

STATE OF MINNESOTA

EIGHTY-SECOND SESSION — 2001

 TWENTY-NINTH DAY

SAINT PAUL, MINNESOTA, MONDAY, APRIL 2, 2001

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

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

A quorum was present.

Otremba was excused.

The Chief Clerk proceeded to read the Journal of the preceding day. Rifenberg 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. 883 and H. F. No. 994, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Dorn moved that the rules be so far suspended that S. F. No. 883 be substituted for H. F. No. 994 and that the House File be indefinitely postponed. The motion prevailed.

PETITIONS AND COMMUNICATIONS

The following communications were received:

STATE OF MINNESOTA
OFFICE OF THE GOVERNOR
SAINT PAUL 55155

March 29, 2001

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

Dear Speaker Sviggum:

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

H. F. No. 320, relating to insurance; authorizing licensed property-casualty insurance agents to assist in the procurement of surplus lines insurance without a surplus lines insurance license.

Sincerely,

JESSE VENTURA
Governor

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

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable Don Samuelson
President of the Senate

I have the honor to inform you that the following enrolled Act of the 2001 Session of the State Legislature has been received from the Office of the Governor and is deposited in the Office of the Secretary of State for preservation,

pursuant to the State Constitution, Article IV, Section 23:

<i>S.F. No.</i>	<i>H.F. No.</i>	<i>Session Laws Chapter No.</i>	<i>Time and Date Approved 2001</i>	<i>Date Filed 2001</i>
	320	12	3:05 p.m. March 29	March 29

Sincerely,

MARY KIFFMEYER
Secretary of State

REPORTS OF STANDING COMMITTEES

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

H. F. No. 262, A bill for an act relating to health; requiring informed consent of a female upon whom an abortion is performed; providing civil remedies; proposing coding for new law in Minnesota Statutes, chapter 145.

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.

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

H. F. No. 418, A bill for an act relating to local government; authorizing a special taxing district for emergency medical services in Chisago county; authorizing property tax levies; adding to the list of special taxing districts; permitting a reverse referendum on the matter; amending Minnesota Statutes 2000, section 275.066.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [LAKES REGION EMS SERVICE CHARGES.]

Subdivision 1. [AUTHORIZATION.] The Lakes Region emergency medical services district may charge and collect through the county with county property taxes, an annual service charge of \$5 per unit for properties in the primary service area within Chisago county and \$2.50 per unit for properties in the secondary service area within Chisago county according to the schedule in subdivision 2 for emergency medical services authorized as provided in subdivision 3.

Subd. 2. [EMS FEE SCHEDULE.]

<u>(a) RESIDENTIAL PROPERTIES</u>	<u>UNIT VALUE</u>
<u>(1) Agricultural with Dwelling</u>	<u>1.0</u>
<u>(2) Seasonal/Recreational</u>	<u>1.0</u>
<u>(3) Residential Homestead</u>	<u>1.0</u>

<u>(4) Residential Non-Homestead</u>	<u>1.0 for up to three living units</u>
	<u>1.0 for each additional living unit thereafter</u>
<u>(5) Mobile Homes</u>	<u>1.0</u>

(b) COMMERCIAL PROPERTIES

<u>(1) Up to \$100,000 valuation</u>	<u>1.0</u>
<u>(2) \$100,001 to \$150,000</u>	<u>2.0</u>
<u>(3) \$150,001 to \$200,000</u>	<u>3.0</u>
<u>(4) \$200,001 to \$250,000</u>	<u>4.0</u>
<u>(5) \$250,001 to \$300,000</u>	<u>5.0</u>
<u>(6) \$300,001 to \$350,000</u>	<u>6.0</u>
<u>(7) \$350,001 to \$400,000</u>	<u>7.0</u>
<u>(8) \$400,001 to \$450,000</u>	<u>8.0</u>
<u>(9) \$450,001 to \$500,000</u>	<u>9.0</u>
<u>(10) \$500,001 to \$550,000</u>	<u>10.0</u>
<u>(11) \$550,001 to \$600,000</u>	<u>11.0</u>
<u>(12) Over \$600,000</u>	<u>12.0</u>

Subd. 3. [USE OF FEE PROCEEDS.] The proceeds of fees charged and collected under this section may be used to support the providing of out-of-hospital emergency medical services including, but not limited to, first responder or rescue squads recognized by the Lakes Region emergency medical services district, ambulance services licensed under Minnesota Statutes, chapter 144E, and recognized by the district, medical control functions set out in Minnesota Statutes, chapter 144E, and communications equipment and systems.

