retroactive only with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion on the responding party and on the public authority if public assistance is being furnished or the county attorney is the attorney of record. However, modification may be applied to an earlier period if the court makes express findings that:

(1) the party seeking modification was precluded from serving a motion by reason of a significant physical or mental disability, a material misrepresentation of another party, or fraud upon the court and that the party seeking modification, when no longer precluded, promptly served a motion;

(2) the party seeking modification was a recipient of federal Supplemental Security Income (SSI), Title II Older Americans, Survivor's Disability Insurance (OASDI), other disability benefits, or public assistance based upon need during the period for which retroactive modification is sought; or

(3) the order for which the party seeks amendment was entered by default, the party shows good cause for not appearing, and the record contains no factual evidence, or clearly erroneous evidence regarding the individual obligor's ability to pay.

The court may provide that a reduction in the amount allocated for child care expenses based on a substantial decrease in the expenses is effective as of the date the expenses decreased.

(e) Except for an award of the right of occupancy of the homestead, provided in section 518.63, all divisions of real and personal property provided by section 518.58 shall be final, and may be revoked or modified only where the court finds the existence of conditions that justify reopening a judgment under the laws of this state, including motions under section 518.145, subdivision 2. The court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support money, or may sequester the property as is provided by section 518.24.

(f) The court need not hold an evidentiary hearing on a motion for modification of maintenance or support.

(g) Section 518.14 shall govern the award of attorney fees for motions brought under this subdivision.

Sec. 14. Minnesota Statutes 1998, section 548.09, subdivision 1, is amended to read:

Subdivision 1. [ENTRY AND DOCKETING; SURVIVAL OF JUDGMENT.] Except as provided in section 548.091, every judgment requiring the payment of money shall be ~~docketed~~ entered by the court administrator ~~upon its entry when ordered by the court and will be docketed by the court administrator upon the filing of an affidavit as provided in subdivision 2.~~ upon the filing of an affidavit as provided in subdivision 2. Upon a transcript of the docket being filed with the court administrator in any other county, the court administrator shall also docket it. From the time of docketing the judgment is a lien, in the amount unpaid, upon all real property in the county then or thereafter owned by the judgment debtor, but it is not a lien upon registered land unless it is also filed pursuant to sections 508.63 and 508A.63. The judgment survives, and the lien continues, for ten years after its entry. Child support judgments may be renewed ~~by service of notice upon the debtor. Service shall be by certified mail at the last known address of the debtor or in the manner provided for the service of civil process. Upon the filing of the notice and proof of service the court administrator shall renew the judgment for child support without any additional filing fee~~ pursuant to section 548.091.

Sec. 15. Minnesota Statutes 1998, section 548.091, subdivision 1, is amended to read:

Subdivision 1. [ENTRY AND DOCKETING OF MAINTENANCE JUDGMENT.] (a) A judgment for unpaid amounts under a judgment or decree of dissolution or legal separation that provides for installment or periodic payments of maintenance shall be entered ~~and docketed~~ by the court administrator ~~only~~ when ordered by the court or shall be entered and docketed by the court administrator when the following conditions are met:

(a) (1) the obligee determines that the obligor is at least 30 days in arrears;

(b) (2) the obligee serves a copy of an affidavit of default and notice of intent to enter and docket judgment on the obligor by first class mail at the obligor's last known post office address. Service shall be deemed complete upon mailing in the manner designated. The affidavit shall state the full name, occupation, place of residence, and last known post office address of the obligor, the name and post office address of the obligee, the date of the first unpaid amount, the date of the last unpaid amount, and the total amount unpaid;

(c) (3) the obligor fails within 20 days after mailing of the notice either to pay all unpaid amounts or to request a hearing on the issue of whether arrears claimed owing have been paid and to seek, ex parte, a stay of entry of judgment; and

(d) (4) not less than 20 days after service on the obligor in the manner provided, the obligee files with the court administrator the affidavit of default together with proof of service and, if payments have been received by the obligee since execution of the affidavit of default, a supplemental affidavit setting forth the amount of payment received and the amount for which judgment is to be entered and docketed.

(b) A judgment entered and docketed under this subdivision has the same effect and is subject to the same procedures, defenses, and proceedings as any other judgment in district court, and may be enforced or satisfied in the same manner as judgments under section 548.09.

(c) An obligor whose property is subject to the lien of a judgment for installment of periodic payments of maintenance under section 548.09, and who claims that no amount of maintenance is in arrears, may move the court ex parte for an order directing the court administrator to vacate the lien of the judgment on the docket and register of the action where it was entered. The obligor shall file with the motion an affidavit stating:

(1) the lien attached upon the docketing of a judgment or decree of dissolution or separate maintenance;

(2) the docket was made while no installment or periodic payment of maintenance was unpaid or overdue; and

(3) no installment or periodic payment of maintenance that was due prior to the filing of the motion remains unpaid or overdue.

The court shall grant the obligor's motion as soon as possible if the pleadings and affidavit show that there is and has been no default.

Sec. 16. Minnesota Statutes 1998, section 548.091, subdivision 1a, is amended to read:

Subd. 1a. [CHILD SUPPORT JUDGMENT BY OPERATION OF LAW.] (a) Any payment or installment of support required by a judgment or decree of dissolution or legal separation, determination of parentage, an order under chapter 518C, an order under section 256.87, or an order under section 260.251, that is not paid or withheld from the obligor's income as required under section 518.6111, or which is ordered as child support by judgment, decree, or order by a court in any other state, is a judgment by operation of law on and after the date it is due ~~and~~, is entitled to full faith and credit in this state and any other state, and shall be entered and docketed by the court administrator on the filing of affidavits as provided in subdivision 2a. Except as otherwise provided by paragraph (b), interest accrues from the date the unpaid amount due is greater than the current support due at the annual rate provided in section 549.09, subdivision 1, plus two percent, not to exceed an annual rate of 18 percent. A payment

or installment of support that becomes a judgment by operation of law between the date on which a party served notice of a motion for modification under section 518.64, subdivision 2, and the date of the court's order on modification may be modified under that subdivision.

(b) Notwithstanding the provisions of section 549.09, upon motion to the court and upon proof by the obligor of 36 consecutive months of complete and timely payments of both current support and court-ordered paybacks of a child support debt or arrearage, the court may order interest on the remaining debt or arrearage to stop accruing. Timely payments are those made in the month in which they are due. If, after that time, the obligor fails to make complete and timely payments of both current support and court-ordered paybacks of child support debt or arrearage, the public authority or the obligee may move the court for the reinstatement of interest as of the month in which the obligor ceased making complete and timely payments.

The court shall provide copies of all orders issued under this section to the public authority. The commissioner of human services shall prepare and make available to the court and the parties forms to be submitted by the parties in support of a motion under this paragraph.

(c) Notwithstanding the provisions of section 549.09, upon motion to the court, the court may order interest on a child support debt to stop accruing where the court finds that the obligor is:

(1) unable to pay support because of a significant physical or mental disability; or

(2) a recipient of Supplemental Security Income (SSI), Title II Older Americans Survivor's Disability Insurance (OASDI), other disability benefits, or public assistance based upon need.

Sec. 17. Minnesota Statutes 1998, section 548.091, subdivision 2a, is amended to read:

Subd. 2a. [ENTRY AND DOCKETING OF CHILD SUPPORT JUDGMENT.] (a) On or after the date an unpaid amount becomes a judgment by operation of law under subdivision 1a, the obligee or the public authority may file with the court administrator, ~~either electronically or by other means:~~

(1) a statement identifying, or a copy of, the judgment or decree of dissolution or legal separation, determination of parentage, order under chapter 518B or 518C, an order under section 256.87, an order under section 260.251, or judgment, decree, or order for child support by a court in any other state, which provides for periodic installments of child support, or a judgment or notice of attorney fees and collection costs under section 518.14, subdivision 2;

(2) an affidavit of default. The affidavit of default must state the full name, occupation, place of residence, and last known post office address of the obligor, the name and post office address of the obligee, the date or dates payment was due and not received and judgment was obtained by operation of law, the total amount of the judgments ~~to the date of filing, and the amount and frequency of the periodic installments of child support that will continue to become due and payable subsequent to the date of filing~~ be entered and docketed; and

(3) an affidavit of service of a notice of intent to enter and docket judgment and to recover attorney fees and collection costs on the obligor, in person or by first class mail at the obligor's last known post office address. Service is completed upon mailing in the manner designated. Where applicable, a notice of interstate lien in the form promulgated under United States Code, title 42, section 652(a), is sufficient to satisfy the requirements of clauses (1) and (2).

(b) A judgment entered and docketed under this subdivision has the same effect and is subject to the same procedures, defenses, and proceedings as any other judgment in district court, and may be enforced or satisfied in the same manner as judgments under section 548.09, except as otherwise provided.

Sec. 18. Minnesota Statutes 1998, section 548.091, subdivision 3a, is amended to read:

Subd. 3a. [ENTRY, DOCKETING, AND SURVIVAL OF CHILD SUPPORT JUDGMENT.] Upon receipt of the documents filed under subdivision 2a, the court administrator shall enter and docket the judgment in the amount of the unpaid obligation identified in the affidavit of default, ~~and note the amount and frequency of the periodic~~

installments of child support that will continue to become due and payable after the date of docketing. From the time of docketing, the judgment is a lien upon all the real property in the county owned by the judgment debtor, but it is not a lien on registered land unless the obligee or the public authority causes a notice of judgment lien or certified copy of the judgment to be memorialized on the certificate of title or certificate of possessory title under section 508.63 or 508A.63. The judgment survives and the lien continues for ten years after the date the judgment was docketed.

Subd. 3b. [CHILD SUPPORT JUDGMENT ADMINISTRATIVE RENEWALS.] Child support judgments may be renewed by service of notice upon the debtor. Service ~~shall~~ must be by ~~certified first class~~ mail at the last known address of the debtor, with service deemed complete upon mailing in the manner designated, or in the manner provided for the service of civil process. Upon the filing of the notice and proof of service, the court administrator shall administratively renew the judgment for child support without any additional filing fee in the same court file as the original child support judgment. The judgment must be renewed in an amount equal to the unpaid principle plus the accrued unpaid interest. Child support judgments may be renewed multiple times until paid.

Sec. 19. Minnesota Statutes 1998, section 548.091, subdivision 4, is amended to read:

Subd. 4. [CHILD SUPPORT HEARING.] A child support obligor may request a hearing under the rules of civil procedure on the issue of whether the judgment amount or amounts have been paid and may move the court for an order directing the court administrator to vacate or modify the judgment or judgments ~~on the docket and register in any county or other jurisdiction in which judgment or judgments were~~ entered pursuant to this action.

The court shall grant the obligor's motion if it determines that there is no default.

Sec. 20. Minnesota Statutes 1998, section 548.091, is amended by adding a subdivision to read:

Subd. 5a. [ADDITIONAL CHILD SUPPORT JUDGMENTS.] As child support payments continue to become due and are unpaid, additional judgments may be entered and docketed by following the procedures in subdivision 1a. Each judgment entered and docketed for unpaid child support payments must be treated as a distinct judgment for purposes of enforcement and satisfaction.

Sec. 21. Minnesota Statutes 1998, section 548.091, subdivision 10, is amended to read:

Subd. 10. [RELEASE OF LIEN.] Upon payment of the amount due ~~under subdivision 5,~~ the public authority shall execute and deliver a satisfaction of the judgment lien within five business days.

Sec. 22. Minnesota Statutes 1998, section 548.091, subdivision 11, is amended to read:

Subd. 11. [SPECIAL PROCEDURES.] The public authority shall negotiate a release of lien on specific property for less than the full amount due where the proceeds of a sale or financing, less reasonable and necessary closing expenses, are not sufficient to satisfy all encumbrances on the liened property. Partial releases do not release the obligor's personal liability for the amount unpaid. A partial satisfaction for the amount received must be filed with the court administrator.

Sec. 23. Minnesota Statutes 1998, section 548.091, subdivision 12, is amended to read:

Subd. 12. [CORRECTING ERRORS.] The public authority shall maintain a process to review the identity of the obligor and to issue releases of lien in cases of misidentification. The public authority shall maintain a process to review the amount of child support ~~determined to be delinquent and to issue amended notices of judgment lien in cases of incorrectly docketed~~ judgments arising by operation of law. The public authority may move the court for an order to amend the judgment when the amount of judgment entered and docketed is incorrect.

Sec. 24. Minnesota Statutes 1998, section 552.05, subdivision 10, is amended to read:

Subd. 10. [FORMS.] ~~The commissioner of human services shall develop statutory forms for use as required under this chapter. In developing these forms, the commissioner shall consult with the attorney general, representatives of financial institutions, and legal services. The commissioner shall report back to the legislature by February 1, 1998, with recommended forms to be included in this chapter. The supreme court is requested to develop forms for use in proceedings under this chapter.~~

Sec. 25. Laws 1995, chapter 257, article 1, section 35, subdivision 1, is amended to read:

Subdivision 1. [CHILD SUPPORT ASSURANCE.] ~~The commissioner of human services shall seek a waiver from the secretary of the United States Department of Health and Human Services to enable the department of human services to operate a demonstration project of child support assurance. The commissioner shall seek authority from the legislature to implement a demonstration project of child support assurance when enhanced federal funds become available for this purpose. The department of human services shall continue to plan a demonstration project of child support assurance by administering the grant awarded under the federal program entitled "Developing a Plan for a Child Support Assurance Program."~~

Sec. 26. [REPEALER.]

Minnesota Statutes 1998, sections 256.979; and 256.9791, are repealed as of the date that rules promulgated pursuant to Minnesota Statutes, section 256.01, subdivision 2, paragraph (22), become effective. Minnesota Statutes 1998, section 548.091, subdivisions 3, 5, and 6, are repealed.

## ARTICLE 2

### CHILD PROTECTION

Section 1. Minnesota Statutes 1998, section 260.015, subdivision 2a, is amended to read:

Subd. 2a. [CHILD IN NEED OF PROTECTION OR SERVICES.] "Child in need of protection or services" means a child who is in need of protection or services because the child:

(1) is abandoned or without parent, guardian, or custodian;

(2)(i) has been a victim of physical or sexual abuse, (ii) resides with or has resided with a victim of domestic child abuse as defined in subdivision 24, (iii) resides with or would reside with a perpetrator of domestic child abuse or child abuse as defined in subdivision 28, or (iv) is a victim of emotional maltreatment as defined in subdivision 5a;

(3) is without necessary food, clothing, shelter, education, or other required care for the child's physical or mental health or morals because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(4) is without the special care made necessary by a physical, mental, or emotional condition because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(5) is medically neglected, which includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life-threatening condition. The term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include the failure to provide treatment other than appropriate nutrition, hydration, or medication to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; or

(iii) the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane;

(6) is one whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody;

(7) has been placed for adoption or care in violation of law;

(8) is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the child's parent, guardian, or other custodian;

(9) is one whose behavior, condition, or environment is such as to be injurious or dangerous to the child or others. An injurious or dangerous environment may include, but is not limited to, the exposure of a child to criminal activity in the child's home;

(10) is experiencing growth delays, which may be referred to as failure to thrive, that have been diagnosed by a physician and are due to parental neglect;

(11) has engaged in prostitution as defined in section 609.321, subdivision 9;

(12) has committed a delinquent act or a juvenile petty offense before becoming ten years old;

(13) is a runaway;

(14) is an habitual truant;

(15) has been found incompetent to proceed or has been found not guilty by reason of mental illness or mental deficiency in connection with a delinquency proceeding, a certification under section 260.125, an extended jurisdiction juvenile prosecution, or a proceeding involving a juvenile petty offense;

(16) is one whose custodial parent's parental rights to another child have been involuntarily terminated within the past five years; or

(17) has been found by the court to have committed domestic abuse perpetrated by a minor under Laws 1997, chapter 239, article 10, sections 2 to 26, has been ordered excluded from the child's parent's home by an order for protection/minor respondent, and the parent or guardian is either unwilling or unable to provide an alternative safe living arrangement for the child; or

(18) has a sibling who has been the subject of a determination that protective services were needed, and has a caregiver who has failed to help develop or comply with a protective services case plan.

Sec. 2. Minnesota Statutes 1998, section 260.015, subdivision 28, is amended to read:

Subd. 28. [CHILD ABUSE.] "Child abuse" means domestic child abuse as defined in subdivision 24 or an act that involves a minor victim and that constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.2242, 609.322, 609.324, 609.342, 609.343, 609.344, 609.345, 609.377, 609.378, or 617.246.

Sec. 3. Minnesota Statutes 1998, section 260.133, subdivision 2, is amended to read:

Subd. 2. [TEMPORARY ORDER.] If it appears from the notarized petition or by sworn affidavit that there are reasonable grounds to believe the child is in immediate and present danger of domestic child abuse, the court may

grant an ex parte temporary order for protection, pending a full hearing. The court may grant relief as it deems proper, including an order:

- (1) restraining any party from committing acts of domestic child abuse; or
- (2) excluding the alleged abusing party from the dwelling which the family or household members share or from the residence of the child.

However, no order excluding the alleged abusing party from the dwelling may be issued unless the court finds that:

- ~~(1) the order is in the best interests of the child or children remaining in the dwelling; and~~
- ~~(2) a remaining adult family or household member is able to care adequately for the child or children in the absence of the excluded party.~~

Before the temporary order is issued, the local welfare agency shall advise the court and the other parties who are present that appropriate social services will be provided to the family or household members during the effective period of the order.

An ex parte temporary order for protection shall be effective ~~for a fixed period not to exceed 14 days~~ until a hearing is held on a petition under section 260.131. Within five days of the issuance of the temporary order, the petitioner shall file a petition with the court pursuant to section 260.131, alleging that the child is in need of protection or services and the court shall give docket priority to the petition. The contents of the petition shall consist of the contents of the affidavit required under subdivision 1.

~~The court may renew the temporary order for protection one time for a fixed period not to exceed 14 days if a petition alleging that the child is in need of protection or services has been filed with the court and if the court determines, upon informal review of the case file, that the renewal is appropriate.~~

Sec. 4. Minnesota Statutes 1998, section 260.155, subdivision 4, is amended to read:

Subd. 4. [GUARDIAN AD LITEM.] (a) The court shall appoint a guardian ad litem to protect the interests of the minor when it appears, at any stage of the proceedings, that the minor is without a parent or guardian, or that the minor's parent is a minor or incompetent, or that the parent or guardian is indifferent or hostile to the minor's interests, and in every proceeding alleging a child's need for protection or services under section 260.015, subdivision 2a. In any other case the court may appoint a guardian ad litem to protect the interests of the minor when the court feels that such an appointment is desirable. The court shall appoint the guardian ad litem on its own motion or in the manner provided for the appointment of a guardian ad litem in the district court. The court may appoint separate counsel for the guardian ad litem if necessary.

(b) A guardian ad litem shall carry out the following responsibilities:

- (1) conduct an independent investigation to determine the facts relevant to the situation of the child and the family, which must include, unless specifically excluded by the court, reviewing relevant documents; meeting with and observing the child in the home setting and considering the child's wishes, as appropriate; and interviewing parents, caregivers, and others with knowledge relevant to the case;

- (2) advocate for the child's best interests by participating in appropriate aspects of the case and advocating for appropriate community services when necessary;

- (3) maintain the confidentiality of information related to a case, with the exception of sharing information as permitted by law to promote cooperative solutions that are in the best interests of the child;

- (4) monitor the child's best interests throughout the judicial proceeding; and

(5) present written reports on the child's best interests that include conclusions and recommendations and the facts upon which they are based.

(c) Except in cases where the child is alleged to have been abused or neglected, the court may waive the appointment of a guardian ad litem pursuant to clause (a), whenever counsel has been appointed pursuant to subdivision 2 or is retained otherwise, and the court is satisfied that the interests of the minor are protected.

(d) In appointing a guardian ad litem pursuant to clause (a), the court shall not appoint the party, or any agent or employee thereof, filing a petition pursuant to section 260.131.

(e) The following factors shall be considered when appointing a guardian ad litem in a case involving an Indian or minority child:

(1) whether a person is available who is the same racial or ethnic heritage as the child or, if that is not possible;

(2) whether a person is available who knows and appreciates the child's racial or ethnic heritage.

Sec. 5. Minnesota Statutes 1998, section 260.155, subdivision 8, is amended to read:

Subd. 8. [WAIVER.] (a) Waiver of any right which a child has under this chapter must be an express waiver voluntarily and intelligently made by the child after the child has been fully and effectively informed of the right being waived. ~~If a child is not represented by counsel, any waiver must be given or any objection must be offered by the child's guardian ad litem.~~

(b) Waiver of a child's right to be represented by counsel provided under the juvenile court rules must be an express waiver voluntarily and intelligently made by the child after the child has been fully and effectively informed of the right being waived. In determining whether a child has voluntarily and intelligently waived the right to counsel, the court shall look to the totality of the circumstances which includes but is not limited to the child's age, maturity, intelligence, education, experience, and ability to comprehend, and the presence and competence of the child's parents, guardian, or guardian ad litem. If the court accepts the child's waiver, it shall state on the record the findings and conclusions that form the basis for its decision to accept the waiver.

Sec. 6. Minnesota Statutes 1998, section 260.191, subdivision 1b, is amended to read:

Subd. 1b. [DOMESTIC CHILD ABUSE.] If the court finds that the child is a victim of domestic child abuse, as defined in section 260.015, subdivision 24, it may order any of the following dispositions of the case in addition to or as alternatives to the dispositions authorized under subdivision 1:

(1) restrain any party from committing acts of domestic child abuse;

(2) exclude the abusing party from the dwelling which the family or household members share or from the residence of the child;

(3) on the same basis as is provided in chapter 518, establish temporary visitation with regard to minor children of the adult family or household members;

(4) on the same basis as is provided in chapter 518, establish temporary support or maintenance for a period of 30 days for minor children or a spouse;

(5) provide counseling or other social services for the family or household members; or

(6) order the abusing party to participate in treatment or counseling services.



Any relief granted by the order for protection shall be for a fixed period not to exceed one year.

However, no order excluding the abusing party from the dwelling may be issued unless the court finds that:

(1) the order is in the best interests of the child or children remaining in the dwelling; and

~~(2) a remaining adult family or household member is able to care adequately for the child or children in the absence of the excluded party; and~~

~~(3) the local welfare agency has developed a plan to provide appropriate social services to the remaining family or household members.~~

When the court has entered a disposition under this subdivision, it may dismiss the local social services agency from the proceeding and retain jurisdiction over the child, family or household members, and abusing party.

Sec. 7. [626.5551] [ALTERNATIVE RESPONSE PROGRAMS FOR CHILD PROTECTION ASSESSMENTS OR INVESTIGATIONS.]

Subdivision 1. [PROGRAMS AUTHORIZED.] (a) A county may establish a program that uses alternative responses to reports of child maltreatment under section 626.556, as provided in this section.

(b) Alternative responses may include a family assessment and services approach under which the local welfare agency assesses the risk of abuse and neglect and the service needs of the family and arranges for appropriate services, diversions, referral for services, or other response identified in the plan under subdivision 4.