Subd. 4. [BOARD.] (a) The district is governed by a board made up of the members of the governing bodies including town boards of local governmental units in Chisago county, as follows:

- (1) three members chosen by all of the cities in a manner convenient to them that reflects geographic balance; and
- (2) three members chosen by all of the town boards in a manner convenient to them that reflects geographic balance.

(b) If the members are not selected as provided in paragraph (a), clause (1) or (2), by September 1, 2001, the county board must make the appointments from the governing bodies of cities under paragraph (a), clause (1), or from the governing bodies of town boards under paragraph (a), clause (2), respectively, and, in either case, reflecting geographic balance.

(c) A representative from the county board chosen by the county board must serve as the chair of the district board.

(d) All members of the district board serve a three-year term.

(e) A vacancy on the district board must be filled as provided for the initial appointment. If the vacancy is not filled within 30 days by the initial appointing authority under paragraph (a), clause (1) or (2), the county board must make the appointment as provided in paragraph (b).

Subd. 5. [PROCEDURE.] The Chisago county board must charge and collect, and disburse the fees authorized in this section in the manner authorized by ordinance for the charging, collection, and disbursing of solid waste management fees within the county. The county may proceed to collect unpaid fees under this section in the same manner and extent, including interest charges, as provided by ordinance for collection of unpaid solid waste management fees.

Subd. 6. [ADMINISTRATIVE SHARE.] The county may retain up to one percent of the fees collected under this section each year for administration of the fee collection and disbursal.

Subd. 7. [SUNSET.] The fee authorized under this section may be charged in 2001 payable in 2002, through 2003, payable in 2004 only. No fee is authorized in 2004, and thereafter, that is payable in 2005, and thereafter."

Delete the title and insert:

"A bill for an act relating to Chisago county; authorizing a fee schedule for emergency medical services within the county; providing for the charge, collection, and disbursement of the fee; providing for a governing board to oversee the use of the fee for authorized services; providing for the fee to expire after three years."

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

The report was adopted.

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

H. F. No. 464, A bill for an act relating to state government; forbidding certain litigation and settlements; providing for deposit in the general fund of certain funds recovered through litigation or settlements; proposing coding for new law in Minnesota Statutes, chapter 16A; repealing Minnesota Statutes 2000, section 8.31, subdivision 2c.

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

The report was adopted.

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

H. F. No. 643, A bill for an act proposing an amendment to the Minnesota Constitution; adding a section to article IV to provide for initiative and referendum; providing procedures for initiative and referendum; providing penalties; amending Minnesota Statutes 2000, sections 204C.33, subdivisions 1, 3; 204D.11, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 3B.

Reported the same back with the following amendments:

Page 3, lines 20 and 24, delete "3B.56" and insert "3B.57"

Page 3, line 30, delete "(3), (4), and (8)" and insert "(2), (3), and (7)"

Page 3, line 31, delete "and" and before the period, insert ", and 3B.57"

Page 11, line 14, before "Any" insert "(a)"

Page 11, after line 24, insert:

"(b) This section does not apply to an individual who acts independently of an association, political committee, political fund, or sponsor of a ballot measure and spends only from the individual's own resources a sum that is less than \$300 in the aggregate to produce or distribute material described in this section at least 14 days before the election at which the proposed ballot measure would be voted on."

Page 12, line 4, delete "DISCLOSURE TO"

Page 12, delete lines 6 to 14 and insert:

"The following are political committees for purposes of chapter 10A:

(1) the sponsor of a ballot measure; and

(2) an association whose major purpose is to promote or defeat a ballot measure."

Page 12, delete lines 19 and 20

Page 12, line 21, delete "(3)" and insert "(2)"

Page 12, line 26, delete "(4)" and insert "(3)"

Page 12, line 29, delete "(5)" and insert "(4)"

Page 12, line 31, delete "(6)" and insert "(5)"

Page 12, line 33, delete "(7)" and insert "(6)"

Page 12, line 34, delete "(8)" and insert "(7)"

Page 13, line 3, delete "(9)" and insert "(8)"

Page 13, line 5, delete "(10)" and insert "(9)"

Page 13, line 7, delete "(5)" and insert "(4)"

Page 13, line 8, delete "(6)" and insert "(5)"

Page 13, line 9, delete "(10)" and insert "(9)"

Page 14, line 8, before "VOTER" insert "INTERNET"

Page 14, delete lines 9 to 19 and insert:

"Not later than 60 days before a state general election at which a ballot measure will be voted on, the secretary of state must publish on the secretary of state's official Web site an electronic voter guide to each ballot measure. The voter guide must contain:

(1) the text and the ballot question for each ballot measure certified under section 3.41 or referred by the legislature under the Minnesota Constitution, article IV, section 27; and

(2) the mailing address for the sponsor of each ballot measure.