Subd. 2. [USE OF ALTERNATIVE RESPONSE OR INVESTIGATION.] (a) Upon receipt of a report under section 626.556, the local welfare agency in a county that has established an alternative response program under this section shall determine whether to conduct an investigation under section 626.556 or to use an alternative response as appropriate to prevent or provide a remedy for child maltreatment.

(b) The local welfare agency may conduct an investigation of any report, but shall conduct an investigation of reports that, if true, would mean that the child has experienced, or is at risk of experiencing, serious physical injury, sexual abuse, abandonment, or neglect that substantially endangers the child's physical or mental health, including growth delays, which may be referred to as failure to thrive, that have been diagnosed by a physician and are due to parental neglect, or conduct that would be a violation of, or an attempt to commit a violation of:

(1) section 609.185, 609.19, or 609.195 (murder in the first, second, or third degree);

(2) section 609.20 or 609.205 (manslaughter in the first or second degree);

(3) section 609.221, 609.222, or 609.223 (assault in the first, second, or third degree);

(4) section 609.322 (solicitation, inducement, and promotion of prostitution);

(5) sections 609.342 to 609.3451 (criminal sexual conduct);

(6) section 609.352 (solicitation of children to engage in sexual conduct);

(7) section 609.377 or 609.378 (malicious punishment or neglect or endangerment of a child); or

(8) section 617.246 (use of minor in sexual performance).

(c) In addition, in all cases the local welfare agency shall contact the appropriate law enforcement agency as provided in section 626.556, subdivision 3. The law enforcement agency may conduct its own investigation and shall assist the local welfare agency in its investigation or provide, within a reasonable time, a written explanation detailing the reasons why it is unable to assist.

(d) The local welfare agency shall begin an immediate investigation under section 626.556 if at any time when it is using an alternative response it determines that an investigation is required under paragraph (b) or would otherwise be appropriate. The local welfare agency may use an alternative response to a report that was initially referred for an investigation if the agency determines that a complete investigation is not required. In determining that a complete investigation is not required, the local welfare agency must document the reason for terminating the investigation and consult with:

(1) the local law enforcement agency, if the local law enforcement agency is involved, and notify the county attorney of the decision to terminate the investigation; or

(2) the county attorney, if the local law enforcement agency is not involved.

Subd. 3. [DOCUMENTATION.] When a case in which an alternative response was used is closed, the local welfare agency shall document the outcome of the approach, including a description of the response and services provided and the removal or reduction of risk to the child, if it existed. This documentation must be retained for at least four years.

Subd. 4. [PLAN.] In order to use the alternative response program authorized under this section, the county must include the program in the community social service plan required under section 256E.09 and in the program evaluation under section 256E.10. The plan must address alternative responses and services that will be used for the program and protocols for determining the appropriate response to reports under section 626.556.

Sec. 8. Minnesota Statutes 1998, section 626.556, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section 609.341, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342, 609.343, 609.344, or 609.345. Sexual abuse also includes any act which involves a minor which constitutes a violation of sections 609.321 to 609.324 or 617.246. Sexual abuse includes threatened sexual abuse.

(b) "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(c) "Neglect" means:

(1) failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter or medical care when reasonably able to do so;

(2) failure to protect a child from conditions or actions which imminently and seriously endanger the child's physical or mental health when reasonably able to do so;~~or;~~

(3) failure to provide for necessary supervision or child care arrangement appropriate for a child after considering factors such as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in their care;

(4) failure to take steps to ensure that a child is educated in accordance with state law;

(5) nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious danger to the child's health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care;

~~Neglect includes~~ (6) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance;

~~Neglect also means~~ (7) "medical neglect" as defined in section 260.015, subdivision 2a, clause (5);

(8) that the parent or other person responsible for the care of the child (i) engages in violent behavior that demonstrates a disregard for the well-being of the child as indicated by action that could reasonably result in serious physical, mental, or threatened injury or emotional damage to the child or (ii) engages in repeated domestic abuse as defined as domestic assault and repeat domestic assault under the criminal code;

(9) chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the care of the child that adversely affects the child's basic needs and safety;

(10) the parent or other person responsible for the care of the child commits domestic assault under section 609.2242 or 609.2243, within sight or sound of the child, or subjects the child to an ongoing violent environment which is likely to have a detrimental effect on the well-being of the child; or

(11) emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.

(d) "Physical abuse" means any physical or injury, mental injury, or threatened injury, or repeated infliction of pain, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive and deprivation procedures that have not been authorized under section 245.825. Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Actions which are not reasonable and moderate include, but are not limited to:

(1) throwing, kicking, burning, biting, or cutting a child;

(2) striking a child with a closed fist;

(3) shaking a child under age three;

(4) striking or other actions which result in any nonaccidental injury to a child under 18 months of age;

(5) interfering with a child's breathing;

(6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;

(7) striking a child on the face or head;

(8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, or other substances that substantially affect the child's behavior, motor coordination, or judgment or that result in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances; or

(9) unreasonable physical confinement or restraint not permitted under section 609.379, including, but not limited to, tying, caging, or chaining.

(e) "Report" means any report received by the local welfare agency, police department, or county sheriff pursuant to this section.

(f) "Facility" means a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed pursuant to under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B; or a school as defined in sections 120A.05, subdivisions 9, 11, and 13, 120A.36, and 124D.68; or a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

(g) "Operator" means an operator or agency as defined in section 245A.02.

(h) "Commissioner" means the commissioner of human services.

(i) "Assessment" includes authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing the risk to the child, and formulating a plan.

(j) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem and visitation expeditor services.

~~(k) "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture~~ harm to a child's psychological or intellectual functioning which now, or in the future, is likely to be evidenced by serious mental, behavioral, or personality disorder, including severe anxiety, depression, withdrawal, severe aggressive behavior, seriously delayed development, or similarly serious dysfunctional behavior when caused by a statement, overt act, omission, condition, or status of the child's caretaker.

(l) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury.

(m) Persons who conduct assessments or investigations under this section shall take into account accepted child-rearing practices of the culture in which a child participates, which are not injurious to the child's health, welfare, and safety.

Sec. 9. Minnesota Statutes 1998, section 626.556, subdivision 3, is amended to read:

Subd. 3. [PERSONS MANDATED TO REPORT.] (a) A person who knows or has reason to believe a child is being neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused within the preceding three years, shall immediately report the information to the local welfare agency, agency responsible for licensing or supervising the facility, police department, or the county sheriff if the person is:

(1) a professional or professional's delegate who is engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, or law enforcement; or

(2) employed as a member of the clergy and received the information while engaged in ministerial duties, provided that a member of the clergy is not required by this subdivision to report information that is otherwise privileged under section 595.02, subdivision 1, paragraph (c).

The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency or agency responsible for licensing or supervising the facility, orally and in writing. The local welfare agency, or agency responsible for licensing or supervising the facility, upon receiving a report, shall immediately notify the local police department or the county sheriff orally and in writing. The county sheriff and the head of every local welfare agency, agency responsible for licensing or supervising facilities, and police department shall each designate a person within their agency, department, or office who is responsible for ensuring that the notification duties of this paragraph and paragraph (b) are carried out. Nothing in this subdivision shall be construed to require more than one report from any institution, facility, school, or agency.

(b) Any person may voluntarily report to the local welfare agency, agency responsible for licensing or supervising the facility, police department, or the county sheriff if the person knows, has reason to believe, or suspects a child is being or has been neglected or subjected to physical or sexual abuse. The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency or agency responsible for licensing or supervising the facility, orally and in writing. The local welfare agency or agency responsible for licensing or supervising the facility, upon receiving a report, shall immediately notify the local police department or the county sheriff orally and in writing.

(c) A person mandated to report physical or sexual child abuse or neglect occurring within a licensed facility shall report the information to the agency responsible for licensing ~~the~~ or supervising:

(i) a facility under sections 144.50 to 144.58, 241.021, 245A.01 to 245A.16, or chapter 245B;

(ii) a school as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.68; or

(iii) a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a. A health or corrections agency receiving a report may request the local welfare agency to provide assistance pursuant to subdivisions 10, 10a, and 10b.

(d) Any person mandated to report shall receive a summary of the disposition of any report made by that reporter, including whether the case has been opened for child protection or other services, or if a referral has been made to a community organization, unless release would be detrimental to the best interests of the child. Any person who is not mandated to report shall, upon request to the local welfare agency, receive a concise summary of the disposition of any report made by that reporter, unless release would be detrimental to the best interests of the child.

(e) For purposes of this subdivision, "immediately" means as soon as possible but in no event longer than 24 hours.

Sec. 10. Minnesota Statutes 1998, section 626.556, subdivision 4, is amended to read:

Subd. 4. [IMMUNITY FROM LIABILITY.] (a) The following persons are immune from any civil or criminal liability that otherwise might result from their actions, if they are acting in good faith:

(1) any person making a voluntary or mandated report under subdivision 3 or under section 626.5561 or assisting in an assessment under this section or under section 626.5561;

(2) any person with responsibility for performing duties under this section or supervisor employed by a local welfare agency ~~or~~, the commissioner of an agency responsible for operating or supervising a licensed or unlicensed day care facility, residential facility, agency, hospital, sanatorium, or other facility or institution required to be licensed under sections 144.50 to 144.58, 241.021, 245A.01 to 245A.16, or chapter 245B; or a school as defined in sections 120A.05, subdivisions 9, 11, and 13, 120A.36, and 124D.68; or a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a, complying with subdivision 10d; and

(3) any public or private school, facility as defined in subdivision 2, or the employee of any public or private school or facility who permits access by a local welfare agency or local law enforcement agency and assists in an investigation or assessment pursuant to subdivision 10 or under section 626.5561.

(b) A person who is a supervisor or person with responsibility for performing duties under this section employed by a local welfare agency or the commissioner complying with subdivisions 10 and 11 or section 626.5561 or any related rule or provision of law is immune from any civil or criminal liability that might otherwise result from the person's actions, if the person is (1) acting in good faith and exercising due care, or (2) acting in good faith and following the information collection procedures established under subdivision 10, paragraphs (h), (i), and (j).

(c) This subdivision does not provide immunity to any person for failure to make a required report or for committing neglect, physical abuse, or sexual abuse of a child.

(d) If a person who makes a voluntary or mandatory report under subdivision 3 prevails in a civil action from which the person has been granted immunity under this subdivision, the court may award the person attorney fees and costs.

Sec. 11. Minnesota Statutes 1998, section 626.556, subdivision 7, is amended to read:

Subd. 7. [REPORT.] An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required under subdivision 3 to report shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing to the appropriate police department, the county sheriff or local welfare agency, unless the appropriate agency has informed the reporter that the oral information does not constitute a report under subdivision 10. Any report shall be of sufficient content to identify the child, any person believed to be responsible for the abuse or neglect of the child if the person is known, the nature and extent of the abuse or neglect and the name and address of the reporter. If the reporter requests, the local welfare agency shall inform the reporter within ten days after the report is made, either orally or in writing, whether the report was accepted for assessment or investigation. Written reports received by a police department or the county sheriff shall be forwarded immediately to the local welfare agency. The police department or the county sheriff may keep copies of reports received by them. Copies of written reports received by a local welfare department shall be forwarded immediately to the local police department or the county sheriff.

A written copy of a report maintained by personnel of agencies, other than welfare or law enforcement agencies, which are subject to chapter 13 shall be confidential. An individual subject of the report may obtain access to the original report as provided by subdivision 11.

Sec. 12. Minnesota Statutes 1998, section 626.556, subdivision 10b, is amended to read:

Subd. 10b. [DUTIES OF COMMISSIONER; NEGLECT OR ABUSE IN FACILITY.] (a) The commissioner of the agency responsible for licensing or supervising the facility shall immediately investigate if the report alleges that:

(1) a child who is in the care of a facility as defined in subdivision 2 is neglected, physically abused, or sexually abused by an individual in that facility, or has been so neglected or abused by an individual in that facility within the three years preceding the report; or

(2) a child was neglected, physically abused, or sexually abused by an individual in a facility defined in subdivision 2, while in the care of that facility within the three years preceding the report.

The commissioner of the agency responsible for licensing or supervising the facility shall arrange for the transmittal to the commissioner of reports received by local agencies and may delegate to a local welfare agency the duty to investigate reports. In conducting an investigation under this section, the commissioner has the powers and duties specified for local welfare agencies under this section. The commissioner of the agency responsible for licensing or supervising the facility or local welfare agency may interview any children who are or have been in the care of a facility under investigation and their parents, guardians, or legal custodians.

(b) Prior to any interview, the commissioner of the agency responsible for licensing or supervising the facility or local welfare agency shall notify the parent, guardian, or legal custodian of a child who will be interviewed in the manner provided for in subdivision 10d, paragraph (a). If reasonable efforts to reach the parent, guardian, or legal custodian of a child in an out-of-home placement have failed, the child may be interviewed if there is reason to believe the interview is necessary to protect the child or other children in the facility. The commissioner of the agency responsible for licensing or supervising the facility or local agency must provide the information required in this subdivision to the parent, guardian, or legal custodian of a child interviewed without parental notification as soon as possible after the interview. When the investigation is completed, any parent, guardian, or legal custodian notified under this subdivision shall receive the written memorandum provided for in subdivision 10d, paragraph (c).

(c) In conducting investigations under this subdivision the commissioner or local welfare agency shall obtain access to information consistent with subdivision 10, paragraphs (h), (i), and (j).

(d) Except for foster care and family child care, the commissioner of the agency responsible for licensing or supervising the facility has the primary responsibility for the investigations and notifications required under subdivisions 10d and 10f for reports that allege maltreatment related to the care provided by or in facilities licensed by the commissioner. The commissioner of the agency responsible for licensing or supervising the facility may request assistance from the local social service agency.

Sec. 13. Minnesota Statutes 1998, section 626.556, subdivision 10d, is amended to read:

Subd. 10d. [NOTIFICATION OF NEGLECT OR ABUSE IN FACILITY.] (a) When a report is received that alleges neglect, physical abuse, or sexual abuse of a child while in the care of a ~~facility required to be licensed pursuant to chapter 245A, licensed or unlicensed day care facility, residential facility, agency, hospital, sanatorium, or other facility or institution required to be licensed pursuant to sections 144.50 to 144.58, 241.021, 245A.01 to 245A.16, or chapter 245B; or a school as defined in sections 120A.05, subdivisions 9, 11, and 13, 120A.36, and 124D.68; or a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a,~~ the commissioner of the agency responsible for licensing or supervising the facility or local welfare agency investigating the report shall provide the following information to the parent, guardian, or legal custodian of a child alleged to have been neglected, physically abused, or sexually abused: the name of the facility; the fact that a report alleging neglect, physical abuse, or sexual abuse of a child in the facility has been received; the nature of the alleged neglect, physical abuse, or sexual abuse; that the agency is conducting an investigation; any protective or corrective measures being taken pending the outcome of the investigation; and that a written memorandum will be provided when the investigation is completed.

(b) The commissioner of the agency responsible for licensing or supervising the facility or local welfare agency may also provide the information in paragraph (a) to the parent, guardian, or legal custodian of any other child in the facility if the investigative agency knows or has reason to believe the alleged neglect, physical abuse, or sexual abuse has occurred. In determining whether to exercise this authority, the commissioner of the agency responsible for licensing or supervising the facility or local welfare agency shall consider the seriousness of the alleged neglect, physical abuse, or sexual abuse; the number of children allegedly neglected, physically abused, or sexually abused; the number of alleged perpetrators; and the length of the investigation. The facility shall be notified whenever this discretion is exercised.

(c) When the commissioner of the agency responsible for licensing or supervising the facility or local welfare agency has completed its investigation, every parent, guardian, or legal custodian notified of the investigation by the commissioner or local welfare agency shall be provided with the following information in a written memorandum: the name of the facility investigated; the nature of the alleged neglect, physical abuse, or sexual abuse; the investigator's name; a summary of the investigation findings; a statement whether maltreatment was found; and the protective or corrective measures that are being or will be taken. The memorandum shall be written in a manner that protects the identity of the reporter and the child and shall not contain the name, or to the extent possible, reveal the identity of the alleged perpetrator or of those interviewed during the investigation. The commissioner or local welfare agency shall also provide the written memorandum to the parent, guardian, or legal custodian of each child in the facility if maltreatment is determined to exist.

Sec. 14. Minnesota Statutes 1998, section 626.556, subdivision 10e, is amended to read:

Subd. 10e. [DETERMINATIONS.] Upon the conclusion of every assessment or investigation it conducts, the local welfare agency shall make two determinations within 60 days after a report is received: first, whether maltreatment has occurred; and second, whether child protective services are needed. When maltreatment is determined in an investigation involving a facility, the investigating agency shall also determine whether the facility or individual was responsible for the maltreatment using the mitigating factors in paragraph (d). Determinations under this subdivision must be made based on a preponderance of the evidence.

(a) For the purposes of this subdivision, "maltreatment" means any of the following acts or omissions committed by a person responsible for the child's care:

- (1) physical abuse as defined in subdivision 2, paragraph (d);
- (2) neglect as defined in subdivision 2, paragraph (c);
- (3) sexual abuse as defined in subdivision 2, paragraph (a); or
- (4) mental injury as defined in subdivision 2, paragraph (k).

(b) For the purposes of this subdivision, a determination that child protective services are needed means that the local welfare agency has documented conditions during the assessment or investigation sufficient to cause a child protection worker, as defined in section 626.559, subdivision 1, to conclude that a child is at significant risk of maltreatment if protective intervention is not provided and that the individuals responsible for the child's care have not taken or are not likely to take actions to protect the child from maltreatment or risk of maltreatment.

(c) This subdivision does not mean that maltreatment has occurred solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, in lieu of medical care. However, if lack of medical care may result in serious danger to the child's health, the local welfare agency may ensure that necessary medical services are provided to the child.

(d) This subdivision does not require a determination of maltreatment if neglect is due solely to poverty, but appropriate services shall be provided.

(e) When determining whether the facility or individual is the responsible party for determined maltreatment in a facility, the investigating agency shall consider at least the following mitigating factors:

(1) whether the actions of the facility or the individual caregivers were according to, and followed the terms of, an erroneous physician order, prescription, individual care plan, or directive; however, this is not a mitigating factor when the facility or caregiver was responsible for the issuance of the erroneous order, prescription, individual care plan, or directive or knew or should have known of the errors and took no reasonable measures to correct the defect before administering care;

(2) comparative responsibility between the facility, other caregivers, and requirements placed upon an employee, including the facility's compliance with related regulatory standards and the adequacy of facility policies and procedures, facility training, an individual's participation in the training, the caregiver's supervision, and facility staffing levels and the scope of the individual employee's authority and discretion; and

(3) whether the facility or individual followed professional standards in exercising professional judgment.

~~(e) The commissioner shall work with the maltreatment of minors advisory committee established under Laws 1997, chapter 203, to make recommendations to further specify the kinds of acts or omissions that constitute physical abuse, neglect, sexual abuse, or mental injury. The commissioner shall submit the recommendation and any~~



~~legislation needed by January 15, 1999.~~ (f) Individual counties may implement more detailed definitions or criteria that indicate which allegations to investigate, as long as a county's policies are consistent with the definitions in the statutes and rules and are approved by the county board. Each local welfare agency shall periodically inform mandated reporters under subdivision 3 who work in the county of the definitions of maltreatment in the statutes and rules and any additional definitions or criteria that have been approved by the county board.

Sec. 15. Minnesota Statutes 1998, section 626.556, subdivision 10f, is amended to read:

Subd. 10f. [NOTICE OF DETERMINATIONS.] Within ten working days of the conclusion of an assessment, the local welfare agency or agency responsible for licensing or supervising the facility shall notify the parent or guardian of the child, the person determined to be maltreating the child, and if applicable, the director of the facility, of the determination and a summary of the specific reasons for the determination. The notice must also include a certification that the information collection procedures under subdivision 10, paragraphs (h), (i), and (j), were followed and a notice of the right of a data subject to obtain access to other private data on the subject collected, created, or maintained under this section. In addition, the notice shall include the length of time that the records will be kept under subdivision 11c. The investigating agency shall notify the parent or guardian of the child who is the subject of the report, and any person or facility determined to have maltreated a child, of their appeal rights under this section.

Sec. 16. Minnesota Statutes 1998, section 626.556, subdivision 10j, is amended to read:

Subd. 10j. [RELEASE OF DATA TO MANDATED REPORTERS.] A local social service or child protection agency may provide relevant private data on individuals obtained under this section to mandated reporters who have an ongoing responsibility for the health, education, or welfare of a child affected by the data, in the best interests of the child. ~~The commissioner shall consult with the maltreatment of minors advisory committee to develop criteria for determining which records may be shared with mandated reporters under this subdivision.~~ Mandated reporters with ongoing responsibility for the health, education, or welfare of a child affected by the data include the child's teachers or other appropriate school personnel, foster parents, health care providers, respite care workers, therapists, social workers, child care providers, residential care staff, crisis nursery staff, probation officers, and court services personnel. Under this section, a mandated reporter need not have made the report to be considered a person with ongoing responsibility for the health, education, or welfare of a child affected by the data.

Sec. 17. Minnesota Statutes 1998, section 626.556, is amended by adding a subdivision to read:

Subd. 10l. [APPEAL BY CHILD.] A child age 12 or older, or a relative or mandatory reporter acting on behalf of such a child, may request the investigating agency to reconsider a final determination that maltreatment has occurred but no services are needed. The request must be submitted in writing to the investigating agency within 15 calendar days after receipt of the final determination regarding maltreatment. If the investigating agency denies the request or fails to act upon it within 15 calendar days after receiving the request for reconsideration, the child or individual acting on the child's behalf may submit to the commissioner of human services a written request for a hearing under section 256.045.

Sec. 18. Minnesota Statutes 1998, section 626.556, subdivision 11, is amended to read:

Subd. 11. [RECORDS.] (a) Except as provided in paragraph (b) and subdivisions 10b, 10d, 10g, and 11b, all records concerning individuals maintained by a local welfare agency or agency responsible for licensing or supervising the facility under this section, including any written reports filed under subdivision 7, shall be private data on individuals, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department or the county sheriff. Reports maintained by any police department or the county sheriff shall be private data on individuals except the reports shall be made available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners. Section 13.82, subdivisions 5, 5a, and 5b, apply to law enforcement data other than the reports. The local social services agency or agency responsible for licensing or supervising the facility shall make available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners or their professional delegates, any records which contain information

relating to a specific incident of neglect or abuse which is under investigation, petition, or prosecution and information relating to any prior incidents of neglect or abuse involving any of the same persons. The records shall be collected and maintained in accordance with the provisions of chapter 13. In conducting investigations and assessments pursuant to this section, the notice required by section 13.04, subdivision 2, need not be provided to a minor under the age of ten who is the alleged victim of abuse or neglect. An individual subject of a record shall have access to the record in accordance with those sections, except that the name of the reporter shall be confidential while the report is under assessment or investigation except as otherwise permitted by this subdivision. Any person conducting an investigation or assessment under this section who intentionally discloses the identity of a reporter prior to the completion of the investigation or assessment is guilty of a misdemeanor. After the assessment or investigation is completed, the name of the reporter shall be confidential. The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by the court that the report was false and that there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the rules of criminal procedure.