Upon the written request of a sponsor or of the chair of a political committee registered under chapter 10A whose major purpose is to promote or defeat a ballot measure that will be voted on at the state general election, the voter guide also must include links to Web sites maintained by the sponsor or by such political committee."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 779, A bill for an act relating to commerce; modifying provisions dealing with motor vehicle dealer franchise transfers; amending Minnesota Statutes 2000, section 80E.13.

Reported the same back with the following amendments:

Page 3, line 34, delete "of its own choice"

Page 4, lines 17 to 19, delete the new language and before the semicolon, insert "In the event of a proposed sale or transfer of a franchise, the manufacturer, distributor, factory branch, or importer shall be permitted to exercise a right of first refusal to acquire the franchisee's assets or ownership if:

(1) the franchise agreement permits the manufacturer, distributor, factory branch, or importer to exercise a right of first refusal to acquire the franchisee's assets or ownership in the event of a proposed sale or transfer;

(2) the proposed transfer of the dealership or its assets is of more than 50 percent of the ownership or assets;

(3) the manufacturer, distributor, factory branch, or importer notifies the dealer in writing within 60 days of its receipt of the complete written proposal for the proposed sale or transfer on forms generally utilized by the manufacturer, distributor, factory branch, or importer for such purposes and containing the information required therein and all documents and agreements relating to the proposed sale or transfer;

(4) the exercise of the right of first refusal will result in the dealer and dealer's owners receiving the same or greater consideration with equivalent terms of sale as is provided in the documents and agreements submitted to the manufacturer, distributor, factory branch, or importer under clause (3);

(5) the proposed change of 50 percent or more of the ownership or of the dealership assets does not involve the transfer or sale of assets or the transfer or issuance of stock by the dealer or one or more dealer owners to a family member, including a spouse, child, stepchild, grandchild, spouse of a child or grandchild, brother, sister, or parent of the dealer owner; to a manager who has been employed in the dealership for at least four years and is otherwise qualified as a dealer operator; or to a partnership or corporation owned and controlled by one or more of such persons; and

(6) the manufacturer, distributor, factory branch, or importer agrees to pay the reasonable expenses, including reasonable attorney fees, which do not exceed the usual customary and reasonable fees charged for similar work done for other clients incurred by the proposed new owner and transferee before the manufacturer, distributor, factory branch, or importer exercises its right of first refusal, in negotiating and implementing the contract for the proposed change of ownership or transfer of dealership assets. However, payment of such expenses and attorney fees shall not be required if the dealer has not submitted or caused to be submitted an accounting of those expenses within 20 days after the dealer's receipt of the manufacturer, distributor, factory branch, or importer's written request for such an accounting. The manufacturer, distributor, factory branch, or importer may request such an accounting before exercising its right of first refusal. The obligation created under this clause is enforceable by the transferee"

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. 781, A bill for an act relating to state government; proposing an amendment to the Minnesota Constitution, article V, sections 1, 3, and 4; article VIII, section 2; creating the constitutional office of commissioner of agriculture; amending Minnesota Statutes 2000, sections 10A.25, subdivision 2; 15.01; and 15.06, subdivision 1; repealing Minnesota Statutes 2000, section 17.01.

Reported the same back with the following amendments:

Page 4, after line 33, insert:

"Sec. 4. Minnesota Statutes 2000, section 17.01, is amended to read:

17.01 [CREATION OF DEPARTMENT; COMMISSIONER; DEPUTY.]

~~There is created a department of agriculture, which shall be in the charge of a~~ the ~~commissioner of agriculture, in this chapter called the commissioner, who shall be appointed by the governor under the provisions of section 15.06. Before entering upon the duties of office, the commissioner shall take the oath required of state officials. The commissioner may appoint a deputy commissioner."~~

Page 4, delete lines 34 and 35

Amend the title as follows:

Page 1, line 7, delete "and" and after "1;" insert "17.01."

Page 1, delete line 8

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. 787, A bill for an act relating to health; requiring the commissioner of health to give priority to certain moratorium exception proposals; providing funding for the moratorium exception process; appropriating money; amending Laws 2000, chapter 364, section 2.

Reported the same back with the following amendments:

Page 1, after line 7, insert:

"Section 1. Minnesota Statutes 2000, section 144A.071, subdivision 4a, is amended to read:

Subd. 4a. [EXCEPTIONS FOR REPLACEMENT BEDS.] It is in the best interest of the state to ensure that nursing homes and boarding care homes continue to meet the physical plant licensing and certification requirements by permitting certain construction projects. Facilities should be maintained in condition to satisfy the physical and emotional needs of residents while allowing the state to maintain control over nursing home expenditure growth.