(b) Upon request of the legislative auditor, data on individuals maintained under this section must be released to the legislative auditor in order for the auditor to fulfill the auditor's duties under section 3.971. The auditor shall maintain the data in accordance with chapter 13.

Sec. 19. Minnesota Statutes 1998, section 626.556, subdivision 11b, is amended to read:

Subd. 11b. [DATA RECEIVED FROM LAW ENFORCEMENT.] Active law enforcement investigative data received by a local welfare agency or agency responsible for licensing or supervising the facility under this section are confidential data on individuals. When this data become inactive in the law enforcement agency, the data are private data on individuals.

Sec. 20. Minnesota Statutes 1998, section 626.556, subdivision 11c, is amended to read:

Subd. 11c. [WELFARE, COURT SERVICES AGENCY, AND SCHOOL RECORDS MAINTAINED.] Notwithstanding sections 138.163 and 138.17, records maintained or records derived from reports of abuse by local welfare agencies, agencies responsible for licensing or supervising facilities, court services agencies, or schools under this section shall be destroyed as provided in paragraphs (a) to (d) by the responsible authority.

(a) If upon assessment or investigation there is no determination of maltreatment or the need for child protective services, the records must be maintained for a period of four years. Records under this paragraph may not be used for employment, background checks, or purposes other than to assist in future risk and safety assessments.

(b) All records relating to reports which, upon assessment or investigation, indicate either maltreatment or a need for child protective services shall be maintained for at least ten years after the date of the final entry in the case record.

(c) All records regarding a report of maltreatment, including any notification of intent to interview which was received by a school under subdivision 10, paragraph (d), shall be destroyed by the school when ordered to do so by the agency conducting the assessment or investigation. The agency shall order the destruction of the notification when other records relating to the report under investigation or assessment are destroyed under this subdivision.

(d) Private or confidential data released to a court services agency under subdivision 10h must be destroyed by the court services agency when ordered to do so by the local welfare agency that released the data. The local welfare agency or agency responsible for licensing or supervising the facility shall order destruction of the data when other records relating to the assessment or investigation are destroyed under this subdivision.

Sec. 21. Minnesota Statutes 1998, section 626.558, subdivision 2, is amended to read:

Subd. 2. [DUTIES OF TEAM.] A multidisciplinary child protection team may provide public and professional education, develop resources for prevention, intervention, and treatment, and provide case consultation to the local welfare agency or other interested community-based agencies. The community-based agencies may request case

consultation from the multidisciplinary child protection team regarding a child or family for whom the community-based agency is providing services. A multidisciplinary child protection team may review on its own initiative cases in which a local welfare agency has made a determination of maltreatment but no services needed. As used in this section, "case consultation" means a case review process in which recommendations are made concerning services to be provided to the identified children and family. Case consultation may be performed by a committee or subcommittee of members representing human services, including mental health and chemical dependency; law enforcement, including probation and parole; the county attorney; health care; education; community-based agencies and other necessary agencies; and persons directly involved in an individual case as designated by other members performing case consultation.

Sec. 22. [CHILD PROTECTION SCREENING CRITERIA.]

The commissioner of human services shall establish a task force of county and state officials to:

(1) identify screening criteria to assist local social services agencies in deciding whether an initial report of suspected child maltreatment should be screened for a response or screened out;

(2) articulate criteria for offering and providing services and criteria for opening and closing cases in counties that use alternative response programs under Minnesota Statutes, section 626.5551; and

(3) assess criteria for opening cases for services and closing cases in order to develop recommendations for improvement.

The task force must report its conclusions to the commissioner by February 1, 2000. The written criteria shall be placed in the counties' community social services act plans."

Delete the title and insert:

"A bill for an act relating to children; child support and protection; changing certain child support procedures and requirements; making certain clarifications; authorizing creation of an account; modifying procedures for an emergency petition for domestic child abuse; authorizing counties to establish alternative responses to child maltreatment reports; modifying definitions in the Child Abuse Reporting Act; providing for the department of children, families, and learning to investigate allegations of child maltreatment in a school; providing for the department of health to investigate alleged child maltreatment by unlicensed home health care providers; providing for information sharing under the Child Abuse Reporting Act; providing for screening criteria for maltreatment reports and criteria for use of alternative programs; amending Minnesota Statutes 1998, sections 13.46, subdivision 2; 256.01, subdivision 2; 256.87, subdivision 1a; 256.978, subdivision 1; 257.62, subdivision 5; 257.75, subdivision 2; 260.015, subdivisions 2a and 28; 260.133, subdivision 2; 260.155, subdivisions 4 and 8; 260.191, subdivision 1b; 518.10; 518.551, by adding a subdivision; 518.57, subdivision 3; 518.5851, by adding a subdivision; 518.5853, by adding a subdivision; 518.64, subdivision 2; 548.09, subdivision 1; 548.091, subdivisions 1, 1a, 2a, 3a, 4, 10, 11, 12, and by adding a subdivision; 552.05, subdivision 10; 626.556, subdivisions 2, 3, 4, 7, 10b, 10d, 10e, 10f, 10j, 11, 11b, 11c, and by adding a subdivision; and 626.558, subdivision 2; Laws 1995, chapter 257, article 1, section 35, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 518; and 626; repealing Minnesota Statutes 1998, sections 256.979; 256.9791; and 548.091, subdivisions 3, 5, and 6."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Health and Human Services Policy.

The report was adopted.

Bradley from the Committee on Health and Human Services Policy to which was referred:

H. F. No. 1392, A bill for an act relating to human services; changing provisions in the Minnesota family investment program; indexing MFIP earned income disregard; enhancing employment services; proposing a performance management system for MFIP; continuing Minnesota food assistance program and the food portion of MFIP for legal noncitizens; changing food stamp employment and training programs; proposing a TANF administrative cap to counties; amending Minnesota Statutes 1998, sections 256D.051, subdivision 2a, and by adding a subdivision; 256D.053, subdivision 1; 256D.06, subdivision 5; 256J.08, subdivisions 11, 24, 65, 83, 86a, and by adding subdivisions; 256J.11, subdivisions 2 and 3; 256J.12, subdivisions 1a and 2; 256J.14; 256J.20, subdivision 3; 256J.21, subdivisions 2, 3, and 4; 256J.24, subdivisions 2, 3, 7, 8, 9, and by adding a subdivision; 256J.26, subdivision 1; 256J.30, subdivisions 8 and 9; 256J.31, subdivisions 5 and 12; 256J.32, subdivisions 4 and 6; 256J.34, subdivisions 1, 3, and 4; 256J.35; 256J.37, subdivisions 2, 9, and 10; 256J.38, subdivision 4; 256J.39, subdivision 2; 256J.42, subdivisions 1 and 5; 256J.43, subdivision 4; 256J.45, subdivision 1; 256J.46, subdivisions 1, 2, and 2a; 256J.48, subdivisions 2 and 3; 256J.50, subdivision 1; 256J.515; 256J.52, subdivisions 1 and 4; 256J.55, subdivision 4; 256J.56; 256J.62, subdivisions 1, 6, 7, 8, 9, and by adding a subdivision; 256J.74, subdivision 2; and 256J.76, subdivisions 1, 2, and 4; proposing coding for new law in Minnesota Statutes, chapter 256J; repealing Minnesota Statutes 1998, sections 256D.051, subdivisions 6 and 19; 256D.053, subdivision 4; 256J.396; and 256J.62, subdivisions 2, 3, and 5.

Reported the same back with the following amendments:

Page 4, delete section 5

Page 5, after line 17, insert:

"Sec. 8. Minnesota Statutes 1998, section 256J.08, is amended by adding a subdivision to read:

Subd. 55a. [MFIP STANDARD OF NEED.] "MFIP standard of need" means the appropriate standard used to determine MFIP benefit payments for the MFIP unit and applies to:

(1) the transitional standard, sections 256J.08, subdivision 85, and 256J.24, subdivision 5;

(2) the shared household standard, section 256J.24, subdivision 9; and

(3) the interstate transition standard, section 256J.43."

Page 5, line 32, strike "a cash" and insert "an MFIP"

Page 6, after line 5, insert:

"Sec. 10. Minnesota Statutes 1998, section 256J.08, subdivision 82, is amended to read:

Subd. 82. [SANCTION.] "Sanction" means the reduction of a family's assistance payment by a specified percentage of the ~~applicable transitional~~ MFIP standard of need because: a nonexempt participant fails to comply with the requirements of sections 256J.52 to 256J.55; a parental caregiver fails without good cause to cooperate with the child support enforcement requirements; or a participant fails to comply with the insurance, tort liability, or other requirements of this chapter."

Page 6, lines 32 to 36, delete the new language and strike the old language

Page 7, lines 1 to 6, delete the new language and strike the old language

Page 7, line 7, strike everything before the period and insert "State dollars shall fund the food portion of a noncitizen's MFIP benefits when federal food stamp dollars cannot be used to fund those benefits"

Page 17, line 6, strike "or" and insert a comma and after "child" delete the comma

Page 17, line 7, delete "birth" and after "6" insert a comma and after "child" delete the comma

Page 17, line 11, after "approved" insert "elementary or"

Page 19, line 5, delete "applicable" and reinstate the stricken language

Page 19, line 6, reinstate the stricken language

Page 20, line 13, delete "applicable"

Page 20, line 14, after "standard" insert "of need"

Page 20, line 15, delete "applicable" and after "standard" insert "of need"

Page 20, line 16, delete "applicable" and after "standard" insert "of need"

Page 20, line 33, after "the" insert "MFIP"

Page 20, line 34, strike "transitional" and after "standard" insert "of need"

Page 21, line 6, delete "applicable" and after "standard" insert "of need"

Page 22, line 17, delete "applicable" and insert "MFIP" and after "standard" insert "of need"

Page 22, line 22, delete "with" and insert "where a" and delete "caregivers" and insert "caregiver is not included in the grant"

Page 23, line 11, after "minor" insert "child under the age of 18"

Page 23, line 16, after "care to a" insert "minor"

Page 23, line 23, before "In" insert "(a)"

Page 23, line 25, after "that" insert "most"

Page 23, line 28, delete "Adjustments" and insert "The adjustment"

Page 23, line 29, after "three" insert a comma and delete "shall" and insert "the resulting earned income disregard percentage must be applied to all household sizes. The adjustment under this subdivision must"

Page 23, after line 32, insert:

"(b) In state fiscal year 2002 and thereafter, the earned income disregard percentage must be the same as the percentage implemented in October 2000."

Page 24, line 13, delete "applicable" and after "standard" insert "of need"

Page 24, line 22, strike "applicable" and after "standard" insert "of need"

Page 27, line 35, delete "to discontinue" and insert "affecting"

Page 27, line 36, after "under" insert "section" and delete ", if questionable"

Page 31, after line 27, insert:

"Sec. 35. Minnesota Statutes 1998, section 256J.33, is amended to read:

256J.33 [PROSPECTIVE AND RETROSPECTIVE DETERMINATION OF ~~MFIP-S~~ MFIP ELIGIBILITY.]

Subdivision 1. [DETERMINATION OF ELIGIBILITY.] A county agency must determine ~~MFIP-S~~ MFIP eligibility prospectively for a payment month based on retrospectively assessing income and the county agency's best estimate of the circumstances that will exist in the payment month.

Except as described in section 256J.34, subdivision 1, when prospective eligibility exists, a county agency must calculate the amount of the assistance payment using retrospective budgeting. To determine ~~MFIP-S~~ MFIP eligibility and the assistance payment amount, a county agency must apply countable income, described in section 256J.37, subdivisions 3 to 10, received by members of an assistance unit or by other persons whose income is counted for the assistance unit, described under sections 256J.21 and 256J.37, subdivisions 1 to 2.

This income must be applied to the ~~transitional MFIP standard, shared household standard, of need~~ or family wage ~~standard level~~ subject to this section and sections 256J.34 to 256J.36. Income received in a calendar month and not otherwise excluded under section 256J.21, subdivision 2, must be applied to the needs of an assistance unit.

Subd. 2. [PROSPECTIVE ELIGIBILITY.] A county agency must determine whether the eligibility requirements that pertain to an assistance unit, including those in sections 256J.11 to 256J.15 and 256J.20, will be met prospectively for the payment month. Except for the provisions in section 256J.34, subdivision 1, the income test will be applied retrospectively.

Subd. 3. [RETROSPECTIVE ELIGIBILITY.] After the first two months of ~~MFIP-S~~ MFIP eligibility, a county agency must continue to determine whether an assistance unit is prospectively eligible for the payment month by looking at all factors other than income and then determine whether the assistance unit is retrospectively income eligible by applying the monthly income test to the income from the budget month. When the monthly income test is not satisfied, the assistance payment must be suspended when ineligibility exists for one month or ended when ineligibility exists for more than one month.

Subd. 4. [MONTHLY INCOME TEST.] A county agency must apply the monthly income test retrospectively for each month of ~~MFIP-S~~ MFIP eligibility. An assistance unit is not eligible when the countable income equals or exceeds the ~~transitional MFIP standard, shared household standard, of need~~ or the family wage level for the assistance unit. The income applied against the monthly income test must include:

(1) gross earned income from employment, prior to mandatory payroll deductions, voluntary payroll deductions, wage authorizations, and after the disregards in section 256J.21, subdivision 4, and the allocations in section 256J.36, unless the employment income is specifically excluded under section 256J.21, subdivision 2;

(2) gross earned income from self-employment less deductions for self-employment expenses in section 256J.37, subdivision 5, but prior to any reductions for personal or business state and federal income taxes, personal FICA, personal health and life insurance, and after the disregards in section 256J.21, subdivision 4, and the allocations in section 256J.36;

(3) unearned income after deductions for allowable expenses in section 256J.37, subdivision 9, and allocations in section 256J.36, unless the income has been specifically excluded in section 256J.21, subdivision 2;

(4) gross earned income from employment as determined under clause (1) which is received by a member of an assistance unit who is a minor child or minor caregiver and less than a half-time student;

(5) child support and spousal support received or anticipated to be received by an assistance unit;

- (6) the income of a parent when that parent is not included in the assistance unit;
- (7) the income of an eligible relative and spouse who seek to be included in the assistance unit; and
- (8) the unearned income of a minor child included in the assistance unit.

Subd. 5. [WHEN TO TERMINATE ASSISTANCE.] When an assistance unit is ineligible for ~~MFIP-S~~ MFIP assistance for two consecutive months, the county agency must terminate ~~MFIP-S~~ MFIP assistance."

Page 33, line 20, delete "applicable" and after "standard" insert "of need or family wage level"

Page 35, line 3, strike "transitional" and insert "MFIP" and strike ", shared household standard," and insert "of need" and delete "interstate"

Page 35, line 4, delete "payment standard,"

Page 35, line 5, strike ", whichever is less,"

Page 35, after line 19, insert:

"Sec. 40. Minnesota Statutes 1998, section 256J.36, is amended to read:

256J.36 [ALLOCATION FOR UNMET NEED OF OTHER HOUSEHOLD MEMBERS.]

Except as prohibited in paragraphs (a) and (b), an allocation of income is allowed from the caregiver's income to meet the unmet need of an ineligible spouse or an ineligible child under the age of 21 for whom the caregiver is financially responsible who also lives with the caregiver. That allocation is allowed in an amount up to the difference between the ~~MFIP-S transitional~~ MFIP standard of need for the assistance unit when that ineligible person is included in the assistance unit and the ~~MFIP-S family allowance~~ MFIP standard of need for the assistance unit when the ineligible person is not included in the assistance unit. These allocations must be deducted from the caregiver's counted earnings and from unearned income subject to paragraphs (a) and (b).

(a) Income of a minor child in the assistance unit must not be allocated to meet the need of an ineligible person, including the child's parent, even when that parent is the payee of the child's income.

(b) Income of a caregiver must not be allocated to meet the needs of a disqualified person.

Sec. 41. Minnesota Statutes 1998, section 256J.37, subdivision 1, is amended to read:

Subdivision 1. [DEEMED INCOME FROM INELIGIBLE HOUSEHOLD MEMBERS.] Unless otherwise provided under subdivision 1a or 1b, the income of ineligible household members must be deemed after allowing the following disregards:

- (1) the first 18 percent of the ineligible family member's gross earned income;
- (2) amounts the ineligible person actually paid to individuals not living in the same household but whom the ineligible person claims or could claim as dependents for determining federal personal income tax liability;
- (3) all payments made by the ineligible person according to a court order for spousal support or the support of children not living in the assistance unit's household, provided that, if there has been a change in the financial circumstances of the ineligible person since the support order was entered, the ineligible person has petitioned for a modification of the support order; and

(4) an amount for the needs of the ineligible person and other persons who live in the household but are not included in the assistance unit and are or could be claimed by an ineligible person as dependents for determining federal personal income tax liability. This amount is equal to the difference between the ~~MFIP-S transitional~~ MFIP standard of need when the ineligible person is included in the assistance unit and the ~~MFIP-S transitional~~ MFIP standard of need when the ineligible person is not included in the assistance unit.

Sec. 42. Minnesota Statutes 1998, section 256J.37, subdivision 1a, is amended to read:

Subd. 1a. [DEEMED INCOME FROM DISQUALIFIED MEMBERS.] The income of disqualified members must be deemed after allowing the following disregards:

- (1) the first 18 percent of the disqualified member's gross earned income;
- (2) amounts the disqualified member actually paid to individuals not living in the same household but whom the disqualified member claims or could claim as dependents for determining federal personal income tax liability;
- (3) all payments made by the disqualified member according to a court order for spousal support or the support of children not living in the assistance unit's household, provided that, if there has been a change in the financial circumstances of the disqualified member's legal obligation to pay support since the support order was entered, the disqualified member has petitioned for a modification of the support order; and
- (4) an amount for the needs of other persons who live in the household but are not included in the assistance unit and are or could be claimed by the disqualified member as dependents for determining federal personal income tax liability. This amount is equal to the difference between the ~~MFIP-S transitional~~ MFIP standard of need when the ineligible person is included in the assistance unit and the ~~MFIP-S transitional~~ MFIP standard of need when the ineligible person is not included in the assistance unit. An amount shall not be allowed for the needs of a disqualified member."

Page 35, after line 23, insert:

"(a) Paragraphs (b) to (d) apply to an applicant or recipient who entered the United States legally before December 19, 1997."

Page 35, line 24, delete "(a) Prior to December 19, 1997," and insert "(b)" and delete "and assets"

Page 35, line 25, after "spouse" insert "and assets of a sponsor and the sponsor's spouse,"

Page 36, line 1, delete "transitional" and after "standard" insert "of need"

Page 36, line 3, delete "transitional" and after "standard" insert "of need"

Page 36, line 11, delete "(b)" and insert "(c)"

Page 36, line 14, delete "(a)" and insert "(b)"

Page 36, line 17, delete "(c)" and insert "(d)"

Page 36, line 23, delete "(d)" and insert "(e) For a noncitizen who entered the United States legally"

Page 36, line 35, reinstate the stricken language

Page 36, line 36, delete "applicable"

Page 37, line 1, after "standard" insert "of need"



Page 37, after line 10, insert:

"(c) The provisions of paragraph (b) shall not apply to MFIP participants who are exempt from the employment and training services component because they are:

(i) individuals who are age 60 or older;

(ii) individuals who are suffering from a professionally certified permanent or temporary illness, injury, or incapacity which is expected to continue for more than 30 days and which prevents the person from obtaining or retaining employment; or

(iii) caregivers whose presence in the home is required because of the professionally certified illness or incapacity of another member in the assistance unit, a relative in the household, or a foster child in the household."

Page 37, line 36, delete "applicable" and insert "MFIP"

Page 38, line 1, after "standard" insert "of need"

Page 38, line 4, delete "applicable" and insert "MFIP"

Page 38, line 5, before the comma, insert "or family wage level"

Page 38, line 18, delete "applicable" and insert "MFIP" and after "standard" insert "of need"

Pages 38 and 39, delete section 42

Page 39, line 26, before "MFIP" insert "or from a tribal TANF program,"

Page 39, line 30, after the comma, insert "or from a tribal TANF program,"

Pages 40 and 41, delete section 45 and insert:

"Sec. 49. Minnesota Statutes 1998, section 256J.43, is amended to read:

256J.43 [INTERSTATE ~~PAYMENT~~ TRANSITIONAL STANDARDS.]

Subdivision 1. [PAYMENT.] (a) Effective July 1, 1997, the amount of assistance paid to an eligible unit in which all members have resided in this state for fewer than 12 consecutive calendar months immediately preceding the date of application shall be the lesser of either the interstate transitional standard that would have been received by the assistance unit from the state of immediate prior residence, or the amount calculated in accordance with ~~AFDC or MFIP-S~~ MFIP standards. The lesser payment must continue until the assistance unit meets the 12-month requirement. An assistance unit that has not resided in Minnesota for 12 months from the date of application is not exempt from the interstate payment transitional standards provisions solely because a child is born in Minnesota to a member of the assistance unit. Payment must be calculated by applying this state's MFIP's budgeting policies, and the unit's net income must be deducted from the payment standard in the other state or the MFIP transitional or shared household standard in this state, whichever is lower. Payment shall be made in vendor form for shelter and utilities, up to the limit of the grant amount, and residual amounts, if any, shall be paid directly to the assistance unit.

(b) During the first 12 months an assistance unit resides in this state, the number of months that a unit is eligible to receive ~~AFDC or MFIP-S~~ MFIP benefits is limited to the number of months the assistance unit would have been eligible to receive similar benefits in the state of immediate prior residence.

(c) This policy applies whether or not the assistance unit received similar benefits while residing in the state of previous residence.

(d) When an assistance unit moves to this state from another state where the assistance unit has exhausted that state's time limit for receiving benefits under that state's TANF program, the unit will not be eligible to receive any ~~AFDC or MFIP-S~~ MFIP benefits in this state for 12 months from the date the assistance unit moves here.

(e) For the purposes of this section, "state of immediate prior residence" means:

(1) the state in which the applicant declares the applicant spent the most time in the 30 days prior to moving to this state; or

(2) the state in which an applicant who is a migrant worker maintains a home.

(f) The commissioner shall annually verify and update all other states' payment standards as they are to be in effect in July of each year.

(g) Applicants must provide verification of their state of immediate prior residence, in the form of tax statements, a driver's license, automobile registration, rent receipts, or other forms of verification approved by the commissioner.

(h) Migrant workers, as defined in section 256J.08, and their immediate families are exempt from this section, provided the migrant worker provides verification that the migrant family worked in this state within the last 12 months and earned at least \$1,000 in gross wages during the time the migrant worker worked in this state.

Subd. 2. [TEMPORARY ABSENCE FROM MINNESOTA.] (a) For an assistance unit that has met the requirements of section 256J.12, the number of months that the assistance unit receives benefits under the interstate ~~payment~~ transitional standards in this section is not affected by an absence from Minnesota for fewer than 30 consecutive days.

(b) For an assistance unit that has met the requirements of section 256J.12, the number of months that the assistance unit receives benefits under the interstate ~~payment~~ transitional standards in this section is not affected by an absence from Minnesota for more than 30 consecutive days but fewer than 90 consecutive days, provided the assistance unit continues to maintain a residence in Minnesota during the period of absence.

Subd. 3. [EXCEPTIONS TO THE INTERSTATE PAYMENT POLICY.] Applicants who lived in another state in the 12 months prior to applying for assistance are exempt from the interstate payment policy for the months that a member of the unit:

(1) served in the United States armed services, provided the person returned to Minnesota within 30 days of leaving the armed forces, and intends to remain in Minnesota;

(2) attended school in another state, paid nonresident tuition or Minnesota tuition rates under a reciprocity agreement, provided the person left Minnesota specifically to attend school and returned to Minnesota within 30 days of graduation with the intent to remain in Minnesota; or

(3) meets the following criteria:

(i) a minor child or a minor caregiver moves from another state to the residence of a relative caregiver;

(ii) the minor caregiver applies for and receives family cash assistance;

(iii) the relative caregiver chooses not to be part of the MFIP-S assistance unit; and

(iv) the relative caregiver has resided in Minnesota for at least 12 months from the date the assistance unit applies for cash assistance.

Subd. 4. [INELIGIBLE MANDATORY UNIT MEMBERS.] Ineligible mandatory unit members who have resided in Minnesota for 12 months immediately before the unit's date of application establish the other assistance unit members' eligibility for the ~~MFIP-S~~ MFIP transitional standard, shared household or family wage level, whichever is applicable."

Page 42, line 9, delete "applicable" and insert "MFIP"

Page 42, line 11, before "for" insert "of need"

Page 42, line 27, delete "applicable" and insert "MFIP"

Page 42, line 29, before "for" insert "of need"

Page 43, line 36, strike "transitional" and insert "MFIP" and after "standard" insert "of need"

Page 45, after line 26, insert:

"Sec. 54. Minnesota Statutes 1998, section 256J.47, subdivision 4, is amended to read:

Subd. 4. [INELIGIBILITY FOR ~~MFIP-S~~ MFIP; EMERGENCY ASSISTANCE; AND EMERGENCY GENERAL ASSISTANCE.] Upon receipt of diversionary assistance, the family is ineligible for ~~MFIP-S~~ MFIP, emergency assistance, and emergency general assistance for a period of time. To determine the period of ineligibility, the county shall use the following formula: regardless of household changes, the county agency must calculate the number of days of ineligibility by dividing the diversionary assistance issued by the ~~transitional MFIP~~ standard of need a family of the same size and composition would have received under ~~MFIP-S, or if applicable the interstate transitional standard,~~ MFIP multiplied by 30, truncating the result. The ineligibility period begins the date the diversionary assistance is issued."

Page 48, line 3, strike "transitional" and after "standard" insert "of need"

Page 50, line 31, delete "256J.57" and insert "256J.74"

Page 51, after line 25, insert:

"Sec. 60. Minnesota Statutes 1998, section 256J.52, subdivision 3, is amended to read:

Subd. 3. [JOB SEARCH; JOB SEARCH SUPPORT PLAN.] (a) If, after the initial assessment, the job counselor determines that the participant possesses sufficient skills that the participant is likely to succeed in obtaining suitable employment, the participant must conduct job search for a period of up to eight weeks, for at least 30 hours per week. The participant must accept any offer of suitable employment. Upon agreement by the job counselor and the participant, a job search support plan may limit a job search to jobs that are consistent with the participant's employment goal. The job counselor and participant must develop a job search support plan which specifies, at a minimum: whether the job search is to be supervised or unsupervised; support services that will be provided while the participant conducts job search activities; the courses necessary to obtain certification or licensure, if applicable, and after obtaining the license or certificate, the client must comply with subdivision 5; and how frequently the participant must report to the job counselor on the status of the participant's job search activities. The job search support plan may also specify that the participant fulfill a specified portion of the required hours of job search through attending adult basic education or English as a second language classes.

(b) During the eight-week job search period, either the job counselor or the participant may request a review of the participant's job search plan and progress towards obtaining suitable employment. If a review is requested by the participant, the job counselor must concur that the review is appropriate for the participant at that time. If a review is conducted, the job counselor may make a determination to conduct a secondary assessment prior to the conclusion of the job search.

(c) Failure to conduct the required job search, to accept any offer of suitable employment, to develop or comply with a job search support plan, or voluntarily quitting suitable employment without good cause results in the imposition of a sanction under section 256J.46. If at the end of eight weeks the participant has not obtained suitable employment, the job counselor must conduct a secondary assessment of the participant under subdivision 3."

Page 52, lines 10 to 12, delete the new language

Page 52, line 13, delete everything before "Failure"

Page 52, line 18, after "(c)" insert "In the secondary assessment the job counselor may require the participant to complete an appropriate and culturally competent professional chemical use assessment to be performed according to the rules promulgated under section 254A.03, subdivision 3, or a psychological assessment as a component of the secondary assessment, when the job counselor has a reasonable belief, based on objective evidence, that a participant's ability to obtain and retain suitable employment is impaired by a medical condition. The job counselor must ensure that appropriate services, including child care assistance and transportation, are available to the participant to meet needs identified by the assessment. Data gathered as part of a professional assessment must be classified and disclosed according to the provisions specified in section 13.46.

(d)"

Page 52, line 21, after the period, insert "At a minimum, the provider must make available information on the following resources: business and higher education partnerships operated under the Minnesota job skills partnership, community and technical colleges, adult basic education programs, and services offered by vocational rehabilitation programs."

Page 52, after line 29, insert:

"Sec. 62. Minnesota Statutes 1998, section 256J.52, subdivision 5, is amended to read:

Subd. 5. [EMPLOYMENT PLAN; CONTENTS.] Based on the secondary assessment under subdivision 4, the job counselor and the participant must develop an employment plan for the participant that includes specific activities that are tied to an employment goal and a plan for long-term self-sufficiency, and that is designed to move the participant along the most direct path to unsubsidized employment. The employment plan must list the specific steps that will be taken to obtain employment and a timetable for completion of each of the steps. Upon agreement by the job counselor and the participant, the employment plan may limit a job search to jobs that are consistent with the participant's employment goal. As part of the development of the participant's employment plan, the participant shall have the option of selecting from among the vendors or resources that the job counselor determines will be effective in supplying one or more of the services necessary to meet the employment goals specified in the participant's plan. In compiling the list of vendors and resources that the job counselor determines would be effective in meeting the participant's employment goals, the job counselor must determine that adequate financial resources are available for the vendors or resources ultimately selected by the participant. The job counselor and the participant must sign the developed plan to indicate agreement between the job counselor and the participant on the contents of the plan.

Sec. 63. Minnesota Statutes 1998, section 256J.52, is amended by adding a subdivision to read:

Subd. 5a. [BASIC EDUCATION ACTIVITIES IN PLAN.] Participants with low skills in reading or mathematics who are proficient only at or below an eighth-grade level must be allowed to include basic education activities or English as a second language program in a job search support plan or an employment plan, whichever is applicable.

Sec. 64. Minnesota Statutes 1998, section 256J.54, subdivision 2, is amended to read:

Subd. 2. [RESPONSIBILITY FOR ASSESSMENT AND EMPLOYMENT PLAN.] For caregivers who are under age 18 without a high school diploma or its equivalent, the assessment under subdivision 1 and the employment plan under subdivision 3 must be completed by the social services agency under section 257.33. For caregivers who

are age 18 or 19 without a high school diploma or its equivalent, the assessment under subdivision 1 and the employment plan under subdivision 3 must be completed by the job counselor or, at county option, by the social services agency under section 257.33. Upon reaching age 18 or 19 a caregiver who received social services under section 257.33 and is without a high school diploma or its equivalent has the option to choose whether to continue receiving services under the caregiver's plan from the social services agency or to utilize an MFIP employment and training service provider. The social services agency or the job counselor shall consult with representatives of educational agencies that are required to assist in developing educational plans under section 124D.331."

Page 55, line 6, after "MFIP" insert "or tribal TANF"

Page 55, line 11, after "MFIP" insert "or tribal TANF"

Page 55, line 12, after "MFIP" insert "or tribal TANF"

Page 55, line 13, delete "their reservation" and insert "the tribe"

Page 55, line 16, after "MFIP" insert "or tribal TANF"

Page 57, line 12, strike "six" and insert "12"

Page 57, after line 17, insert:

"Sec. 73. Minnesota Statutes 1998, section 256J.67, subdivision 4, is amended to read:

Subd. 4. [EMPLOYMENT PLAN.] (a) The caretaker's employment plan must include the length of time needed in the work experience program, the need to continue job-seeking activities while participating in work experience, and the caregiver's employment goals.

(b) After each six months of a caregiver's participation in a work experience job placement, and at the conclusion of each work experience assignment under this section, the county agency shall reassess and revise, as appropriate, the caregiver's employment plan.

(c) A caregiver may claim good cause under section 256J.57, subdivision 1, for failure to cooperate with a work experience job placement.

(d) The county agency shall limit the maximum number of hours any participant may work under this section to the amount of the ~~transitional~~ MFIP standard of need divided by the federal or applicable state minimum wage, whichever is higher. After a participant has been assigned to a position for nine months, the participant may not continue in that assignment unless the maximum number of hours a participant works is no greater than the amount of the ~~transitional~~ MFIP standard of need divided by the rate of pay for individuals employed in the same or similar occupations by the same employer at the same site. This limit does not apply if it would prevent a participant from counting toward the federal work participation rate."

Page 58, line 11, delete "and"

Page 58, line 13, before the period, insert "; and

(5) median placement wage"

Page 58, line 20, delete "and"

Page 58, line 22, before the period, insert "; and

(4) customer satisfaction, including participant and employer satisfaction"

Page 59, line 22, delete "January"

Page 59, line 23, delete "1, 2000" and insert "July 15, 1999"

Page 59, line 25, delete "April 1, 2000" and insert "August 15, 1999"

Page 59, delete line 29 and insert "shall adjust the county's 1999 allocation amount to reflect the base change."

Page 61, line 2, delete "STUDY OF EXTENSIONS" and insert "RECOMMENDATIONS"

Page 61, lines 4 and 5, delete "how to implement any extension of assistance to"

Page 61, line 6, delete "includes" and insert "include"

Page 61, after line 7, insert:

"Sec. 80. [PROPOSAL REQUIRED.]

By January 15, 2000, the commissioner shall submit to the legislature a proposal for creating an MFIP incentive bonus program for high-performing counties. The proposal must include recommendations on how to implement a system that would provide an incentive bonus to a county that demonstrates high performance with respect to the county's MFIP participants, as reflected in wage rate measures and career advancement measures reported by the county.

Sec. 81. [ASSESSMENT PROTOCOLS.]

The commissioner of human services shall consult with county agencies, employment and training service providers, the commissioner of human rights and advocates to develop protocols to guide the implementation of Minnesota Statutes, section 256J.52, subdivision 4, paragraph (c), as amended.

Sec. 82. [FATHER PROJECT; TIME-LIMITED WAIVER OF EXISTING STATUTORY PROVISIONS.]

The commissioner of human services shall waive the enforcement of any existing specific statutory program requirements, administrative rules, and standards, including the relevant provisions of the following sections of Minnesota Statutes:

(1) 256.741, subdivision 2, paragraph (a);

(2) 256J.30, subdivision 11;

(3) 256J.33, subdivision 4, clause (5); and

(4) 256J.34, subdivision 1, paragraph (d).

The waivers permitted under this section are for the limited purposes of allowing the entire amount of direct child support payments to be passed through for the children of individuals participating in the FATHER project and excluding any direct child support payments paid by participants in the FATHER project as income under the MFIP program for individuals receiving the child support payments who also receive MFIP assistance. The waiver authority granted by this section sunsets on July 1, 2002.

Sec. 83. [APPROPRIATION.]

\$...... is appropriated from the general fund to the commissioner of human services for the biennium ending June 30, 2001, to offset the increased costs to the state of implementing the waivers under section 82. This appropriation is available until expended and is available only to the extent that it is matched on a dollar for dollar basis by money provided by the private philanthropical community."

Page 61, line 10, delete "256J.396" and insert "256J.03" and delete the second "and"

Page 61, line 11, after "5" insert "; and Laws 1997, chapter 85, article 1, section 63"

Renumber the sections in sequence and correct the internal references

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "defining MFIP standard of need;"

Page 1, line 9, after the semicolon, insert "appropriating money;"

Page 1, line 13, after "65," insert "82,"

Page 1, line 20, after the semicolon, insert "256J.33;"

Page 1, line 21, after the second semicolon, insert "256J.36;" and after "subdivisions" insert "1, 1a,"

Page 1, line 22, delete everything after the second semicolon

Page 1, line 23, delete ", subdivision 4"

Page 1, line 25, after the first semicolon, insert "256J.47, subdivision 4;"

Page 1, line 26, delete "and" and insert ", 3,"

Page 1, line 27, delete the first "4;" and insert "4, 5, and by adding a subdivision; 256J.54, subdivision 2;"

Page 1, line 29, after the first semicolon, insert "256J.67, subdivision 4;"

Page 1, line 34, delete "256J.396; and" and insert "256J.03;" and before the period, insert "; and Laws 1997, chapter 85, article 1, section 63"

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

The report was adopted.

Leppik from the Committee on Higher Education Finance to which was referred:

H. F. No. 1436, A bill for an act relating to health; providing additional funding for the primary care physician training initiative; appropriating money.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Health and Human Services Finance.

The report was adopted.

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

H. F. No. 1461, A bill for an act relating to state lands; authorizing the commissioner of natural resources to enter into a lease of land at Fort Snelling.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Environment and Natural Resources Finance.

The report was adopted.

Leppik from the Committee on Higher Education Finance to which was referred:

H. F. No. 1547, A bill for an act relating to capital improvements; authorizing spending to acquire and to better public land and buildings and other public improvements of a capital nature for the Minnesota state colleges and universities; appropriating money.

Reported the same back with the following amendments:

Page 1, line 10, delete "\$34,076,000" and insert "\$15,300,000"

Page 1, delete lines 18 to 20

Page 1, line 21, delete "3" and insert "2"

Page 1, delete lines 25 to 28

Page 2, delete lines 1 to 6

Page 2, line 7, delete "6" and insert "3"

Page 2, line 17, delete "\$34,076,000" and insert "\$15,300,000"

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

The report was adopted.

Bradley from the Committee on Health and Human Services Policy to which was referred:

H. F. No. 1602, A bill for an act relating to human services; making health care changes; clarifying prescription drug coverage for the senior drug program; allowing reconsideration of commissioner's decision that services are not medically necessary under medical assistance program; changing medical assistance payments for hospital providers; establishing performance measurement for health care; changing a provision for medical assistance eligibility; establishing medical assistance income standard for supplemental security income recipients; adopting income deductions for medical assistance for institutionalized persons; changing rehabilitation services review; establishing telemedicine consultation; improving pharmacy medicine management; refinancing medical assistance school reimbursement; providing community-based services for severely emotionally disturbed children; increasing professional provider payment; improving dental access; clarifying MinnesotaCare premium payment provisions; clarifying earned income disregard in the waiver request to health care financing administration; amending Minnesota Statutes 1998, sections 256.955, subdivisions 3, 4, 7, 8, and 9; 256.9685, subdivision 1a; 256.969, subdivision 1; 256B.04, by adding a subdivision; 256B.055, subdivision 3a; 256B.056, subdivision 4; 256B.057, by



adding a subdivision; 256B.0575; 256B.0625, subdivisions 8, 8a, 13, 26, 32, 35, and by adding subdivisions; 256B.0635, subdivision 3; 256B.75; 256B.76; 256L.03, subdivision 5; 256L.04, subdivisions 2, 8, and 13; 256L.05, subdivision 4; 256L.06, subdivision 3; 256L.07; and 256L.15, subdivisions 1, 1b, and 2; Laws 1995, chapter 178, article 2, section 46, subdivision 10.

Reported the same back with the following amendments:

Page 3, line 8, after the headnote, strike the old language and delete the new language

Page 3, lines 9 to 11, strike the old language and delete the new language

Page 3, line 12, strike "(b)" and strike "\$300" and insert "\$420"

Page 3, line 14, delete "\$25" and insert "\$35"

Page 10, line 24, after "PATHOLOGY" insert "SERVICES"

Page 11, line 5, delete "require the provider" and insert "allow the provider seeking authorization"

Page 11, line 15, delete "8d" and insert "3b"

Page 11, line 23, delete "8e" and insert "3c"

Page 16, lines 29 and 30, delete "finance agency" and insert "financing administration"

Page 17, line 9, after the period, insert "Any federal disallowances are the responsibility of the local educational agency."

Page 17, after line 17, insert:

"Sec. 22. Minnesota Statutes 1998, section 256B.0625, subdivision 30, is amended to read:

Subd. 30. [OTHER CLINIC SERVICES.] (a) Medical assistance covers rural health clinic services, federally qualified health center services, nonprofit community health clinic services, public health clinic services, and the services of a clinic meeting the criteria established in rule by the commissioner. Rural health clinic services and federally qualified health center services mean services defined in United States Code, title 42, section 1396d(a)(2)(B) and (C). Payment for rural health clinic and federally qualified health center services shall be made according to applicable federal law and regulation.

(b) A federally qualified health center that is beginning initial operation shall submit an estimate of budgeted costs and visits for the initial reporting period in the form and detail required by the commissioner. A federally qualified health center that is already in operation shall submit an initial report using actual costs and visits for the initial reporting period. Within 90 days of the end of its reporting period, a federally qualified health center shall submit, in the form and detail required by the commissioner, a report of its operations, including allowable costs actually incurred for the period and the actual number of visits for services furnished during the period, and other information required by the commissioner. Federally qualified health centers that file Medicare cost reports shall provide the commissioner with a copy of the most recent Medicare cost report filed with the Medicare program intermediary for the reporting year which support the costs claimed on their cost report to the state.

(c) In order to continue cost-based payment under the medical assistance program according to paragraphs (a) and (b), a federally qualified health center or rural health clinic must apply for designation as an essential community provider within six months of final adoption of rules by the department of health according to section 62Q.19, subdivision 7. For those federally qualified health centers and rural health clinics that have applied for essential community provider status within the six-month time prescribed, medical assistance payments will continue to be

made according to paragraphs (a) and (b) for the first three years after application. For federally qualified health centers and rural health clinics that either do not apply within the time specified above or who have had essential community provider status for three years, medical assistance payments for health services provided by these entities shall be according to the same rates and conditions applicable to the same service provided by health care providers that are not federally qualified health centers or rural health clinics. ~~This paragraph takes effect only if the Minnesota health care reform waiver is approved by the federal government, and remains in effect for as long as the Minnesota health care reform waiver remains in effect. When the waiver expires, this paragraph expires, and the commissioner of human services shall publish a notice in the State Register and notify the revisor of statutes.~~

(d) Effective July 1, 1999, the provisions of paragraph (c) requiring a federally qualified health center or a rural health clinic to make application for an essential community provider designation in order to have cost-based payments made according to paragraphs (a) and (b) no longer apply.

(e) Effective January 1, 2000, payments made according to paragraphs (a) and (b) shall be limited to the cost phase-out schedule of the Balanced Budget Act of 1997."

Page 18, line 25, after "trained" insert "mental health"

Page 19, after line 13, insert:

"Sec. 26. [256B.0914] [CONFLICTS OF INTEREST RELATED TO MEDICAID EXPENDITURES.]

Subdivision 1. [DEFINITIONS.] (a) "Contract" means a written, fully executed agreement for the purchase of goods and services involving a substantial expenditure of Medicaid funding. A contract under a renewal period shall be considered a separate contract.

(b) "Contractor bid or proposal information" means cost or pricing data, indirect costs, and proprietary information marked as such by the bidder in accordance with applicable law.

(c) "Particular expenditure" means a substantial expenditure as defined below, for a specified term, involving specific parties. The renewal of an existing contract for the substantial expenditure of Medicaid funds is considered a separate, particular expenditure from the original contract.

(d) "Source selection information" means any of the following information prepared for use by the state, county, or independent contractor for the purpose of evaluating a bid or proposal to enter into a Medicaid procurement contract, if that information has not been previously made available to the public or disclosed publicly:

- (1) bid prices submitted in response to a solicitation for sealed bids, or lists of the bid prices before bid opening;
- (2) proposed costs or prices submitted in response to a solicitation, or lists of those proposed costs or prices;
- (3) source selection plans;
- (4) technical evaluations plans;
- (5) technical evaluations of proposals;
- (6) cost or price evaluation of proposals;
- (7) competitive range determinations that identify proposals that have a reasonable chance of being selected for award of a contract;
- (8) rankings of bids, proposals, or competitors;

(9) the reports and evaluations of source selection panels, boards, or advisory councils; and

(10) other information marked as "source selection information" based on a case-by-case determination by the head of the agency, contractor, designees, or the contracting officer that disclosure of the information would jeopardize the integrity or successful completion of the Medicaid procurement to which the information relates.

(e) "Substantial expenditure" and "substantial amounts" mean a purchase of goods or services in excess of \$10,000,000 in Medicaid funding under this chapter or chapter 256L.

Subd. 2. [APPLICABILITY.] (a) Unless provided otherwise, this section applies to:

(1) any state or local officer, employee, or independent contractor who is responsible for the substantial expenditures of medical assistance or MinnesotaCare funding under this chapter or chapter 256L for which federal Medicaid matching funds are available;

(2) any individual who formerly was such an officer, employee, or independent contractor; and

(3) any partner of such a state or local officer, employee, or independent contractor.

(b) This section is intended to meet the requirements of state participation in the Medicaid program at United States Code, title 42, sections 1396a(a)(4) and 1396u-2(d)(3), which require that states have in place restrictions against conflicts of interest in the Medicaid procurement process, that are at least as stringent as those in effect under United States Code, title 41, section 423, and title 18, sections 207 and 208, as they apply to federal employees.

Subd. 3. [DISCLOSURE OF PROCUREMENT INFORMATION.] A person described in subdivision 2 may not knowingly disclose contractor bid or proposal information, or source selection information before the award by the state, county, or independent contractor of a Medicaid procurement contract to which the information relates unless the disclosure is otherwise authorized by law. No person, other than as provided by law, shall knowingly obtain contractor bid or proposal information or source selection information before the award of a Medicaid procurement contract to which the information relates.

Subd. 4. [OFFERS OF EMPLOYMENT.] When a person described in subdivision 2, paragraph (a), is participating personally and substantially in a Medicaid procurement for a contract contacts or is contacted by a person who is a bidder or offeror in the same procurement regarding possible employment outside of the entity by which the person is currently employed, the person must:

(1) report the contact in writing to his or her supervisor and his or her employer's ethics officer; and

(2) either:

(i) reject the possibility of employment with the bidder or offeror; or

(ii) be disqualified from further participation in the procurement until the bidder or offeror is no longer involved in that procurement, or all discussions with the bidder or offeror regarding possible employment have terminated without an arrangement for employment. A bidder or offeror may not engage in employment discussions with an official who is subject to this subdivision, until the bidder or offeror is no longer involved in that procurement.