The commissioner of health in coordination with the commissioner of human services, may approve the renovation, replacement, upgrading, or relocation of a nursing home or boarding care home, under the following conditions:

(a) to license or certify beds in a new facility constructed to replace a facility or to make repairs in an existing facility that was destroyed or damaged after June 30, 1987, by fire, lightning, or other hazard provided:

(i) destruction was not caused by the intentional act of or at the direction of a controlling person of the facility;

(ii) at the time the facility was destroyed or damaged the controlling persons of the facility maintained insurance coverage for the type of hazard that occurred in an amount that a reasonable person would conclude was adequate;

(iii) the net proceeds from an insurance settlement for the damages caused by the hazard are applied to the cost of the new facility or repairs;

(iv) the new facility is constructed on the same site as the destroyed facility or on another site subject to the restrictions in section 144A.073, subdivision 5;

(v) the number of licensed and certified beds in the new facility does not exceed the number of licensed and certified beds in the destroyed facility; and

(vi) the commissioner determines that the replacement beds are needed to prevent an inadequate supply of beds.

Project construction costs incurred for repairs authorized under this clause shall not be considered in the dollar threshold amount defined in subdivision 2;

(b) to license or certify beds that are moved from one location to another within a nursing home facility, provided the total costs of remodeling performed in conjunction with the relocation of beds does not exceed \$750,000;

(c) to license or certify beds in a project recommended for approval under section 144A.073;

(d) to license or certify beds that are moved from an existing state nursing home to a different state facility, provided there is no net increase in the number of state nursing home beds;

(e) to certify and license as nursing home beds boarding care beds in a certified boarding care facility if the beds meet the standards for nursing home licensure, or in a facility that was granted an exception to the moratorium under section 144A.073, and if the cost of any remodeling of the facility does not exceed \$750,000. If boarding care beds are licensed as nursing home beds, the number of boarding care beds in the facility must not increase beyond the number remaining at the time of the upgrade in licensure. The provisions contained in section 144A.073 regarding the upgrading of the facilities do not apply to facilities that satisfy these requirements;

(f) to license and certify up to 40 beds transferred from an existing facility owned and operated by the Amherst H. Wilder Foundation in the city of St. Paul to a new unit at the same location as the existing facility that will serve persons with Alzheimer's disease and other related disorders. The transfer of beds may occur gradually or in stages, provided the total number of beds transferred does not exceed 40. At the time of licensure and certification of a bed or beds in the new unit, the commissioner of health shall delicense and decertify the same number of beds in the existing facility. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the transfers allowed under this paragraph;

(g) to license and certify nursing home beds to replace currently licensed and certified boarding care beds which may be located either in a remodeled or renovated boarding care or nursing home facility or in a remodeled, renovated, newly constructed, or replacement nursing home facility within the identifiable complex of health care facilities in which the currently licensed boarding care beds are presently located, provided that the number of

boarding care beds in the facility or complex are decreased by the number to be licensed as nursing home beds and further provided that, if the total costs of new construction, replacement, remodeling, or renovation exceed ten percent of the appraised value of the facility or \$200,000, whichever is less, the facility makes a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate by reason of the new construction, replacement, remodeling, or renovation. The provisions contained in section 144A.073 regarding the upgrading of facilities do not apply to facilities that satisfy these requirements;

(h) to license as a nursing home and certify as a nursing facility a facility that is licensed as a boarding care facility but not certified under the medical assistance program, but only if the commissioner of human services certifies to the commissioner of health that licensing the facility as a nursing home and certifying the facility as a nursing facility will result in a net annual savings to the state general fund of \$200,000 or more;

(i) to certify, after September 30, 1992, and prior to July 1, 1993, existing nursing home beds in a facility that was licensed and in operation prior to January 1, 1992;

(j) to license and certify new nursing home beds to replace beds in a facility acquired by the Minneapolis community development agency as part of redevelopment activities in a city of the first class, provided the new facility is located within three miles of the site of the old facility. Operating and property costs for the new facility must be determined and allowed under section 256B.431 or 256B.434;

(k) to license and certify up to 20 new nursing home beds in a community-operated hospital and attached convalescent and nursing care facility with 40 beds on April 21, 1991, that suspended operation of the hospital in April 1986. The commissioner of human services shall provide the facility with the same per diem property-related payment rate for each additional licensed and certified bed as it will receive for its existing 40 beds;

(l) to license or certify beds in renovation, replacement, or upgrading projects as defined in section 144A.073, subdivision 1, so long as the cumulative total costs of the facility's remodeling projects do not exceed \$750,000;

(m) to license and certify beds that are moved from one location to another for the purposes of converting up to five four-bed wards to single or double occupancy rooms in a nursing home that, as of January 1, 1993, was county-owned and had a licensed capacity of 115 beds;