Subd. 5. [ACCEPTANCE OF COMPENSATION BY A FORMER OFFICIAL.] (a) A former official of the state or county, or a former independent contractor, described in subdivision 2 may not accept compensation from a Medicaid contractor of a substantial expenditure as an employee, officer, director, or consultant of the contractor within one year after the former official or independent contractor:

(1) served as the procuring contracting officer, the source selection authority, a member of the source selection evaluation board, or the chief of a financial or technical evaluation team in a procurement in which the contractor was selected for award;

(2) served as the program manager, deputy program manager, or administrative contracting officer for a contract awarded to the contractor; or

(3) personally made decisions for the state, county, or independent contractor to:

(i) award a contract, subcontract, modification of a contract or subcontract, or a task order or delivery order to the contractor;

(ii) establish overhead or other rates applicable to a contract or contracts with the contractor;

(iii) approve issuance of a contract payment or payments to the contractor; or

(iv) pay or settle a claim with the contractor.

(b) Paragraph (a) does not prohibit a former official of the state, county, or independent contractor from accepting compensation from any division or affiliate of a contractor not involved in the same or similar products or services as the division or affiliate of the contractor that is responsible for the contract referred to in paragraph (a), clause (1), (2), or (3).

(c) A contractor shall not provide compensation to a former official knowing that the former official is accepting that compensation in violation of this subdivision.

Subd. 6. [PERMANENT RESTRICTIONS ON REPRESENTATION AND COMMUNICATION.] (a) A person described in subdivision 2, after termination of his or her service with state, county, or independent contractor, is permanently restricted from knowingly making, with the intent to influence, any communication to or appearance before an officer or employee of a department, agency, or court of the United States, the state of Minnesota and its counties in connection with a particular expenditure:

(1) in which the United States, the state of Minnesota, or a Minnesota county is a party or has a direct and substantial interest;

(2) in which the person participated personally and substantially as an officer, employee, or independent contractor; and

(3) which involved a specific party or parties at the time of participation.

(b) For purposes of this subdivision and subdivisions 7 and 9, "participated" means an action taken through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other such action.

Subd. 7. [TWO-YEAR RESTRICTIONS ON REPRESENTATION AND COMMUNICATION.] No person described in subdivision 2, within two years after termination of service with the state, county, or independent contractor, shall knowingly make, with the intent to influence, any communication to or appearance before any officer or employee of any government department, agency, or court in connection with a particular expenditure:

(1) in which the United States, the state of Minnesota, or a Minnesota county is a party or has a direct and substantial interest;

(2) which the person knows or reasonably should know was actually pending under the official's responsibility as an officer, employee, or independent contractor within one year before the termination of the official's service with the state, county, or independent contractor; and

(3) which involved a specific party or parties at the time the expenditure was pending.

Subd. 8. [EXCEPTIONS TO PERMANENT AND TWO-YEAR RESTRICTIONS ON REPRESENTATION AND COMMUNICATION.] Subdivisions 6 and 7 do not apply to:

(1) communications or representations made in carrying out official duties on behalf of the United States, the state of Minnesota or local government, or as an elected official of the state or local government;

(2) communications made solely for the purpose of furnishing scientific or technological information; or

(3) giving testimony under oath. A person subject to subdivisions 6 and 7 may serve as an expert witness in that matter, without restriction, for the state, county, or independent contractor. Under court order, a person subject to subdivisions 6 and 7 may serve as an expert witness for others. Otherwise, the person may not serve as an expert witness in that matter.

Subd. 9. [WAIVER.] The commissioner of human services, or the governor in the case of the commissioner, may grant a waiver of a restriction in subdivisions 6 and 7 if he or she determines that a waiver is in the public interest and that the services of the officer or employee are critically needed for the benefit of the state or county government.

Subd. 10. [ACTS AFFECTING A PERSONAL FINANCIAL INTEREST.] A person described in subdivision 2, paragraph (a), clause (1), who participates in a particular expenditure in which the person has knowledge or has a financial interest, is subject to the penalties in subdivision 12. For purposes of this subdivision, "financial interest" also includes the financial interest of a spouse, minor child, general partner, organization in which the officer or employee is serving as an officer, director, trustee, general partner, or employee, or any person or organization with whom the individual is negotiating or has any arrangement concerning prospective employment.

Subd. 11. [EXCEPTIONS TO PROHIBITIONS REGARDING FINANCIAL INTEREST.] Subdivision 10 does not apply if:

(1) the person first advises the person's supervisor and the employer's ethics officer regarding the nature and circumstances of the particular expenditure and makes full disclosure of the financial interest and receives in advance a written determination made by the commissioner of human services, or the governor in the case of the commissioner, that the interest is not so substantial as to likely affect the integrity of the services which the government may expect from the officer, employee, or independent contractor;

(2) the financial interest is listed as an exemption at Code of Federal Regulations, title 5, sections 2640.201 to 2640.203, as too remote or inconsequential to affect the integrity of the services of the office, employee, or independent contractor to which the requirement applies.

Subd. 12. [CRIMINAL PENALTIES.] (a) A person who violates subdivisions 3 to 5 for the purpose of either exchanging the information covered by this section for anything of value, or for obtaining or giving anyone a competitive advantage in the award of a Medicaid contract, may be sentenced to imprisonment for not more than five years or payment of a fine of not more than \$50,000 for each violation, or the amount of compensation which the person received or offered for the prohibited conduct, whichever is greater, or both.

(b) A person who violates a provision of subdivisions 6 to 11 may be sentenced to imprisonment for not more than one year or payment of a fine of not more than \$50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater, or both. A person who willfully engages in conduct in violation of subdivisions 6 to 11 may be sentenced to imprisonment for not more than five years or to payment of fine of not more than \$50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater, or both.

(c) Nothing in this section precludes prosecution under other laws such as section 609.43.

Subd. 13. [CIVIL PENALTIES AND INJUNCTIVE RELIEF.] (a) The Minnesota attorney general may bring a civil action in Ramsey county district court against a person who violates subdivisions 3 to 5. Upon proof of such conduct by a preponderance of evidence, the person is subject to a civil penalty. An individual who violates

subdivisions 3 to 5 is subject to a civil penalty of not more than \$50,000 for each violation plus twice the amount of compensation which the individual received or offered for the prohibited conduct. An organization that violates subdivisions 3 to 5 is subject to a civil penalty of not more than \$500,000 for each violation plus twice the amount of compensation which the organization received or offered for the prohibited conduct.

(b) If the Minnesota attorney general has reason to believe that a person is engaging in conduct in violation of subdivision 6, 7, or 9, the attorney general may petition the Ramsey county district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such a violation. The filing of a petition under this subdivision does not preclude any other remedy which is available by law.

Subd. 14. [ADMINISTRATIVE ACTIONS.] (a) If a state agency, local agency, or independent contractor receives information that a contractor or a person has violated subdivisions 3 to 5, the state agency, local agency, or independent contractor may:

- (1) cancel the procurement if a contract has not already been awarded;
- (2) rescind the contract; or
- (3) initiate suspension or debarment proceedings according to applicable state or federal law.

(b) If the contract is rescinded, the state agency, local agency, or independent contractor is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.

(c) This section does not:

(1) restrict the disclosure of information to or from any person or class of persons authorized to receive that information;

(2) restrict a contractor from disclosing the contractor's bid or proposal information or the recipient from receiving that information;

(3) restrict the disclosure or receipt of information relating to a Medicaid procurement after it has been canceled by the state agency, county agency, or independent contractor before the contract award unless the agency or independent contractor plans to resume the procurement; or

(4) limit the applicability of any requirements, sanctions, contract penalties, and remedies established under any other law or regulation.

(d) No person may file a protest against the award or proposed award of a Medicaid contract alleging a violation of this section unless that person reported the information the person believes constitutes evidence of the offense to the applicable state agency, local agency, or independent contractor responsible for the procurement. The report must be made no later than 14 days after the person first discovered the possible violation.

Sec. 27. Minnesota Statutes 1998, section 256B.48, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED PRACTICES.] A nursing facility is not eligible to receive medical assistance payments unless it refrains from all of the following:

(a) Charging private paying residents rates for similar services which exceed those which are approved by the state agency for medical assistance recipients as determined by the prospective desk audit rate, except under the following circumstances: the nursing facility may (1) charge private paying residents a higher rate for a private room, and (2) charge for special services which are not included in the daily rate if medical assistance residents are charged separately at the same rate for the same services in addition to the daily rate paid by the commissioner. Services

covered by the payment rate must be the same regardless of payment source. Special services, if offered, must be available to all residents in all areas of the nursing facility and charged separately at the same rate. Residents are free to select or decline special services. Special services must not include services which must be provided by the nursing facility in order to comply with licensure or certification standards and that if not provided would result in a deficiency or violation by the nursing facility. Services beyond those required to comply with licensure or certification standards must not be charged separately as a special service if they were included in the payment rate for the previous reporting year. A nursing facility that charges a private paying resident a rate in violation of this clause is subject to an action by the state of Minnesota or any of its subdivisions or agencies for civil damages. A private paying resident or the resident's legal representative has a cause of action for civil damages against a nursing facility that charges the resident rates in violation of this clause. The damages awarded shall include three times the payments that result from the violation, together with costs and disbursements, including reasonable attorneys' fees or their equivalent. A private paying resident or the resident's legal representative, the state, subdivision or agency, or a nursing facility may request a hearing to determine the allowed rate or rates at issue in the cause of action. Within 15 calendar days after receiving a request for such a hearing, the commissioner shall request assignment of an administrative law judge under sections 14.48 to 14.56 to conduct the hearing as soon as possible or according to agreement by the parties. The administrative law judge shall issue a report within 15 calendar days following the close of the hearing. The prohibition set forth in this clause shall not apply to facilities licensed as boarding care facilities which are not certified as skilled or intermediate care facilities level I or II for reimbursement through medical assistance.

(b) Requiring an applicant for admission to the facility, or the guardian or conservator of the applicant, as a condition of admission, to pay any fee or deposit in excess of \$100, loan any money to the nursing facility, or promise to leave all or part of the applicant's estate to the facility.

(c) Requiring any resident of the nursing facility to utilize a vendor of health care services chosen by the nursing facility. A nursing facility may require a resident to use pharmacies that utilize unit dose packing systems or other medication administration systems approved by the Minnesota board of pharmacy, and may require a resident to use pharmacies that are able to meet the nursing facility's standards for safe and timely administration of medications such as systems with specific number of doses, prompt delivery of medications, or access to medications on a 24-hour basis. Nursing facilities shall not restrict a resident's choice of pharmacy because the pharmacy utilizes a specific system of unit dose drug packing, providing the system is consistent with the other systems used by the facility.

(d) Providing differential treatment on the basis of status with regard to public assistance.

(e) Discriminating in admissions, services offered, or room assignment on the basis of status with regard to public assistance or refusal to purchase special services. Admissions discrimination shall include, but is not limited to:

(1) basing admissions decisions upon assurance by the applicant to the nursing facility, or the applicant's guardian or conservator, that the applicant is neither eligible for nor will seek public assistance for payment of nursing facility care costs; and

(2) engaging in preferential selection from waiting lists based on an applicant's ability to pay privately or an applicant's refusal to pay for a special service.

The collection and use by a nursing facility of financial information of any applicant pursuant to a preadmission screening program established by law shall not raise an inference that the nursing facility is utilizing that information for any purpose prohibited by this paragraph.

(f) Requiring any vendor of medical care as defined by section 256B.02, subdivision 7, who is reimbursed by medical assistance under a separate fee schedule, to pay any amount based on utilization or service levels or any portion of the vendor's fee to the nursing facility except as payment for renting or leasing space or equipment or purchasing support services from the nursing facility as limited by section 256B.433. All agreements must be disclosed to the commissioner upon request of the commissioner. Nursing facilities and vendors of ancillary services that are found to be in violation of this provision shall each be subject to an action by the state of Minnesota or any

of its subdivisions or agencies for treble civil damages on the portion of the fee in excess of that allowed by this provision and section 256B.433. Damages awarded must include three times the excess payments together with costs and disbursements including reasonable attorney's fees or their equivalent.

(g) Refusing, for more than 24 hours, to accept a resident returning to the same bed or a bed certified for the same level of care, in accordance with a physician's order authorizing transfer, after receiving inpatient hospital services.

The prohibitions set forth in clause (b) shall not apply to a retirement facility with more than 325 beds including at least 150 licensed nursing facility beds and which:

- (1) is owned and operated by an organization tax-exempt under section 290.05, subdivision 1, clause (i); and
- (2) accounts for all of the applicant's assets which are required to be assigned to the facility so that only expenses for the cost of care of the applicant may be charged against the account; and
- (3) agrees in writing at the time of admission to the facility to permit the applicant, or the applicant's guardian, or conservator, to examine the records relating to the applicant's account upon request, and to receive an audited statement of the expenditures charged against the applicant's individual account upon request; and
- (4) agrees in writing at the time of admission to the facility to permit the applicant to withdraw from the facility at any time and to receive, upon withdrawal, the balance of the applicant's individual account.

For a period not to exceed 180 days, the commissioner may continue to make medical assistance payments to a nursing facility or boarding care home which is in violation of this section if extreme hardship to the residents would result. In these cases the commissioner shall issue an order requiring the nursing facility to correct the violation. The nursing facility shall have 20 days from its receipt of the order to correct the violation. If the violation is not corrected within the 20-day period the commissioner may reduce the payment rate to the nursing facility by up to 20 percent. The amount of the payment rate reduction shall be related to the severity of the violation and shall remain in effect until the violation is corrected. The nursing facility or boarding care home may appeal the commissioner's action pursuant to the provisions of chapter 14 pertaining to contested cases. An appeal shall be considered timely if written notice of appeal is received by the commissioner within 20 days of notice of the commissioner's proposed action.

In the event that the commissioner determines that a nursing facility is not eligible for reimbursement for a resident who is eligible for medical assistance, the commissioner may authorize the nursing facility to receive reimbursement on a temporary basis until the resident can be relocated to a participating nursing facility.

Certified beds in facilities which do not allow medical assistance intake on July 1, 1984, or after shall be deemed to be decertified for purposes of section 144A.071 only.

Sec. 28. Minnesota Statutes 1998, section 256B.69, is amended by adding a subdivision to read:

Subd. 5a. [MEDICAL EDUCATION AND RESEARCH PAYMENTS.] For the calendar years 1999, 2000, and 2001, a hospital that participates in funding the federal share of the medical education and research trust fund payment under Laws 1998, chapter 407, article 1, section 3, shall not be held liable for any amounts attributable to this payment above the charge limit of section 256.969, subdivision 3a. The commissioner of human services shall assume liability for any corresponding federal share of the payments above the charge limit."

Page 25, line 3, strike everything after "applications"

Page 25, line 4, strike "(a)"

Page 25, line 8, delete the period

Page 25, line 9, after "assistance" insert ", except for those described in paragraph (a)."



Page 25, line 10, strike "without a spenddown"

Page 26, line 3, delete "for initial applications" and insert "at application or reenrollment"

Page 26, line 4, after "applicants" insert "or enrollees"

Page 27, line 1, reinstate the stricken language

Page 27, line 3, after the comma, insert "including premiums due for the period of disenrollment,"

Page 27, line 4, delete everything after "reenrolled" and insert "retroactively to the first day of disenrollment"

Page 31, line 12, after "individuals" insert "and families"

Page 30, line 36, strike "evenly"

Page 32, line 26, delete "35" and insert "23"

Page 32, after line 26, insert:

"Sec. 44. [PROGRAMS FOR SENIOR CITIZENS.]

The commissioner of human services shall study the eligibility criteria of and benefits provided to persons age 65 and over through the array of cash assistance and health care programs administered by the department, and the extent to which these programs can be combined, simplified, or coordinated to reduce administrative costs and improve access. The commissioner shall also study potential barriers to enrollment for low-income seniors who would otherwise deplete resources necessary to maintain independent community living. At a minimum, the study must include an evaluation of asset requirements and enrollment sites. The commissioner shall report study findings and recommendations to the legislature by February 15, 2000."

Amend the title as follows:

Page 1, line 17, after the semicolon, insert "modifying provisions for cost-based payments;"

Page 1, line 18, after the semicolon, insert "proscribing conflicts of interest for Medicaid payments; modifying nursing facility prohibited practices; requiring commissioner to assume liability for federal share of medical education and research payments above the charge limit;"

Page 1, line 23, after the semicolon, insert "requiring commissioner of human services to complete study;"

Page 1, line 29, after "26, " insert "30,"

Page 1, line 30, after "subdivision 3;" insert "256B.48, subdivision 1; 256B.69, by adding a subdivision;"

Page 1, line 35, before the period, insert "; proposing coding for new law in Minnesota Statutes, chapter 256B"

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

The report was adopted.

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

H. F. No. 1631, A bill for an act relating to health; establishing protocol for occupational exposure to bloodborne pathogens in certain settings; providing criminal penalties; amending Minnesota Statutes 1998, sections 13.99, subdivision 38, and by adding a subdivision; 72A.20, subdivision 29; 144.4804, by adding a subdivision; 214.18, subdivision 5, and by adding a subdivision; 214.19; 214.20; 214.22; 214.23, subdivisions 1 and 2; 214.25, subdivision 2; and 611A.19, subdivisions 1 and 2; proposing coding for new law in Minnesota Statutes, chapters 144; and 241; repealing Minnesota Statutes 1998, sections 144.761; 144.762; 144.763; 144.764; 144.765; 144.766; 144.767; 144.768; 144.769; and 144.7691.

Reported the same back with the following amendments:

Page 1, line 25, delete "241.33 to 241.342" and insert "243.94 to 243.953"

Page 1, line 26, delete "241.339" and insert "243.950"

Page 2, line 21, delete "241.33 to 241.342" and insert "243.94 to 243.953"

Page 4, line 1, delete everything after "means" and insert a colon

Page 4, delete lines 2 and 3

Page 4, line 11, before the semicolon, insert ", who provides out-of-hospital emergency medical services during the performance of the individual's duties"

Page 4, line 16, delete "and"

Page 4, line 17, delete "other"

Page 4, line 20, before the period, insert "; and

(5) any individual who, in the process of executing a citizen's arrest under section 629.30, may have experienced a significant exposure to a source individual"

Page 12, line 36, after "person" insert "executing a citizen's arrest under section 629.30 or"

Pages 19 to 27, delete sections 27 to 39 and insert:

"Sec. 27. [243.94] [DEFINITIONS.]

Subdivision 1. [SCOPE OF DEFINITIONS.] For purposes of sections 243.94 to 243.953, the following terms have the meanings given them.

Subd. 2. [BLOODBORNE PATHOGENS.] "Bloodborne pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans. The pathogens include, but are not limited to, hepatitis B virus (HBV), hepatitis C virus (HCV), and human immunodeficiency virus (HIV).

Subd. 3. [INMATE.] "Inmate" means:

(1) any person who is convicted of a felony, is committed to the custody of the commissioner of corrections and is confined in a state correctional facility or secure treatment facility or released from a state correctional facility or secure treatment facility pursuant to section 244.065 or 244.07;

(2) any person who is convicted of a crime and is in the custody of a local correctional facility or secure treatment facility, which has the meaning given in section 241.021, subdivision 1; or

(3) a person committed as a sexual psychopathic personality or sexually dangerous person as defined in section 253B.02, subdivisions 18b and 18c.

Subd. 4. [CORRECTIONAL FACILITY.] "Correctional facility" means a state or local correctional facility.

Subd. 5. [CORRECTIONS EMPLOYEE.] "Corrections employee" means an employee of a state or local correctional agency who experiences a significant exposure to an inmate during the performance of the employee's duties.

Subd. 6. [EMPLOYEE AT A SECURE TREATMENT FACILITY.] "Employee at a secure treatment facility" means an employee at the Minnesota security hospital or the Minnesota sexual psychopathic personality treatment center who experiences a significant exposure in the performance of the employee's duties.

Subd. 7. [SECURE TREATMENT FACILITY.] "Secure treatment facility" means the Minnesota security hospital or the Minnesota sexual psychopathic personality treatment center.

Subd. 8. [SIGNIFICANT EXPOSURE.] "Significant exposure" means contact, in a manner supported by recommendation of the United States Public Health Service most current at the time these evaluations take place, which includes:

(1) percutaneous injury, contact of mucous membrane or nonintact skin, or prolonged contact of intact skin; and

(2) contact, in a manner which may transmit a bloodborne pathogen, with blood, tissue, or other body fluids.

Sec. 28. [243.941] [CONDITIONS FOR APPLICABILITY OF PROCEDURES.]

Subdivision 1. [REQUEST FOR PROCEDURES.] A corrections employee or employee at a secure treatment facility may request that the procedures of sections 243.94 to 243.953 be followed when the corrections employee or employee at a secure treatment facility may have experienced a significant exposure to an inmate.

Subd. 2. [CONDITIONS.] The correctional or secure treatment facility shall follow the procedures outlined in sections 243.94 to 243.953 when all of the following conditions are met:

(1) a licensed physician determines that a significant exposure has occurred following the process under section 243.945;

(2) the licensed physician for the corrections employee or employee at a secure treatment facility needs the inmate's bloodborne pathogens test results to begin, continue, modify, or discontinue treatment in accordance with the most current guidelines of the United States Public Health Service, because of possible exposure to a bloodborne pathogen; and

(3) the corrections employee or employee at a secure treatment facility consents to providing a blood sample for testing for a bloodborne pathogen.

Sec. 29. [243.942] [INFORMATION REQUIRED TO BE GIVEN TO INDIVIDUALS.]

Subdivision 1. [INFORMATION TO INMATE.] Before seeking any consent required by these procedures, the correctional or secure treatment facility shall inform the inmate that the inmate's bloodborne pathogen test results, without name or other uniquely identifying information, will be reported to the corrections employee or employee at a secure treatment facility if requested, and that test results collected through this process are for medical purposes as set forth in section 243.948 and cannot be used as evidence in any criminal proceedings. The correctional or

secure treatment facility shall inform the inmate that the correctional or secure treatment facility will advise the corrections employee or employee at a secure treatment facility of the confidentiality requirements and penalties before the employee's health care provider discloses any test results.

Subd. 2. [INFORMATION TO CORRECTIONS EMPLOYEE OR EMPLOYEE AT A SECURE TREATMENT FACILITY.] Before disclosing any information about the inmate, the correctional or secure treatment facility shall inform the corrections employee or employee at a secure treatment facility of the confidentiality requirements of section 243.950 and that the person may be subject to penalties for unauthorized release of test results about the inmate under section 243.951.

Sec. 30. [243.943] [DISCLOSURE OF POSITIVE BLOODBORNE PATHOGEN TEST RESULTS.]

If the condition of sections 243.941 and 243.942 are met, the correctional or secure treatment facility shall ask the inmate if they have ever had a positive test for a bloodborne pathogen. The correctional or secure treatment facility must attempt to get existing test results under this section before taking any steps to obtain a blood sample or to test for bloodborne pathogens. The correctional or secure treatment facility shall disclose the inmate's bloodborne pathogen test results to the corrections employee or employee at a secure treatment facility without name or other uniquely identifying information.

Sec. 31. [243.944] [CONSENT PROCEDURES GENERALLY.]

For purposes of sections 243.94 to 243.953, whenever the correctional or secure treatment facility is required to seek consent, the correctional or secure treatment facility shall obtain consent from an inmate or an inmate's representative consistent with other law applicable to consent. Consent is not required if the correctional or secure treatment facility has made reasonable efforts to obtain the representative's consent and consent cannot be obtained within 24 hours of a significant exposure. If testing of available blood occurs without consent because the inmate is unconscious or unable to provide consent, and a representative cannot be located, the correctional or secure treatment facility shall provide the information required in section 243.942 to the inmate or representative whenever it is possible to do so. If an inmate dies before an opportunity to consent to blood collection or testing under sections 243.94 to 243.953, the correctional or secure treatment facility does not need consent of the inmate's representative for purposes of these sections.

Sec. 32. [243.945] [TESTING OF AVAILABLE BLOOD.]

Subdivision 1. [PROCEDURES WITH CONSENT.] If a sample of the inmate's blood is available, the correctional or secure treatment facility shall ensure that blood is tested for bloodborne pathogens with the consent of the inmate, provided the conditions in sections 243.941 and 243.942 are met.

Subd. 2. [PROCEDURES WITHOUT CONSENT.] If the inmate has provided a blood sample, but does not consent to bloodborne pathogens testing, the correctional or secure treatment facility shall ensure that the blood is tested for bloodborne pathogens if the corrections employee or employee at a secure treatment facility requests, provided all of the following criteria are met:

(1) the corrections employee or employee at a secure treatment facility and correctional or secure treatment facility or state hospital or treatment center have documented exposure to blood or body fluids during performance of the employee's work duties;

(2) a licensed physician has determined that a significant exposure has occurred under section 243.941, subdivision 2, and has documented that bloodborne pathogen test results are needed for beginning, modifying, continuing, or discontinuing medical treatment for the corrections employee or employee at a secure treatment facility as recommended by the most current guidelines of the United States Public Health Service;

(3) the corrections employee or employee at a secure treatment facility provides a blood sample for testing for bloodborne pathogens as soon as feasible;

(4) the correctional or secure treatment facility has asked the inmate to consent to a test for bloodborne pathogens and the inmate has not consented;

(5) the correctional or secure treatment facility has provided the inmate and the corrections employee or employee at a secure treatment facility with all of the information required by section 243.942; and

(6) the correctional or secure treatment facility has informed the corrections employee or employee at a secure treatment facility of the confidentiality requirements of section 243.950 and the penalties for unauthorized release of inmate information under section 243.951.

Subd. 3. [FOLLOW-UP.] The correctional or secure treatment facility shall inform the inmate whose blood was tested of the results. The correctional or secure treatment facility shall inform the corrections employee's or secure treatment facility employee's health care provider of the inmate's test results without name or other uniquely identifying information.

Sec. 33. [243.946] [BLOOD SAMPLE COLLECTION FOR TESTING.]

Subdivision 1. [PROCEDURES WITH CONSENT.] If a blood sample is not otherwise available, the correctional or secure treatment facility shall obtain consent from the inmate before collecting a blood sample for testing for bloodborne pathogens. The consent process shall include informing the inmate that the inmate can refuse to provide a blood sample, and that the inmate's refusal may result in a request for a court order under subdivision 2 to require the inmate to provide a blood sample. If the inmate consents to provide a blood sample, the correctional or secure treatment facility shall collect a blood sample and ensure that sample is tested for bloodborne pathogens. The correctional or secure treatment facility shall inform the corrections employee's or secure treatment facility employee's health care provider about the inmate's test results without name or other uniquely identifying information. The correctional or secure treatment facility shall inform the inmate of the test results. If the inmate refuses to provide a blood sample for testing, the correctional or secure treatment facility shall inform the corrections employee or employee at a secure treatment facility about the inmate's refusal.

Subd. 2. [PROCEDURES WITHOUT CONSENT.] (a) A correctional or secure treatment facility, or a corrections employee or employee at a secure treatment facility, may bring a petition for a court order to require an inmate to provide a blood sample for testing for bloodborne pathogens. The petition shall be filed in the district court in the county where the inmate is confined. The correctional or secure treatment facility shall serve the petition on the inmate before a hearing on the petition. The petition shall include an affidavit or affidavits attesting that:

(1) the correctional or secure treatment facility followed the procedures in sections 243.94 to 243.953 and attempted to obtain bloodborne pathogen test results through those sections;

(2) a licensed physician knowledgeable about the most current recommendations of the United States Public Health Service has determined that a significant exposure has occurred to the corrections employee or employee at a secure treatment facility consistent with section 243.941, subdivision 2; and

(3) a physician has documented that bloodborne pathogen test results are needed for beginning, continuing, modifying, or discontinuing medical treatment for the corrections employee or employee at a secure treatment facility.

Facilities shall cooperate with petitioners in providing any necessary affidavits to the extent that facility staff can attest under oath to the facts in the affidavits.

(b) The court may order the inmate to provide a blood sample for bloodborne pathogen testing if:

(1) there is probable cause to believe the corrections employee or employee at a secure treatment facility has experienced a significant exposure to the inmate;

(2) the court imposes appropriate safeguards against unauthorized disclosure which must specify the persons who have access to the test results and the purposes for which the test results may be used;

(3) a licensed physician for the corrections employee or employee at a secure treatment facility needs the test results for beginning, continuing, modifying, or discontinuing medical treatment for the corrections employee or employee at a secure treatment facility; and

(4) the court finds a compelling need for the test results.

In assessing compelling need, the court shall weigh the need for the compelled blood collection and the test results against the privacy interests of the inmate. The court shall also consider whether involuntary blood collection and testing would serve the public interest.

(c) The court shall conduct the proceeding in camera unless the petitioner or the inmate requests a hearing in open court and unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice.

(d) The inmate may arrange for counsel in any proceeding brought under this subdivision.

Sec. 34. [243.947] [NO DISCRIMINATION.]

The correctional or secure treatment facility shall not withhold care or treatment because the inmate refuses to consent to bloodborne pathogen testing under these procedures.

Sec. 35. [243.948] [USE OF TEST RESULTS.]

Bloodborne pathogen test results of the inmate obtained under sections 243.94 to 243.953 are for diagnostic purposes, and to determine the need for treatment or medical care specific to a bloodborne pathogen-related illness. The test results cannot be used as evidence in any criminal proceedings.

Sec. 36. [243.949] [BLOOD TESTING FOR OTHER EXPOSED PERSONS.]

Any person, other than another inmate, who has experienced significant exposure to an inmate may request the correctional or secure treatment facility to implement blood testing procedures outlined in sections 243.94 to 243.953. If the correctional or secure treatment facility determines that the conditions outlined in section 243.941, subdivision 2, have been met, the facility shall follow the procedures outlined in sections 243.94 to 243.953. Informational disclosure, consent requirements, test information confidentiality, and any other provision in sections 243.94 to 243.953 shall apply to blood testing for any person, other than another inmate, who has experienced significant exposure to an inmate and requested testing under this section.

Sec. 37. [243.950] [TEST INFORMATION CONFIDENTIALITY.]

Test results obtained under sections 243.94 to 243.953 are private data as defined in sections 13.02, subdivision 12, and 13.85, subdivision 2, but shall be released as provided by sections 243.94 to 243.953.

Sec. 38. [243.951] [PENALTY FOR UNAUTHORIZED RELEASE OF INFORMATION.]

Unauthorized release of the inmate's name or other uniquely identifying information under sections 243.94 to 243.953 is subject to the remedies and penalties under sections 13.08 and 13.09. This section does not preclude private causes of action against an individual, state agency, statewide system, political subdivision, or person responsible for releasing private data, or confidential or private information on the inmate.

## Sec. 39. [243.952] [PROTOCOL FOR EXPOSURE TO BLOODBORNE PATHOGENS.]

Correctional or secure treatment facilities shall follow applicable guidelines for bloodborne pathogens, as provided by Code of Federal Regulations, title 29, part 1910, section 1030. Postexposure protocols for corrections employees or employees at a secure treatment facility who have experienced a significant exposure must adhere to the most current recommendations by the United States Public Health Service.

## Sec. 40. [243.953] [IMMUNITY.]

A correctional or secure treatment facility, licensed physician, and designated health care personnel are immune from liability in any civil, administrative, or criminal action relating to the disclosure of test results of an inmate to a corrections employee or employee at a secure treatment facility and the testing of a blood sample from the inmate for bloodborne pathogens if a good faith effort has been made to comply with sections 243.94 to 243.953.

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 12, delete "241" and insert "243"

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

The report was adopted.

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

H. F. No. 1641, A bill for an act relating to traffic regulations; exempting vehicles carrying milk from seasonal weight restrictions under certain circumstances; amending Minnesota Statutes 1998, section 169.87, by adding a subdivision.

Reported the same back with the following amendments:

Page 1, line 9, before "A" insert "Until June 1, 2003,"

Page 1, line 15, after the period, insert "This subdivision does not authorize a vehicle described in this subdivision to exceed a weight restriction of five tons per axle by more than two tons per axle."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1877, A bill for an act relating to public employees; ratifying certain labor agreements and compensation plans; providing for transfer of vacation and sick leave for certain employees; modifying per diem provision for special mediators; modifying procedures for the listing of arbitrators; making technical changes; amending Minnesota Statutes 1998, sections 3.096; 179.02, subdivision 2; 179A.04, subdivision 3; 179A.10, subdivision 1; and 179A.16, subdivision 2.

Reported the same back with the following amendments:

Page 3, after line 6, insert:

"Sec. 3. Minnesota Statutes 1998, section 43A.17, subdivision 4, is amended to read:

Subd. 4. [~~SPECIALISTS EXCEPTIONS.~~] (a) The commissioner may without regard to subdivision 1 establish special salary rates and plans of compensation designed to attract and retain exceptionally qualified doctors of medicine. These rates and plans shall be included in the commissioner's plan. In establishing salary rates and eligibility for nomination for payment at special rates, the commissioner shall consider the standards of eligibility established by national medical specialty boards where appropriate. The incumbents assigned to these special ranges shall be excluded from the collective bargaining process.

(b) The commissioner may without regard to subdivision 1, but subject to collective bargaining agreements or compensation plans, establish special salary rates designed to attract and retain exceptionally qualified ~~information systems staff~~ employees in the following positions:

(1) information systems staff;

(2) actuaries in the departments of health, human services, and commerce; and

(3) epidemiologists in the department of health."

Page 3, after line 17, insert:

"Sec. 5. Minnesota Statutes 1998, section 179A.03, subdivision 14, is amended to read:

Subd. 14. [PUBLIC EMPLOYEE.] "Public employee" or "employee" means any person appointed or employed by a public employer except:

(a) elected public officials;

(b) election officers;

(c) commissioned or enlisted personnel of the Minnesota national guard;

(d) emergency employees who are employed for emergency work caused by natural disaster;

(e) part-time employees whose service does not exceed the lesser of 14 hours per week or 35 percent of the normal work week in the employee's appropriate unit;

(f) employees whose positions are basically temporary or seasonal in character and: (1) are not for more than 67 working days in any calendar year; or (2) are not for more than 100 working days in any calendar year and the employees are under the age of 22, are full-time students enrolled in a nonprofit or public educational institution prior to being hired by the employer, and have indicated, either in an application for employment or by being enrolled at an educational institution for the next academic year or term, an intention to continue as students during or after their temporary employment;

(g) employees providing services for not more than two consecutive quarters to the board of trustees of the Minnesota state colleges and universities under the terms of a professional or technical services contract as defined in section 16C.08, subdivision 1;

(h) employees of charitable hospitals as defined by section 179.35, subdivision 3;

(i) full-time undergraduate students employed by the school which they attend under a work-study program or in connection with the receipt of financial aid, irrespective of number of hours of service per week;



(j) an individual who is employed for less than 300 hours in a fiscal year as an instructor in an adult vocational education program;

(k) an individual hired by a school district or the board of trustees of the Minnesota state colleges and universities to teach one course for ~~up to four~~ three or fewer credits for one ~~quarter~~ semester in a year.

The following individuals are public employees regardless of the exclusions of clauses (e) and (f):

(1) An employee hired by a school district or the board of trustees of the Minnesota state colleges and universities except at the university established in section 136F.13 or for community services or community education instruction offered on a noncredit basis: (i) to replace an absent teacher or faculty member who is a public employee, where the replacement employee is employed more than 30 working days as a replacement for that teacher or faculty member; or (ii) to take a teaching position created due to increased enrollment, curriculum expansion, courses which are a part of the curriculum whether offered annually or not, or other appropriate reasons; and

(2) An employee hired for a position under clause (f)(1) if that same position has already been filled under clause (f)(1) in the same calendar year and the cumulative number of days worked in that same position by all employees exceeds 67 calendar days in that year. For the purpose of this paragraph, "same position" includes a substantially equivalent position if it is not the same position solely due to a change in the classification or title of the position."

Page 6, after line 21, insert:

"Sec. 9. [REPEALER.]

Minnesota Statutes 1998, section 43A.17, subdivision 12, is repealed."

Page 6, line 23, delete "Section 1 is" and insert "Sections 1, 3, and 9 are"

Renumber the sections in sequence

Correct internal references

Amend the title as follows:

Page 1, line 5, after the semicolon, insert "authorizing commissioner of employee relations to establish special salary rates for certain employees;"

Page 1, line 6, after the semicolon, insert "modifying definition of public employee;"

Page 1, line 8, after the semicolon, insert "43A.17, subdivision 4;"

Page 1, line 9, after the first semicolon, insert "179A.03, subdivision 14;"

Page 1, line 10, before the period, insert "; repealing Minnesota Statutes 1998, section 43A.17, subdivision 12"

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

The report was adopted.

Lindner from the Committee on Jobs and Economic Development Policy to which was referred:

H. F. No. 1910, A bill for an act relating to housing; housing finance agency; authorizing agency to make home improvement loans where debt to value ratio is up to 110 percent; authorizing agency to make equity take-out loans to owners of federally subsidized housing under certain circumstances; allowing participants to receive rental assistance for family stabilization for up to 60 months; clarifying purposes for which community rehabilitation funds may be used; establishing account to provide homeownership opportunities for disabled; modifying low-income housing credits; amending Minnesota Statutes 1998, sections 462A.05, subdivision 14; 462A.073, subdivision 2; 462A.205, subdivisions 1, 2, 5, 6, and 9; 462A.206, subdivision 2; 462A.21, by adding a subdivision; 462A.222, subdivision 3; and 462A.223, subdivision 2; repealing Minnesota Statutes 1998, section 462A.073, subdivision 3.

Reported the same back with the following amendments:

Page 4, after line 4, insert:

"Sec. 3. Minnesota Statutes 1998, section 462A.073, subdivision 4, is amended to read:

Subd. 4. [LIMITATION; COMMITMENTS AND LOANS TO BUILDERS AND DEVELOPERS.] The agency may not make available, provide set-asides, or commit to make available proceeds of mortgage bonds for the exclusive use of builders or developers for loans to eligible purchasers for new housing except for new housing described in subdivision 2, ~~clauses (1) and (2)~~. This prohibition is in effect for the total origination period."

Page 9, line 1, reinstate the stricken language and delete the new language

Page 14, line 33, delete "10 and 11" and insert "2, 3, 10, 11, and 13"

Reorder the sections in sequence

Amend the title as follows:

Page 1, line 8, delete "60" and insert "36"

Page 1, line 14, delete "subdivision 2" and insert "subdivisions 2 and 4"

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1933, A bill for an act relating to human services; establishing a task force to develop a new day training and habilitation payment rate structure with technical assistance from the commissioner of human services.

Reported the same back with the following amendments:

Page 2, line 16, after the period, insert "The task force expires on March 15, 2000."

Sec. 5. [EFFECTIVE DATE.]

Sections 1 to 4 are effective the day following final enactment."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1944, A bill for an act relating to natural resources; modifying the route of Paul Bunyan state trail; amending Minnesota Statutes 1998, section 85.015, subdivision 15.

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

The report was adopted.

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

H. F. No. 1975, A bill for an act relating to state government; modifying the appointment process and position classifications for the state archaeologist; amending Minnesota Statutes 1998, section 138.35, subdivisions 1 and 1a.

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

The report was adopted.

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

H. F. No. 2016, A bill for an act relating to crime prevention; making miscellaneous changes to certain forfeiture provisions; amending Minnesota Statutes 1998, sections 169.1217, subdivisions 7 and 7a; and 609.5314, subdivisions 2 and 3.

Reported the same back with the following amendments:

Page 3, line 22, strike "less than" and after "\$7,500" insert "or less"

Page 5, line 26, strike "less than" and after "\$7,500" insert "or less"

Page 6, line 10, after the period, insert "The limitations and defenses set forth in section 609.5311, subdivision 3, apply to the judicial determination."

With the recommendation that when so amended the bill pass.

The report was adopted.

Bradley from the Committee on Health and Human Services Policy to which was referred:

H. F. No. 2021, A bill for an act relating to the environment; providing a new license category under the well code for a vertical heat exchanger contractor; establishing training requirements for well contractors installing vertical heat exchangers; amending Minnesota Statutes 1998, sections 103I.005, subdivision 20; 103I.101, subdivisions 2 and 5; 103I.105; 103I.208, subdivision 2; 103I.501; 103I.525, by adding a subdivision; and 103I.641, subdivisions 1 and 3; proposing coding for new law in Minnesota Statutes, chapter 103I.

Reported the same back with the following amendments:

Page 1, after line 12, insert:

"Section 1. Minnesota Statutes 1998, section 103I.005, subdivision 12, is amended to read:

Subd. 12. [~~LIMITED WELL~~ WELL/BORING CONTRACTOR.] "~~Limited well~~ well/boring contractor" means a person with a limited ~~well~~ well/boring contractor's license issued by the commissioner.

Sec. 2. Minnesota Statutes 1998, section 103I.005, subdivision 13, is amended to read:

Subd. 13. [~~LIMITED WELL~~ WELL/BORING SEALING CONTRACTOR.] "Limited ~~well~~ well/boring sealing contractor" means a person with a limited ~~well~~ well/boring sealing contractor's license issued by the commissioner."

Page 1, lines 25 and 26, delete the new language and insert "persons constructing, repairing, and sealing vertical heat exchangers,"

Page 2, line 30, delete everything after "(vi)" and insert "persons constructing, repairing, and sealing vertical heat exchangers:"

Page 3, line 31, delete "19" and insert "18"

Page 3, line 32, delete "19" and insert "18"

Page 4, line 21, after the semicolon, insert "and"

Page 4, line 24, delete "; and"

Page 4, delete lines 25 to 27

Page 4, line 28, delete everything before the period

Pages 5 and 6, delete section 5 and insert:

"Sec. 7. Minnesota Statutes 1998, section 103I.205, subdivision 2, is amended to read:

Subd. 2. [EMERGENCY PERMIT AND NOTIFICATION EXEMPTIONS.] The commissioner may adopt rules that modify the procedures for filing a well notification or well permit if conditions occur that:

- (1) endanger the public health and welfare or cause a need to protect the groundwater; or
- (2) require the monitoring well contractor, limited ~~well~~ well/boring contractor, or well contractor to begin constructing a well before obtaining a permit or notification.

Sec. 8. Minnesota Statutes 1998, section 103I.205, subdivision 4, is amended to read:

Subd. 4. [LICENSE REQUIRED.] (a) Except as provided in paragraph (b), (c), or (d), or section 103I.601, subdivision 2, a person may not drill, construct, repair, or seal a well or boring unless the person has a well contractor's license in possession.

(b) A person may construct a monitoring well if the person:

- (1) is a professional engineer registered under sections 326.02 to 326.15 in the branches of civil or geological engineering;
- (2) is a hydrologist or hydrogeologist certified by the American Institute of Hydrology;
- (3) is a professional engineer registered with the board of architecture, engineering, land surveying, landscape architecture, and interior design;
- (4) is a geologist certified by the American Institute of Professional Geologists; or
- (5) meets the qualifications established by the commissioner in rule.

A person must register with the commissioner as a monitoring well contractor on forms provided by the commissioner.

(c) A person may do the following work with a limited ~~well~~ well/boring contractor's license in possession. A separate license is required for each of the ~~five~~ six activities:

(1) installing or repairing well screens or pitless units or pitless adaptors and well casings from the pitless adaptor or pitless unit to the upper termination of the well casing;

(2) constructing, repairing, and sealing drive point wells or dug wells;

(3) installing well pumps or pumping equipment;

(4) sealing wells; ~~or~~

(5) constructing, repairing, or sealing dewatering wells; or

(6) constructing, repairing, or sealing vertical heat exchangers.

(d) Notwithstanding other provisions of this chapter requiring a license or registration, a license or registration is not required for a person who complies with the other provisions of this chapter if the person is:

(1) an individual who constructs a well on land that is owned or leased by the individual and is used by the individual for farming or agricultural purposes or as the individual's place of abode; or

(2) an individual who performs labor or services for a contractor licensed or registered under the provisions of this chapter in connection with the construction, sealing, or repair of a well or boring at the direction and under the personal supervision of a contractor licensed or registered under the provisions of this chapter.

Sec. 9. Minnesota Statutes 1998, section 103I.301, subdivision 2, is amended to read:

Subd. 2. [MONITORING WELLS.] The owner of the property where a monitoring well is located must have the monitoring well sealed when the well is no longer in use. The owner must have a well contractor, limited ~~well~~ well/boring sealing contractor, or a monitoring well contractor seal the monitoring well.

Sec. 10. Minnesota Statutes 1998, section 103I.301, subdivision 3, is amended to read:

Subd. 3. [DEWATERING WELLS.] (a) The owner of the property where a dewatering well is located must have the dewatering well sealed when the dewatering well is no longer in use.

(b) A well contractor, limited ~~well~~ well/boring sealing contractor, or limited dewatering well contractor shall seal the dewatering well."

Page 6, line 14, delete everything before the period and insert "(6) construction, repair, and sealing of vertical heat exchangers"

Page 6, line 16, strike "well" and insert "well/boring"

Pages 6 to 8, delete sections 7 and 8 and insert:

"Sec. 12. Minnesota Statutes 1998, section 103I.531, is amended to read:

103I.531 [LIMITED ~~WELL~~ WELL/BORING CONTRACTOR'S LICENSE.]

Subdivision 1. [APPLICATION.] (a) A person must file an application and an application fee with the commissioner to apply for a limited ~~well~~ well/boring contractor's license.

(b) The application must state the applicant's qualifications for the license, the equipment the applicant will use in the contracting, and other information required by the commissioner. The application must be on forms prescribed by the commissioner.