(n) to allow a facility that on April 16, 1993, was a 106-bed licensed and certified nursing facility located in Minneapolis to layaway all of its licensed and certified nursing home beds. These beds may be relicensed and recertified in a newly-constructed teaching nursing home facility affiliated with a teaching hospital upon approval by the legislature. The proposal must be developed in consultation with the interagency committee on long-term care planning. The beds on layaway status shall have the same status as voluntarily delicensed and decertified beds, except that beds on layaway status remain subject to the surcharge in section 256.9657. This layaway provision expires July 1, 1998;

(o) to allow a project which will be completed in conjunction with an approved moratorium exception project for a nursing home in southern Cass county and which is directly related to that portion of the facility that must be repaired, renovated, or replaced, to correct an emergency plumbing problem for which a state correction order has been issued and which must be corrected by August 31, 1993;

(p) to allow a facility that on April 16, 1993, was a 368-bed licensed and certified nursing facility located in Minneapolis to layaway, upon 30 days prior written notice to the commissioner, up to 30 of the facility's licensed and certified beds by converting three-bed wards to single or double occupancy. Beds on layaway status shall have the same status as voluntarily delicensed and decertified beds except that beds on layaway status remain subject to the surcharge in section 256.9657, remain subject to the license application and renewal fees under section 144A.07 and shall be subject to a \$100 per bed reactivation fee. In addition, at any time within three years of the effective date of the layaway, the beds on layaway status may be:

(1) relicensed and recertified upon relocation and reactivation of some or all of the beds to an existing licensed and certified facility or facilities located in Pine River, Brainerd, or International Falls; provided that the total project construction costs related to the relocation of beds from layaway status for any facility receiving relocated beds may not exceed the dollar threshold provided in subdivision 2 unless the construction project has been approved through the moratorium exception process under section 144A.073;

(2) relicensed and recertified, upon reactivation of some or all of the beds within the facility which placed the beds in layaway status, if the commissioner has determined a need for the reactivation of the beds on layaway status.

The property-related payment rate of a facility placing beds on layaway status must be adjusted by the incremental change in its rental per diem after recalculating the rental per diem as provided in section 256B.431, subdivision 3a, paragraph (c). The property-related payment rate for a facility relicensing and recertifying beds from layaway status must be adjusted by the incremental change in its rental per diem after recalculating its rental per diem using the number of beds after the relicensing to establish the facility's capacity day divisor, which shall be effective the first day of the month following the month in which the relicensing and recertification became effective. Any beds remaining on layaway status more than three years after the date the layaway status became effective must be removed from layaway status and immediately delicensed and decertified;

(q) to license and certify beds in a renovation and remodeling project to convert 12 four-bed wards into 24 two-bed rooms, expand space, and add improvements in a nursing home that, as of January 1, 1994, met the following conditions: the nursing home was located in Ramsey county; had a licensed capacity of 154 beds; and had been ranked among the top 15 applicants by the 1993 moratorium exceptions advisory review panel. The total project construction cost estimate for this project must not exceed the cost estimate submitted in connection with the 1993 moratorium exception process;

(r) to license and certify up to 117 beds that are relocated from a licensed and certified 138-bed nursing facility located in St. Paul to a hospital with 130 licensed hospital beds located in South St. Paul, provided that the nursing facility and hospital are owned by the same or a related organization and that prior to the date the relocation is completed the hospital ceases operation of its inpatient hospital services at that hospital. After relocation, the nursing facility's status under section 256B.431, subdivision 2j, shall be the same as it was prior to relocation. The nursing facility's property-related payment rate resulting from the project authorized in this paragraph shall become effective no earlier than April 1, 1996. For purposes of calculating the incremental change in the facility's rental per diem resulting from this project, the allowable appraised value of the nursing facility portion of the existing health care facility physical plant prior to the renovation and relocation may not exceed \$2,490,000;

(s) to license and certify two beds in a facility to replace beds that were voluntarily delicensed and decertified on June 28, 1991;

(t) to allow 16 licensed and certified beds located on July 1, 1994, in a 142-bed nursing home and 21-bed boarding care home facility in Minneapolis, notwithstanding the licensure and certification after July 1, 1995, of the Minneapolis facility as a 147-bed nursing home facility after completion of a construction project approved in 1993 under section 144A.073, to be laid away upon 30 days' prior written notice to the commissioner. Beds on layaway status shall have the same status as voluntarily delicensed or decertified beds except that they shall remain subject to the surcharge in section 256.9657. The 16 beds on layaway status may be relicensed as nursing home beds and recertified at any time within five years of the effective date of the layaway upon relocation of some or all of the beds to a licensed and certified facility located in Watertown, provided that the total project construction costs related to the relocation of beds from layaway status for the Watertown facility may not exceed the dollar threshold provided in subdivision 2 unless the construction project has been approved through the moratorium exception process under section 144A.073.

The property-related payment rate of the facility placing beds on layaway status must be adjusted by the incremental change in its rental per diem after recalculating the rental per diem as provided in section 256B.431, subdivision 3a, paragraph (c). The property-related payment rate for the facility relicensing and recertifying beds from layaway status must be adjusted by the incremental change in its rental per diem after recalculating its rental

per diem using the number of beds after the relicensing to establish the facility's capacity day divisor, which shall be effective the first day of the month following the month in which the relicensing and recertification became effective. Any beds remaining on layaway status more than five years after the date the layaway status became effective must be removed from layaway status and immediately delicensed and decertified;

(u) to license and certify beds that are moved within an existing area of a facility or to a newly constructed addition which is built for the purpose of eliminating three- and four-bed rooms and adding space for dining, lounge areas, bathing rooms, and ancillary service areas in a nursing home that, as of January 1, 1995, was located in Fridley and had a licensed capacity of 129 beds;

(v) to relocate 36 beds in Crow Wing county and four beds from Hennepin county to a 160-bed facility in Crow Wing county, provided all the affected beds are under common ownership;

(w) to license and certify a total replacement project of up to 49 beds located in Norman county that are relocated from a nursing home destroyed by flood and whose residents were relocated to other nursing homes. The operating cost payment rates for the new nursing facility shall be determined based on the interim and settle-up payment provisions of Minnesota Rules, part 9549.0057, and the reimbursement provisions of section 256B.431, except that subdivision 26, paragraphs (a) and (b), shall not apply until the second rate year after the settle-up cost report is filed. Property-related reimbursement rates shall be determined under section 256B.431, taking into account any federal or state flood-related loans or grants provided to the facility;

(x) to license and certify a total replacement project of up to 129 beds located in Polk county that are relocated from a nursing home destroyed by flood and whose residents were relocated to other nursing homes. The operating cost payment rates for the new nursing facility shall be determined based on the interim and settle-up payment provisions of Minnesota Rules, part 9549.0057, and the reimbursement provisions of section 256B.431, except that subdivision 26, paragraphs (a) and (b), shall not apply until the second rate year after the settle-up cost report is filed. Property-related reimbursement rates shall be determined under section 256B.431, taking into account any federal or state flood-related loans or grants provided to the facility;

(y) to license and certify beds in a renovation and remodeling project to convert 13 three-bed wards into 13 two-bed rooms and 13 single-bed rooms, expand space, and add improvements in a nursing home that, as of January 1, 1994, met the following conditions: the nursing home was located in Ramsey county, was not owned by a hospital corporation, had a licensed capacity of 64 beds, and had been ranked among the top 15 applicants by the 1993 moratorium exceptions advisory review panel. The total project construction cost estimate for this project must not exceed the cost estimate submitted in connection with the 1993 moratorium exception process;

(z) to license and certify up to 150 nursing home beds to replace an existing 285 bed nursing facility located in St. Paul. The replacement project shall include both the renovation of existing buildings and the construction of new facilities at the existing site. The reduction in the licensed capacity of the existing facility shall occur during the construction project as beds are taken out of service due to the construction process. Prior to the start of the construction process, the facility shall provide written information to the commissioner of health describing the process for bed reduction, plans for the relocation of residents, and the estimated construction schedule. The relocation of residents shall be in accordance with the provisions of law and rule;

(aa) to allow the commissioner of human services to license an additional 36 beds to provide residential services for the physically handicapped under Minnesota Rules, parts 9570.2000 to 9570.3400, in a 198-bed nursing home located in Red Wing, provided that the total number of licensed and certified beds at the facility does not increase;

(bb) to license and certify a new facility in St. Louis county with 44 beds constructed to replace an existing facility in St. Louis county with 31 beds, which has resident rooms on two separate floors and an antiquated elevator that creates safety concerns for residents and prevents nonambulatory residents from residing on the second floor. The project shall include the elimination of three- and four-bed rooms;

(cc) to license and certify four beds in a 16-bed certified boarding care home in Minneapolis to replace beds that were voluntarily delicensed and decertified on or before March 31, 1992. The licensure and certification is conditional upon the facility periodically assessing and adjusting its resident mix and other factors which may contribute to a potential institution for mental disease declaration. The commissioner of human services shall retain the authority to audit the facility at any time and shall require the facility to comply with any requirements necessary to prevent an institution for mental disease declaration, including delicensure and decertification of beds, if necessary; or