Subd. 2. [APPLICATION FEE.] The application fee for a limited ~~well~~ well/boring contractor's license is \$50. The commissioner may not act on an application until the application fee is paid.

Subd. 3. [EXAMINATION.] After the commissioner has approved the application, the applicant must take an examination given by the commissioner.

Subd. 4. [ISSUANCE OF LICENSE.] If an applicant meets the experience requirements established in rule, passes the examination as determined by the commissioner, submits the bond under subdivision 5, and pays the license fee under subdivision 6, the commissioner shall issue a limited ~~well~~ well/boring contractor's license. If the other conditions of this section are satisfied, the commissioner may not withhold issuance of a dewatering limited license based on the applicant's lack of prior experience under a licensed well contractor.

Subd. 5. [BOND.] (a) As a condition of being issued a limited ~~well~~ well/boring contractor's license for constructing, repairing, and sealing drive point wells or dug wells, sealing wells or borings, ~~or~~ constructing, repairing, and sealing dewatering wells, or constructing, repairing, and sealing vertical heat exchangers, the applicant must submit a corporate surety bond for \$10,000 approved by the commissioner. As a condition of being issued a limited ~~well~~ well/boring contractor's license for installing or repairing well screens or pitless units or pitless adaptors and well casings from the pitless adaptor or pitless unit to the upper termination of the well casing, or installing well pumps or pumping equipment, the applicant must submit a corporate surety bond for \$2,000 approved by the commissioner. The bonds required in this paragraph must be conditioned to pay the state on unlawful performance of work regulated by this chapter in this state. The bonds are in lieu of other license bonds required by a political subdivision of the state.

(b) From proceeds of a bond required in paragraph (a), the commissioner may compensate persons injured or suffering financial loss because of a failure of the applicant to properly perform work or duties.

Subd. 6. [LICENSE FEE.] The fee for a limited ~~well~~ well/boring contractor's license is \$50.

Subd. 7. [VALIDITY.] A limited ~~well~~ well/boring contractor's license is valid until the date prescribed in the license by the commissioner.

Subd. 8. [RENEWAL.] (a) A person must file an application and a renewal application fee to renew the limited ~~well~~ well/boring contractor's license by the date stated in the license.

(b) The renewal application fee shall be set by the commissioner under section 16A.1285.

(c) The renewal application must include information that the applicant has met continuing education requirements established by the commissioner by rule.

(d) At the time of the renewal, the commissioner must have on file all properly completed well sealing reports, well permits, vertical heat exchanger permits, and well notifications for work conducted by the licensee since the last license renewal.

Subd. 9. [INCOMPLETE OR LATE RENEWAL.] If a licensee fails to submit all information required for renewal in subdivision 8 or submits the application and information after the required renewal date:

(1) the licensee must include an additional late fee set by the commissioner under section 16A.1285; and

(2) the licensee may not conduct activities authorized by the limited ~~well~~ well/boring contractor's license until the renewal application, renewal application fee, and late fee, and all other information required in subdivision 8 are submitted."

Page 8, line 36, delete the new language and insert "limited well/boring contractor licensed for constructing, repairing, and sealing vertical heat exchangers or a"

Page 9, lines 1 and 2, delete the new language

Page 9, line 7, delete the new language and insert "limited well/boring contractor licensed for constructing, repairing, and sealing vertical heat exchangers or a"

Page 9, lines 8 and 9, delete the new language

Renumber the sections in sequence

Correct internal references

Delete the title and insert:

"A bill for an act relating to the environment; regulating limited well/boring contractors and the installation of vertical heat exchangers; amending Minnesota Statutes 1998, sections 103I.005, subdivisions 12, 13, and 20; 103I.101, subdivisions 2 and 5; 103I.105; 103I.205, subdivisions 2 and 4; 103I.301, subdivisions 2 and 3; 103I.501; 103I.531; and 103I.641, subdivisions 1 and 3."

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

The report was adopted.

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

H. F. No. 2061, A bill for an act relating to conservation easements; authorizing local bonding to acquire conservation easements; amending Minnesota Statutes 1998, sections 373.40, subdivision 1; 375.18, subdivision 12; and 475.52, subdivisions 1, 3, and 4.

Reported the same back with the following amendments:

Page 2, line 30, after "be" insert "determined by" and delete "or a" and insert a period

Page 2, delete line 31

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

The report was adopted.

Leppik from the Committee on Higher Education Finance to which was referred:

H. F. No. 2098, A bill for an act relating to education; authorizing certain construction.

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

The report was adopted.

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

S. F. No. 76, A bill for an act relating to crime prevention; eliminating requirement to hold DWI-related vehicle forfeiture proceeding at same time as implied consent hearing; amending Minnesota Statutes 1998, section 169.1217, subdivision 7a.

Reported the same back with the following amendments:

Page 3, after line 24, insert:

"Sec. 2. Minnesota Statutes 1998, section 169.1217, subdivision 9, is amended to read:

Subd. 9. [DISPOSITION OF FORFEITED VEHICLE.] (a) Except as otherwise provided in subdivision 10, if the vehicle is administratively forfeited under subdivision 7a, or if the court finds under subdivision 8 that the vehicle is subject to forfeiture under subdivisions 6 and 7, the appropriate agency shall:

(1) sell the vehicle and distribute the proceeds under paragraph (b); or

(2) keep the vehicle for official use. If the agency keeps a forfeited motor vehicle for official use, it shall make reasonable efforts to ensure that the motor vehicle is available for use by the agency's officers who participate in the drug abuse resistance education program.

(b) The proceeds from the sale of forfeited vehicles, after payment of seizure, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the property, must be forwarded to the treasury of the political subdivision that employs the appropriate agency responsible for the forfeiture for use in DWI-related enforcement, training and education. If the appropriate agency is an agency of state government, the net proceeds must be forwarded to the state treasury and credited to the general fund.

(c) The proceeds from the sale of forfeited off-road recreational vehicles and motorboats, after payment of seizure, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the property, must be forwarded to the state treasury and credited to the following funds:

(1) if the forfeited vehicle is a motorboat, the net proceeds must be credited to the water recreation account in the natural resources fund;

(2) if the forfeited vehicle is a snowmobile, the net proceeds must be credited to the snowmobile trails and enforcement account in the natural resources fund;

(3) if the forfeited vehicle is an all-terrain vehicle, the net proceeds must be credited to the all-terrain vehicle account in the natural resources fund;

(4) if the forfeited vehicle is an off-highway motorcycle, the net proceeds must be credited to the off-highway motorcycle account in the natural resources fund;

(5) if the forfeited vehicle is an off-road vehicle, the net proceeds must be credited to the off-road vehicle account in the natural resources fund; and

(6) if otherwise, the net proceeds must be credited to the general fund.

Sec. 3. Minnesota Statutes 1998, section 169.1217, is amended by adding a subdivision to read:

Subd. 10. [SALE OF FORFEITED VEHICLE BY SECURED PARTY.] (a) In lieu of disposing of the vehicle under subdivision 9, and subject to the conditions provided in paragraph (b), the appropriate agency shall release a forfeited vehicle encumbered by a bona fide security interest to the secured party, on request, for foreclosure and sale pursuant to its security interest.



(b) The appropriate agency may release a forfeited vehicle to a requesting secured party under paragraph (a) only if the following conditions are met:

(1) the secured party must agree to complete the necessary foreclosure proceedings to terminate the debtor's ownership interest as soon as reasonably possible or, alternatively, must agree to a written surrender of interest executed by the debtor as to the vehicle and agree to sell the vehicle in a commercially reasonable manner;

(2) the secured party must agree that, due to the forfeiture proceedings, the debtor has no right to redeem the vehicle under the security agreement in accordance with chapter 336, article 9;

(3) the secured party must agree that neither the debtor nor any member of the debtor's household may regain ownership or possession of the vehicle and must agree not to release, deliver, or assign the vehicle to the debtor or any member of the debtor's household; and

(4) the secured party must agree to pay the appropriate agency the greater of:

(i) the total cost incurred by the appropriate agency in connection with the forfeiture of the vehicle, including seizure, storage, towing, and other related expenses; or

(ii) the difference between the amount owed to the secured party under the security agreement on the date of the forfeiture and the net proceeds received from the sale of the vehicle."

Page 3, line 25, delete "2" and insert "4"

Page 3, line 26, delete "Section 1 is" and insert "Sections 1 to 3 are"

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "authorizing secured parties to sell forfeited vehicles under certain conditions;"

Page 1, line 5, delete "subdivision" and insert "subdivisions"

Page 1, line 6, before the period, insert ", 9, and by adding a subdivision"

With the recommendation that when so amended the bill pass.

The report was adopted.

Dauids from the Committee on Commerce to which was referred:

S. F. No. 690, A bill for an act requesting a ban on the importation of certain steel products.

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

The report was adopted.

Bishop from the Committee on Ways and Means to which was referred:

S. F. No. 829, A bill for an act relating to state lands; authorizing commissioner of human services to sell certain surplus state land to the Bloomington housing and redevelopment authority.

Reported the same back with the following amendments:

Page 1, line 25, delete everything after "sale" and insert "are appropriated to the commissioner of administration to purchase replacement property for the commissioner of human services."

Page 2, delete lines 1 to 3

Page 2, line 5, delete "to 3" and insert "and 2"

Amend the title as follows:

Page 1, line 4, before the period, insert "; appropriating money"

With the recommendation that when so amended the bill pass.

The report was adopted.

Lindner from the Committee on Jobs and Economic Development Policy to which was referred:

S. F. No. 1554, A bill for an act relating to port authorities; allowing an alternative name for the seaway port authority of Duluth; amending Minnesota Statutes 1998, section 469.049, subdivision 1.

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

The report was adopted.

## **SECOND READING OF HOUSE BILLS**

H. F. Nos. 67, 589, 984, 1106, 1109, 1301, 1641, 1910, 1933, 1944, 1975 and 2016 were read for the second time.

## **SECOND READING OF SENATE BILLS**

S. F. Nos. 1017, 1463, 1660, 1888, 76, 690, 829 and 1554 were read for the second time.

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

The following House Files were introduced:

Sviggum introduced:

H. F. No. 2292, A bill for an act relating to education; authorizing a technology grant for independent school district No. 2172, Kenyon-Wanamingo; appropriating money.

The bill was read for the first time and referred to the Committee on K-12 Education Finance.

Dorman, Gunther, Trimble, Peterson and Kubly introduced:

H. F. No. 2293, A bill for an act relating to agriculture; appropriating money for expansion and administration of the Minnesota grown program; amending Minnesota Statutes 1998, section 17.109, subdivision 3.

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

Ozment, Tuma, Dorn, Juhnke and Dehler introduced:

H. F. No. 2294, A bill for an act relating to capital improvements; authorizing issuance of state transportation bonds to match federal funds and replace or rehabilitate local bridges; appropriating money.

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

Wenzel introduced:

H. F. No. 2295, A bill for an act relating to education funding; authorizing a facilities grant for a cooperative facility for independent school district No. 482, Little Falls, and Morrison County; appropriating money.

The bill was read for the first time and referred to the Committee on K-12 Education Finance.

Bishop, Skoglund, Broecker, Stanek and Murphy introduced:

H. F. No. 2296, A bill for an act relating to capital improvements; providing for transitional housing for felons; authorizing spending to acquire and better public land and buildings and other public improvements of a capital nature; requiring a report; authorizing issuance of bonds; appropriating money.

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

Murphy introduced:

H. F. No. 2297, A bill for an act relating to retirement; local police and paid fire consolidation accounts and state correctional employees retirement plan; revising the local consolidation account member contribution rate; eliminating certification procedure for coverage expansion; amending Minnesota Statutes 1998, section 353A.09, subdivision 4; repealing Minnesota Statutes 1998, section 352.91, subdivision 4.

The bill was read for the first time and referred to the Committee on Governmental Operations and Veterans Affairs Policy.

Dawkins introduced:

H. F. No. 2298, A bill for an act relating to taxation; requiring the department of revenue to notify taxpayers when tax liabilities have been compromised; providing a subtraction from taxable income for gains realized on disposition of certain farm property; amending Minnesota Statutes 1998, sections 8.30; and 290.491.

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

Schumacher and Mares introduced:

H. F. No. 2299, A bill for an act relating to education; appropriating money for the expansion of the young inventors program.

The bill was read for the first time and referred to the Committee on K-12 Education Finance.

Bishop and Bradley introduced:

H. F. No. 2300, A bill for an act relating to taxes; sales and use; exempting the purchase of construction materials used in construction or expansion of the Mayo civic center; amending Minnesota Statutes 1998, section 297A.25, by adding a subdivision.

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

McElroy; Milbert; Daggett; Clark, J., and Lenczewski introduced:

H. F. No. 2301, A bill for an act relating to taxation; providing a time limit for the denial of refunds; amending Minnesota Statutes 1998, section 289A.50, subdivision 7, and by adding a subdivision.

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

Entenza and Pugh introduced:

H. F. No. 2302, A bill for an act relating to appropriations; providing funding for public radio; appropriating money.

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

Finseth introduced:

H. F. No. 2303, A bill for an act relating to the city of East Grand Forks; providing for grants to the city based on retail activity generated within a development zone of the city; appropriating money.

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

McElroy and Trimble introduced:

H. F. No. 2304, A bill for an act relating to housing; establishing an affordable housing demonstration project; appropriating money.

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

Broecker introduced:

H. F. No. 2305, A bill for an act relating to taxation; providing an income tax checkoff to provide money for the children's trust fund for the prevention of child abuse; amending Minnesota Statutes 1998, section 119A.12; proposing coding for new law in Minnesota Statutes, chapter 290.

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

Rhodes, Goodno, Dempsey, Folliard and Mares introduced:

H. F. No. 2306, A bill for an act relating to economic development; appropriating money to the redevelopment account.

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

Hilty introduced:

H. F. No. 2307, A bill for an act relating to the legislature; appropriating money to the senate for the production and distribution of a videotape on the legislative process.

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

Milbert and Jennings introduced:

H. F. No. 2308, A bill for an act relating to taxation; property; expanding the definition of properties qualifying for green acres; amending Minnesota Statutes 1998, section 273.111, subdivision 3.

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

Milbert and Jennings introduced:

H. F. No. 2309, A bill for an act relating to taxation; sales and use; exempting certain items from tax; amending Minnesota Statutes 1998, sections 16A.661, subdivision 3; 297A.01, subdivisions 3 and 8; 297A.25, subdivisions 3, 26, and by adding subdivisions; and 297A.44, subdivision 1; repealing Minnesota Statutes 1998, section 297A.25, subdivision 21.

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

Larsen, P.; Wejcman; Greenfield; Mariani and Gray introduced:

H. F. No. 2310, A bill for an act relating to health; requiring the commissioner of health to report on issues related to sexually transmitted infections; appropriating money for prevention and treatment of sexually transmitted infections, HIV prevention initiatives for greater Minnesota, and HIV and substance abuse prevention.

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

Winter introduced:

H. F. No. 2311, A bill for an act relating to education; providing levy authority to independent school district No. 417, Tracy, to reduce its operating debt.

The bill was read for the first time and referred to the Committee on K-12 Education Finance.

Winter introduced:

H. F. No. 2312, A bill for an act relating to education; providing a grant to independent school district No. 417, Tracy; appropriating money.

The bill was read for the first time and referred to the Committee on K-12 Education Finance.

Westfall introduced:

H. F. No. 2313, A bill for an act relating to appropriations; appropriating money for the Wolverton city creek restoration project.

The bill was read for the first time and referred to the Committee on Environment and Natural Resources Finance.

Lenczewski, Seagren and Larson, D., introduced:

H. F. No. 2314, A bill for an act relating to property taxes; eliminating Bloomington's obligation to repay its obligation to the fiscal disparities areawide tax base under certain conditions; amending Minnesota Statutes 1998, section 473F.08, subdivision 3a.

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

Wenzel introduced:

H. F. No. 2315, A bill for an act relating to taxation; providing for increased government aid to a certain city; amending Minnesota Statutes 1998, sections 477A.011, subdivision 36; and 477A.03, by adding a subdivision.

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

Huntley and Holsten introduced:

H. F. No. 2316, A bill for an act relating to taxation; providing for treatment of certain property owned by utilities and leased for residential or recreational purposes; amending Minnesota Statutes 1998, sections 272.03, subdivision 6; 273.124, subdivision 7; and 273.13, subdivision 24.

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

Larson, D.; Milbert; Hasskamp; Skoe; Van Dellen; Workman; Jennings; Johnson; Krinkie; Solberg; Carruthers; Luther; Gleason; McCollum; Osthoff; Tomassoni; Pugh; Pelowski; Peterson; Kelliher; Marko; Chaudhary; Lieder; Leighton; Mahoney and Osskopp introduced:

H. F. No. 2317, A bill for an act relating to taxation; prohibiting property tax increases for taxes payable in 2000; imposing limits on property tax increases for later years; requiring a study; appropriating money; amending Minnesota Statutes 1998, sections 254B.02, subdivision 3; 279.09; 279.10; 281.23, subdivision 3; and 375.169.

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

Trimble and Gunther introduced:

H. F. No. 2318, A bill for an act relating to economic development; creating demonstration projects for economic and community development through telecommunications technology; providing funding for regional electronic commerce incentives; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 116J.

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

### 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. 183, A bill for an act relating to civil commitment; modifying provisions governing parental consent to chemical dependency treatment for minors; amending Minnesota Statutes 1998, section 253B.04, subdivision 1.

H. F. No. 413, A bill for an act relating to professions; modifying certain licensing and registration requirements for physicians, acupuncturists, and athletic trainers; amending Minnesota Statutes 1998, sections 147.02, subdivision 1; 147.03, subdivision 1; 147.037, subdivision 1; 147B.02, subdivisions 4 and 9; 147B.05, subdivision 2; 148.7808, subdivisions 4 and 5; and 148.7815, subdivisions 1 and 2.

H. F. No. 492, A bill for an act relating to education; authorizing building on a state university campus.

H. F. No. 766, A bill for an act relating to traffic regulations; authorizing blue lights on motorcycles as part of the rear brake light; amending Minnesota Statutes 1998, section 169.64, subdivision 4.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

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

H. F. No. 1126, A bill for an act relating to human services; licensed family day care; modifying child age classification definitions; amending Minnesota Statutes 1998, section 245A.02, by adding a subdivision.

H. F. No. 1258, A bill for an act relating to family law; reviving the summary dissolution process; repealing Laws 1991, chapter 271, section 9, as amended.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the adoption by the Senate of the following Senate Concurrent Resolution, herewith transmitted:

Senate Concurrent Resolution No. 8, A senate concurrent resolution relating to adjournment for more than three days.

PATRICK E. FLAHAVEN, Secretary of the Senate

#### SUSPENSION OF RULES

Pawlenty moved that the rules be so far suspended that Senate Concurrent Resolution No. 8 be now considered and be placed upon its adoption. The motion prevailed.

#### SENATE CONCURRENT RESOLUTION NO. 8

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

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

1. Upon their adjournments on March 31, 1999, the Senate and House of Representatives may each set its next day of meeting for April 6, 1999.
2. Each house consents to adjournment of the other house for more than three days.

Pawlenty moved that Senate Concurrent Resolution No. 8 be now adopted. The motion prevailed and Senate Concurrent Resolution No. 8 was adopted.

Mr. Speaker:

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

S. F. Nos. 972, 1188, 1173, 891 and 1020.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

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

S. F. Nos. 803, 1352, 984, 1120 and 1330.

PATRICK E. FLAHAVEN, Secretary of the Senate

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

S. F. No. 972, A bill for an act relating to game and fish; modifying migratory waterfowl refuge provisions; designating a migratory waterfowl refuge; repealing a commissioner's order; amending Minnesota Statutes 1998, section 97A.095, subdivision 1.

The bill was read for the first time.

Swenson moved that S. F. No. 972 and H. F. No. 1404, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1188, A bill for an act relating to municipalities; increasing certain dollar limits in the Uniform Municipal Contracting Law; providing an exemption for certain cooperative purchasing; amending Minnesota Statutes 1998, section 471.345, subdivisions 3, 4, and by adding a subdivision.

The bill was read for the first time.

Kuise moved that S. F. No. 1188 and H. F. No. 1097, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1173, A bill for an act relating to water; approving the granting of a permit for the consumptive use of groundwater pursuant to Minnesota Statutes, section 103G.265, subdivision 3.

The bill was read for the first time.

Buesgens moved that S. F. No. 1173 and H. F. No. 1403, now on the Consent Calendar, be referred to the Chief Clerk for comparison. The motion prevailed.



S. F. No. 891, A bill for an act relating to municipalities; clarifying an exception to tort liability; amending Minnesota Statutes 1998, section 466.03, subdivision 4.

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

S. F. No. 1020, A bill for an act relating to elections; changing certain precinct caucus procedures; eliminating the presidential primary; amending Minnesota Statutes 1998, sections 202A.18, by adding a subdivision; and 202A.20, subdivision 2; repealing Minnesota Statutes 1998, sections 207A.01; 207A.02; 207A.03; 207A.04; 207A.06; 207A.07; 207A.08; 207A.09; and 207A.10.

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

S. F. No. 803, A bill for an act relating to game and fish; requiring a fishing guide license on the St. Louis river estuary; amending Minnesota Statutes 1998, sections 97A.475, subdivision 15; and 97C.311, subdivision 1.

The bill was read for the first time.

Munger moved that S. F. No. 803 and H. F. No. 1109, now on the Technical Consent Calendar, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1352, A bill for an act relating to natural resources; allowing certain land to be enrolled in more than one state or federal conservation program; amending Minnesota Statutes 1998, section 103F.515, subdivision 2.

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

S. F. No. 984, A bill for an act relating to professions; modifying enforcement provisions for the board of psychology; proposing coding for new law in Minnesota Statutes, chapter 148.

The bill was read for the first time.

Mulder moved that S. F. No. 984 and H. F. No. 982, now on the Calendar for the Day, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1120, A bill for an act relating to crime; defining the crime of laser assault; imposing criminal penalties; proposing coding for new law in Minnesota Statutes, chapter 609.

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

S. F. No. 1330, A bill for an act relating to financial institutions; regulating fees, charges, and time periods; authorizing certain part-time banking locations; authorizing reverse stock splits; making corrections and conforming changes; amending Minnesota Statutes 1998, sections 46.041, subdivisions 1 and 3; 46.048, subdivisions 1 and 2b; 46.131, subdivision 10; 47.0156; 47.101, subdivision 3; 47.20, subdivision 6b; 47.203; 47.204, subdivision 1; 47.27, subdivision 3; 47.52; 47.54, subdivisions 2 and 3; 47.59, subdivision 12; 47.60, subdivision 3; 48.15, subdivisions 2a and 3; 48A.15, subdivision 1; 49.36, subdivision 1; 52.01; 53.03, subdivisions 1, 6, and 7; 55.04, subdivision 2; 56.02; 56.131, subdivision 1; 59A.03, subdivision 2; 168.67; 168.71; 303.25, subdivision 5; 332.15, subdivisions 2 and 3; 332.17; and 332.30; proposing coding for new law in Minnesota Statutes, chapters 48; 52; and 334.