(dd) to license and certify 72 beds in an existing facility in Mille Lacs county with 80 beds as part of a renovation project. The renovation must include construction of an addition to accommodate ten residents with beginning and midstage dementia in a self-contained living unit; creation of three resident households where dining, activities, and support spaces are located near resident living quarters; designation of four beds for rehabilitation in a self-contained area; designation of 30 private rooms; and other improvements;

(ee) to transfer up to 98 beds of a 129-licensed bed facility located in Anoka county that, as of March 25, 2001, is in the active process of closing, to a 122-licensed bed nonprofit nursing facility located in the city of Columbia Heights or its affiliate. The transfer is effective when the receiving facility notifies the commissioner in writing of the number of beds accepted. The commissioner shall place all transferred beds on layaway status held in the name of the receiving facility. The layaway adjustment provisions of section 256B.431, subdivision 30, do not apply to this layaway. The receiving facility is authorized to remove the beds from layaway for recertification and relicensure at the receiving facility's current site, or at a newly constructed facility located in Anoka county, by providing a 60-day notice to the commissioner. Notwithstanding the completion date of other construction projects undertaken by the receiving facility to recertify and relicense the transferred beds, the receiving facility may submit a moratorium exception proposal for review and approval under section 144A.073. The operating cost payment rates for the new nursing facility shall be determined based on the interim and settle-up payment provisions of Minnesota Rules, part 9549.0057, and the reimbursement provisions of section 256B.431, except that section 256B.431, subdivision 26, paragraphs (a) and (b), shall not apply until the second rate year after the settle-up cost report is filed. Property-related reimbursement rates shall be determined under section 256B.431; or

(ff) to license and certify up to 120 new nursing facility beds to replace beds in a facility in Anoka county, which was licensed for 98 beds as of July 1, 2000, provided the new facility is located within four miles of the existing facility and is in Anoka county. Operating and property rates shall be determined and allowed under section 256B.431 and Minnesota Rules, parts 9549.0010 to 9549.0080, or section 256B.434 or 256B.435. The provisions of section 256B.431, subdivision 26, paragraphs (a) and (b), do not apply until the second rate year following settle-up."

Renumber the sections in sequence

Correct internal references

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "providing exceptions to the moratorium on nursing home beds;"

Page 1, line 6, after "amending" insert "Minnesota Statutes 2000, section 144A.071, subdivision 4a;"

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.

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

H. F. No. 848, A bill for an act relating to crimes; extending the attorney general's authority for administrative subpoenas; enabling peace officers to execute search warrants on foreign corporations doing business in Minnesota to search for electronic evidence; allowing Minnesota corporations engaged in electronic communication services or remote computing services to provide electronic evidence when served with search warrants issued from other jurisdictions; enhancing penalties for dissemination and possession of pornographic work involving minors; amending Minnesota Statutes 2000, sections 8.16, subdivision 1; and 617.247, subdivisions 3 and 4; proposing coding for new law in Minnesota Statutes, chapter 626.

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

The report was adopted.

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

H. F. No. 1007, A bill for an act relating to trade regulations; prohibiting gasoline sales below cost; providing enforcement authority; amending Minnesota Statutes 2000, section 325D.01, subdivision 5, and by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 325D.

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.

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

H. F. No. 1021, A bill for an act relating to horse racing; card clubs; authorizing licensee of commission to detain persons suspected of cheating; proposing coding for new law in Minnesota Statutes, chapter 240.

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

The report was adopted.

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

H. F. No. 1051, A bill for an act relating to civil actions; regulating certifications of expert reviews in medical malpractice actions; amending Minnesota Statutes 2000, section 145.682, subdivision 6.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 145.682, subdivision 6, is amended to read:

Subd. 6. [PENALTY FOR NONCOMPLIANCE.] (a) Failure to comply with subdivision 2, clause (1), within 60 days after demand for the affidavit results, upon motion, in mandatory dismissal with prejudice of each cause of action as to which expert testimony is necessary to establish a prima facie case.

(b) Failure to comply with subdivision 2, clause (2), ~~and subdivision 4~~ results, upon motion, in mandatory dismissal with prejudice of each cause of action as to which expert testimony is necessary to establish a prima facie case.

(c) Failure to comply with subdivision 4 because of deficiencies in the affidavit or answers to interrogatories results, upon motion, in mandatory dismissal with prejudice of each action as to which expert testimony is necessary to establish a prima facie case, provided that:

(1) the motion to dismiss the action identifies the claimed deficiencies in the affidavit or answers to interrogatories;

(2) the time for hearing the motion is at least 45 days from the date of service of the motion; and

(3) before the hearing on the motion, the plaintiff does not serve upon the defendant an amended affidavit or answers to interrogatories that correct the claimed deficiencies.