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

**CONSENT CALENDAR**

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

The following Conference Committee Report was received:

**CONFERENCE COMMITTEE REPORT ON H. F. NO. 414**

A bill for an act relating to agriculture; extending the program for control of pseudorabies in swine; appropriating money.

March 25, 1999

The Honorable Steve Sviggum  
Speaker of the House of Representatives

The Honorable Allan H. Spear  
President of the Senate

We, the undersigned conferees for H. F. No. 414, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H. F. No. 414 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [APPROPRIATION; PSEUDORABIES CONTROL.]

(a) \$1,255,000 is appropriated from the general fund to the board of animal health for continued efforts to control pseudorabies in swine. This appropriation is to cover the cost of blood tests, laboratory fees, and vaccines, and is available until June 30, 2000.

(b) Using money appropriated in paragraph (a), the board shall reimburse veterinarians for pseudorabies vaccine administered to swine on premises located within a three-mile radius of pseudorabies quarantined premises or in other areas recommended by the district veterinarian that are necessary to control the spread of pseudorabies.

(c) The board shall provide reimbursement for pseudorabies vaccine to veterinarians for vaccine used after January 1, 1999, for swine on premises eligible for the vaccine under paragraph (b). Reimbursement shall be computed by using the number of doses purchased for eligible swine multiplied by 25 cents per dose.

(d) The board of animal health shall report to the senate and house agriculture and rural development committees by February 1, 2000, on the reasons for the spread of pseudorabies, including the effect of size and type of swine operation on the spread of the disease, and recommendations for controlling the disease. The report must also analyze the number and location of swine operations eligible for vaccine under paragraph (b) that fail to vaccinate their herds.

Sec. 2. [APPROPRIATION; CENTER FOR FARM FINANCIAL MANAGEMENT.]

(a) \$245,000 is appropriated from the general fund to the University of Minnesota for the center for farm financial management to provide financial management assistance to farmers, including assistance with:

(1) the preparation of financial records;

(2) cash flow planning using FINPACK and other sources; and

(3) loan document preparation and planning.

The center for farm financial management shall coordinate and transfer funding for the delivery of the financial management assistance through the Minnesota state colleges and universities regional adult farm management offices and provide the training and equipment necessary to persons providing the assistance to farmers.

(b) This appropriation is available until June 30, 2000.

Sec. 3. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to agriculture; extending the program for control of pseudorabies in swine; providing reimbursement for veterinarians who used pseudorabies vaccine after January 1, 1999; providing financial management assistance to farmers; appropriating money."

We request adoption of this report and repassage of the bill.

House Conferees: BOB GUNTHER, ROBERT NESS AND STEPHEN G. WENZEL.

Senate Conferees: PAULA E. HANSON, LEROY A. STUMPF AND STEVE DILLE.

Gunther moved that the report of the Conference Committee on H. F. No. 414 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 414, A bill for an act relating to agriculture; extending the program for control of pseudorabies in swine; appropriating money.

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

The question was taken on the repassage of the bill and the roll was called. There were 105 yeas and 27 nays as follows:

Those who voted in the affirmative were:

Abeler	Carruthers	Dorman	Greenfield	Holsten	Knoblach
Anderson, B.	Cassell	Dorn	Gunther	Howes	Kubly
Anderson, I.	Chaudhary	Entenza	Haake	Huntley	Kuisle
Bakk	Clark, J.	Erhardt	Haas	Jaros	Larsen, P.
Bishop	Clark, K.	Erickson	Hackbarth	Jennings	Larson, D.
Boudreau	Daggett	Finseth	Harder	Johnson	Leighton
Bradley	Davids	Fuller	Hasskamp	Juhnke	Leppik
Broecker	Dehler	Gleason	Hilty	Kelliher	Lieder
Carlson	Dempsey	Goodno	Holberg	Kielkucki	Lindner

Luther	Nornes	Pugh	Seifert, M.	Tingelstad	Westfall
Mahoney	Olson	Reuter	Skoe	Tomassoni	Westrom
Mares	Opatz	Rhodes	Smith	Trimble	Winter
McElroy	Osskopp	Rifenberg	Solberg	Tuma	Wolf
Molnau	Otremba	Rostberg	Stanek	Tunheim	Workman
Mulder	Ozment	Rukavina	Stang	Van Dellen	Spk. Sviggum
Mullery	Pawlenty	Schumacher	Storm	Vandever	
Munger	Pelowski	Seagren	Swenson	Wenzel	
Ness	Peterson	Seifert, J.	Sykora	Westerberg	

Those who voted in the negative were:

Abrams	Gerlach	Kalis	McCollum	Osthoff	Wagenius
Biernat	Gray	Krinkie	McGuire	Paulsen	Wilkin
Buesgens	Greiling	Lenczewski	Milbert	Paymar	
Dawkins	Hausman	Mariani	Murphy	Rest	
Folliard	Kahn	Marko	Orfield	Skoglund	

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

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

Pawlenty from the Committee on Rules and Legislative Administration, pursuant to rule 1.21, designated the following bills to be placed on the Calendar for the Day, immediately preceding the remaining bills on the Calendar for the Day, for Monday, March 29, 1999:

H. F. Nos. 7, 1079, 70, 982 and 790; S. F. Nos. 257 and 836; H. F. No. 793; S. F. No. 626; and H. F. Nos. 1248, 1309, 1046, 1038 and 426.

#### CALENDAR FOR THE DAY

H. F. No. 7, A bill for an act relating to motor vehicles; modifying the motor vehicle emissions inspection program and providing for termination of inspection by January 1, 2000, or earlier if redesignated to attainment for carbon monoxide before January 1, 2000; amending Minnesota Statutes 1998, sections 116.60, subdivision 1, and by adding a subdivision; 116.61, subdivision 1, and by adding a subdivision; 116.62, subdivisions 2, 3, 5, and by adding a subdivision; and 116.63, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 116; repealing Minnesota Statutes 1998, sections 116.60; 116.61; 116.62; 116.63; and 116.64.

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 93 yeas and 40 nays as follows:

Those who voted in the affirmative were:

Abeler	Anderson, I.	Boudreau	Buesgens	Clark, J.	Dawkins
Abrams	Biernat	Bradley	Carlson	Daggett	Dehler
Anderson, B.	Bishop	Broecker	Cassell	Davids	Dempsey

Dorman	Holberg	Lindner	Osskopp	Seagren	Tunheim
Erhardt	Holsten	Luther	Osthoff	Seifert, J.	Van Dellen
Erickson	Howes	Mahoney	Otremba	Seifert, M.	Vandever
Finseth	Johnson	Mares	Ozment	Smith	Westerberg
Fuller	Kielkucki	Marko	Paulsen	Stanek	Westfall
Gerlach	Knoblach	McElroy	Pawlenty	Stang	Westrom
Gleason	Krinkie	Milbert	Pelowski	Storm	Wilkin
Goodno	Kubly	Molnau	Pugh	Swenson	Wolf
Gunther	Kuisle	Mulder	Rest	Sykora	Workman
Haake	Larsen, P.	Ness	Reuter	Tingelstad	Spk. Sviggum
Haas	Larsen, D.	Nornes	Rhodes	Tomassoni	
Hackbarth	Lenczewski	Olson	Rifenberg	Trimble	
Harder	Leppik	Opatz	Rostberg	Tuma	

Those who voted in the negative were:

Bakk	Gray	Jaros	Lieder	Orfield	Solberg
Carruthers	Greenfield	Jennings	Mariani	Paymar	Wagenius
Chaudhary	Greiling	Juhnke	McCollum	Peterson	Wejczman
Clark, K.	Hasskamp	Kahn	McGuire	Rukavina	Wenzel
Dorn	Hausman	Kalis	Mullery	Schumacher	Winter
Entenza	Hilty	Kelliher	Munger	Skoe	
Folliard	Huntley	Leighton	Murphy	Skoglund	

The bill was passed and its title agreed to.

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

### MOTIONS AND RESOLUTIONS

Larsen, D., moved that his name be stricken as an author on H. F. No. 1120. The motion prevailed.

Kuisle moved that the name of Chaudhary be added as an author on H. F. No. 2041. The motion prevailed.

Mariani moved that the names of Mares and Folliard be added as authors on H. F. No. 2214. The motion prevailed.

Dorman moved that the name of Abeler be added as an author on H. F. No. 2235. The motion prevailed.

Kalis moved that the name of Molnau be added as an author on H. F. No. 2285. The motion prevailed.

Solberg moved that the name of Howes be added as an author on H. F. No. 2287. The motion prevailed.

Krinkie moved that H. F. No. 774 be recalled from the Committee on State Government Finance and be re-referred to the Committee on Jobs and Economic Development Finance. The motion prevailed.

Daggett moved that H. F. No. 1598 be recalled from the Committee on Environment and Natural Resources Finance and be re-referred to the Committee on Capital Investment. The motion prevailed.

Chaudhary moved that H. F. No. 1623 be recalled from the Committee on Jobs and Economic Development Policy and be re-referred to the Committee on Jobs and Economic Development Finance. The motion prevailed.

Van Dellen moved that H. F. No. 1896, now on the General Register, be re-referred to the Committee on Crime Prevention. The motion prevailed.

Westerberg moved that H. F. No. 1929 be recalled from the Committee on Jobs and Economic Development Policy and be re-referred to the Committee on Jobs and Economic Development Finance. The motion prevailed.

Hilty moved that H. F. No. 2101 be recalled from the Committee on Governmental Operations and Veterans Affairs Policy and be re-referred to the Committee on State Government Finance. The motion prevailed.

Krinkie moved that H. F. No. 2179 be recalled from the Committee on Governmental Operations and Veterans Affairs Policy and be re-referred to the Committee on Judiciary Finance. The motion prevailed.

Bishop, for the Committee on Ways and Means, introduced:

House Resolution No. 7, A house resolution setting the maximum limit on general fund revenues and expenditures for the biennium.

#### HOUSE RESOLUTION NO. 7

A house resolution setting the maximum limit on general fund revenues and expenditures for the biennium.

*Be It Resolved* by the House of Representatives that the sum of \$24,430,000,000 is the maximum limit on state appropriations and transfers, including reserves from the general fund for fiscal years 2000 and 2001.

*Be It Further Resolved* that the House of Representatives finds that a cash flow account of \$350,000,000 and a budget reserve of \$622,000,000 are necessary.

*Be It Further Resolved* that for fiscal years 2000 and 2001, the sum of (1) the unreserved general fund balances at the end of fiscal year 2001, (2) reserved general fund balances at the end of fiscal year 2001, (3) revenues for the purposes of general fund appropriations and transfers, and (4) tax and revenue reductions must not exceed \$26,753,000,000.

*Be It Further Resolved* that the limit on appropriations, transfers, and tax and revenue reductions from the general fund established in this resolution may be automatically adjusted to reflect forecast adjustments and consolidation of other funds into the general fund. This resolution is adopted under House Rule 4.03.

Bishop moved that House Resolution No. 7 be now adopted.

#### POINT OF ORDER

Pugh raised a point of order pursuant to rule 4.03 relating to Ways and Means Committee; Budget Resolution; Effect on Expenditure and Revenue Bills that House Resolution No. 7 was not in order. The Speaker ruled the point of order not well taken.

#### CALL OF THE HOUSE

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

Abeler	Bakk	Boudreau	Buesgens	Cassell	Clark, K.
Abrams	Biernat	Bradley	Carlson	Chaudhary	Daggett
Anderson, I.	Bishop	Broecker	Carruthers	Clark, J.	Dauids

Dawkins	Haas	Kubly	Mulder	Rest	Tingelstad
Dehler	Hackbarth	Kuisle	Mullery	Reuter	Tomassoni
Dempsey	Harder	Larsen, P.	Munger	Rhodes	Trimble
Dorman	Hasskamp	Larson, D.	Murphy	Rifenberg	Tuma
Dorn	Hausman	Leighton	Ness	Rostberg	Tunheim
Entenza	Hilty	Lenczewski	Nornes	Rukavina	Van Dellen
Erhardt	Holberg	Leppik	Olson	Schumacher	Vandever
Erickson	Howes	Lieder	Opatz	Seagren	Wagenius
Finseth	Huntley	Lindner	Orfield	Seifert, J.	Wejcman
Folliard	Jaros	Luther	Osskopp	Seifert, M.	Wenzel
Fuller	Jennings	Mahoney	Osthoff	Skoe	Westerberg
Gerlach	Johnson	Mares	Otremba	Skoglund	Westfall
Gleason	Juhnke	Mariani	Ozment	Smith	Westrom
Goodno	Kahn	Marko	Paulsen	Solberg	Wilkin
Gray	Kalis	McCollum	Pawlenty	Stanek	Winter
Greenfield	Kelliher	McElroy	Paymar	Stang	Wolf
Greiling	Kielkucki	McGuire	Pelowski	Storm	Workman
Gunther	Knoblach	Milbert	Peterson	Swenson	Spk. Sviggum
Haake	Krinkie	Molnau	Pugh	Sykora	

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

Carlson, Johnson and Entenza offered an amendment to House Resolution No. 7.

#### POINT OF ORDER

Abrams raised a point of order pursuant to rule 4.03, paragraph 2, relating to Ways and Means Committee; Budget Resolution; Effect on Expenditure and Revenue Bills that the Carlson et al amendment to House Resolution No. 7 was not in order. The Speaker ruled the point of order well taken and the Carlson et al amendment out of order.

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

Johnson, Entenza and Carlson moved to amend House Resolution No. 7 as follows:

Page 1, line 11, delete "\$622,000,000" and insert "\$500,000,000"

A roll call was requested and properly seconded.

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

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

There were 52 yeas and 78 nays as follows:

Those who voted in the affirmative were:

Anderson, I.	Carlson	Clark, K.	Entenza	Gray	Hasskamp
Bakk	Carruthers	Dawkins	Folliard	Greenfield	Hausman
Biernat	Chaudhary	Dorn	Gleason	Greiling	Hilty

Huntley	Kalis	Mahoney	Orfield	Rukavina	Trimble
Jaros	Kelliher	Mariani	Otremba	Schumacher	Tunheim
Jennings	Kubly	McCollum	Paymar	Skoe	Wagenius
Johnson	Leighton	McGuire	Pelowski	Skoglund	Wejcman
Juhnke	Lieder	Mullery	Peterson	Solberg	
Kahn	Luther	Murphy	Pugh	Tomassoni	

Those who voted in the negative were:

Abeler	Dorman	Holsten	McElroy	Reuter	Tingelstad
Abrams	Erhardt	Howes	Milbert	Rhodes	Tuma
Bishop	Erickson	Kielkucki	Molnau	Rifenberg	Van Dellen
Boudreau	Finseth	Knoblach	Mulder	Rostberg	Vandever
Bradley	Fuller	Krinkie	Ness	Seagren	Wenzel
Broecker	Gerlach	Kuisle	Nornes	Seifert, J.	Westerberg
Buesgens	Goodno	Larsen, P.	Olson	Seifert, M.	Westfall
Cassell	Gunther	Larson, D.	Opatz	Smith	Westrom
Clark, J.	Haake	Lenczewski	Osskopp	Stanek	Wilkin
Daggett	Haas	Leppik	Ozment	Stang	Winter
Davids	Hackbarth	Lindner	Paulsen	Storm	Wolf
Dehler	Harder	Mares	Pawlenty	Swenson	Workman
Dempsey	Holberg	Marko	Rest	Sykora	Spk. Sviggum

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

Bishop moved to amend House Resolution No. 7 as follows:

Page 1, line 6, delete "\$24,430,000,000" and insert "\$24,415,000,000"

A roll call was requested and properly seconded.

#### POINT OF ORDER

Pawlenty raised a point of order pursuant to section 124, paragraph 3 of "Mason's Manual of Legislative Procedure," relating to Personalities Not Permitted in Debate. The Speaker ruled the point of order well taken.

#### POINT OF ORDER

Carruthers raised a point of order pursuant to section 124, paragraph 1 of "Mason's Manual of Legislative Procedure," relating to Personalities Not Permitted in Debate. The Speaker ruled the point of order well taken.

Anderson, I., moved to amend the Bishop amendment to House Resolution No. 7 as follows:

Page 1, line 2 of the Bishop amendment, delete "\$24,415,000,000" and insert "\$24,410,000,000"

A roll call was requested and properly seconded.

The question was taken on the amendment to the amendment and the roll was called.



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

There were 53 yeas and 70 nays as follows:

Those who voted in the affirmative were:

Anderson, I.	Gerlach	Kahn	Mahoney	Osthoff	Solberg
Bakk	Gleason	Kalis	Marko	Otremba	Tomassoni
Biernat	Hasskamp	Krinkie	McCollum	Pelowski	Trimble
Carlson	Hilty	Kubly	Milbert	Peterson	Tunheim
Carruthers	Huntley	Larson, D.	Mullery	Pugh	Vandever
Chaudhary	Jaros	Leighton	Murphy	Rest	Wenzel
Dorn	Jennings	Lenczewski	Olson	Rukavina	Wilkin
Entenza	Johnson	Lieder	Opatz	Schumacher	Winter
Folliard	Juhnke	Luther	Osskopp	Smith	

Those who voted in the negative were:

Abeler	Dehler	Haas	Lindner	Rifenberg	Tingelstad
Abrams	Dempsey	Hackbarth	Mares	Rostberg	Tuma
Bishop	Dorman	Harder	McElroy	Seagren	Van Dellen
Boudreau	Erhardt	Holberg	Molnau	Seifert, J.	Wagenius
Bradley	Erickson	Holsten	Mulder	Seifert, M.	Westerberg
Broecker	Finseth	Howes	Ness	Skoe	Westfall
Buesgens	Fuller	Kelliher	Nornes	Skoglund	Westrom
Cassell	Goodno	Kielkucki	Ozment	Stanek	Wolf
Clark, J.	Greenfield	Knoblach	Paulsen	Stang	Workman
Daggett	Greiling	Kuisle	Pawlenty	Storm	Spk. Sviggum
Davids	Gunther	Larsen, P.	Reuter	Swenson	
Dawkins	Haake	Leppik	Rhodes	Sykora	

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

The question recurred on the Bishop amendment and the roll was called.

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

There were 95 yeas and 36 nays as follows:

Those who voted in the affirmative were:

Abeler	Davids	Gunther	Kalis	Mahoney	Osthoff
Abrams	Dehler	Haake	Kielkucki	Mares	Otremba
Bakk	Dempsey	Haas	Knoblach	Marko	Ozment
Biernat	Dorman	Hackbarth	Krinkie	McElroy	Paulsen
Bishop	Dorn	Harder	Kubly	Milbert	Pawlenty
Boudreau	Erhardt	Hasskamp	Kuisle	Molnau	Pelowski
Bradley	Erickson	Holberg	Larsen, P.	Mulder	Peterson
Broecker	Finseth	Holsten	Larson, D.	Ness	Rest
Buesgens	Fuller	Howes	Leighton	Nornes	Reuter
Cassell	Gerlach	Huntley	Lenczewski	Olson	Rhodes
Clark, J.	Gleason	Jennings	Leppik	Opatz	Rifenberg
Daggett	Goodno	Juhnke	Lindner	Osskopp	Rostberg

Schumacher	Smith	Swenson	Van Dellen	Westfall	Wolf
Seagren	Stanek	Sykora	Vandever	Westrom	Workman
Seifert, J.	Stang	Tingelstad	Wenzel	Wilkin	Spk. Sviggum
Seifert, M.	Storm	Tuma	Westerberg	Winter	

Those who voted in the negative were:

Anderson, I.	Entenza	Hilty	Luther	Orfield	Solberg
Carlson	Folliard	Jaros	Mariani	Paymar	Tomassoni
Carruthers	Gray	Johnson	McCollum	Pugh	Trimble
Chaudhary	Greenfield	Kahn	McGuire	Rukavina	Tunheim
Clark, K.	Greiling	Kelliher	Mullery	Skoe	Wagenius
Dawkins	Hausman	Lieder	Murphy	Skoglund	Wejzman

The motion prevailed and the amendment was adopted.

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

Pawlenty moved that the House recess subject to the call of the Chair. The motion prevailed.

RECESS

RECONVENED

The House reconvened and was called to order by the Speaker.

### MOTIONS AND RESOLUTIONS, Continued

Anderson, I., moved to amend House Resolution No. 7, as amended, as follows:

Page 1, line 11, delete "\$622,000,000" and insert "\$607,000,000"

A roll call was requested and properly seconded.

The question was taken on the Anderson, I., amendment and the roll was called.

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

There were 43 yeas and 82 nays as follows:

Those who voted in the affirmative were:

Anderson, I.	Dorn	Howes	Mahoney	Pugh	Wejzman
Bakk	Entenza	Jaros	McCollum	Rukavina	Wenzel
Biernat	Folliard	Juhnke	McGuire	Skoe	Winter
Carlson	Gleason	Kahn	Milbert	Solberg	
Carruthers	Greenfield	Kubly	Mullery	Tomassoni	
Chaudhary	Greiling	Leighton	Osthoff	Trimble	
Clark, K.	Hausman	Lieder	Paymar	Tunheim	
Dawkins	Hilty	Luther	Peterson	Wagenius	

Those who voted in the negative were:

Abeler	Erhardt	Huntley	Marko	Reuter	Sykora
Abrams	Erickson	Jennings	McElroy	Rhodes	Tingelstad
Bishop	Finseth	Kalis	Molnau	Rifenberg	Tuma
Boudreau	Fuller	Kelliher	Mulder	Rostberg	Van Dellen
Bradley	Gerlach	Kielkucki	Ness	Schumacher	Vandever
Broecker	Goodno	Knobloch	Nornes	Seagren	Westerberg
Buesgens	Gunther	Krinkie	Olson	Seifert, J.	Westfall
Cassell	Haake	Kuisle	Osskopp	Seifert, M.	Westrom
Clark, J.	Haas	Larsen, P.	Otremba	Skoglund	Wilkin
Daggett	Hackbarth	Larson, D.	Ozment	Smith	Wolf
Davids	Harder	Lenczewski	Paulsen	Stanek	Workman
Dehler	Hasskamp	Leppik	Pawlenty	Stang	Spk. Sviggum
Dempsey	Holberg	Lindner	Pelowski	Storm	
Dorman	Holsten	Mares	Rest	Swenson	

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

The question recurred on the Bishop motion that House Resolution No. 7, as amended, be now adopted. The motion prevailed and House Resolution No. 7, as amended, was adopted.

#### POINT OF ORDER

Pawlenty raised a point of order pursuant to section 100 of "Mason's Manual of Legislative Procedure," that There Must Be a Question Before the House to Permit Debate. The Speaker ruled the point of order well taken.

#### ADJOURNMENT

Pawlenty moved that when the House adjourns today it adjourn until 2:30 p.m., Tuesday, March 30, 1999. The motion prevailed.

Pawlenty moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 2:30 p.m., Tuesday, March 30, 1999.

EDWARD A. BURDICK, Chief Clerk, House of Representatives