Sec. 2. Minnesota Statutes 2000, section 573.02, subdivision 1, is amended to read:

Subdivision 1. When death is caused by the wrongful act or omission of any person or corporation, the trustee appointed as provided in subdivision 3 may maintain an action therefor if the decedent might have maintained an action, had the decedent lived, for an injury caused by the wrongful act or omission. An action to recover damages for a death caused by the alleged professional negligence of a physician, surgeon, dentist, hospital or sanitarium, or an employee of a physician, surgeon, dentist, hospital or sanitarium shall be commenced within ~~the time set forth in section 541.07, subdivision 1~~ three years of the date of death, but in no event shall be commenced beyond the time set forth in section 541.076. An action to recover damages for a death caused by an intentional act constituting murder may be commenced at any time after the death of the decedent. Any other action under this section may be commenced within three years after the date of death provided that the action must be commenced within six years after the act or omission. The recovery in the action is the amount the jury deems fair and just in reference to the pecuniary loss resulting from the death, and shall be for the exclusive benefit of the surviving spouse and next of kin, proportionate to the pecuniary loss severally suffered by the death. The court then determines the proportionate pecuniary loss of the persons entitled to the recovery and orders distribution accordingly. Funeral expenses and any demand for the support of the decedent allowed by the court having jurisdiction of the action, are first deducted and paid. Punitive damages may be awarded as provided in section 549.20.

If an action for the injury was commenced by the decedent and not finally determined while living, it may be continued by the trustee for recovery of damages for the exclusive benefit of the surviving spouse and next of kin, proportionate to the pecuniary loss severally suffered by the death. The court on motion shall make an order allowing the continuance and directing pleadings to be made and issues framed as in actions begun under this section.

Sec. 3. [EFFECTIVE DATE; APPLICATION.]

Sections 1 and 2 are effective August 1, 2001, and apply to causes of action arising from incidents occurring on or after that date."

Delete the title and insert:

"A bill for an act relating to civil actions; regulating certifications of expert reviews in medical malpractice actions; clarifying a reference to the medical malpractice statute of limitations; amending Minnesota Statutes 2000, sections 145.682, subdivision 6; 573.02, subdivision 1."

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. 1073, A bill for an act relating to natural resources; establishing the Minnesota River trail; appropriating money; amending Minnesota Statutes 2000, section 85.015, by adding a subdivision.

Reported the same back with the following amendments:

Page 1, line 9, delete everything after "TRAIL"

Page 1, delete line 10

Page 1, line 11, delete "COUNTIES"

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.

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

H. F. No. 1081, A bill for an act relating to health; modifying review organization provisions; allowing review organizations to participate in Internet-based information sharing systems; permitting the release of certain data by review organizations; amending Minnesota Statutes 2000, sections 145.61, subdivision 5; 145.63, by adding a subdivision; 145.64, subdivision 1, by adding subdivisions.

Reported the same back with the following amendments:

Page 5, line 12, after the period, insert "Any materials, facts, or other data, which would otherwise be available to a litigant in the course of discovery from other sources, shall continue to be available to the litigant."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1085, A bill for an act relating to traffic regulations; modifying width limitations on recreational equipment; prescribing maximum length of motor homes; amending Minnesota Statutes 2000, sections 169.80, subdivision 2; and 169.81, subdivision 2.

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

The report was adopted.

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

H. F. No. 1098, A bill for an act relating to housing court; providing for expungement of certain court records of eviction actions; amending Minnesota Statutes 2000, section 484.014, subdivision 2, 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 2000, section 484.014, is amended to read:

484.014 [HOUSING RECORDS; EXPUNGEMENT OF EVICTION INFORMATION.]

Subdivision 1. [DEFINITIONS.] For the purpose of this section, the following terms have the meanings given:

(1) "expungement" means the removal of evidence of the court file's existence from the publicly accessible records; and

(2) "~~eviction case~~" means ~~an action brought under sections 504B.281 to 504B.371; and~~

(3) "court file" means the court file created when an eviction case is filed with the court.

Subd. 2. [~~DISCRETIONARY EXPUNGEMENT.~~] After the court has reached its decision or upon other resolution of the case, the court may must order administrative expungement of an ~~eviction case~~ the court file only upon motion of a defendant and decision by the court, for cases commenced under chapter 504B, but only if the court finds on an equitable basis that (1) the plaintiff's landlord's case is sufficiently without basis in fact or law, which may include lack of jurisdiction over the case, that (2) expungement is clearly in the interests of justice, and (3) those interests are not outweighed by the public's interest in knowing about the record.

The court shall not hear argument, nor take testimony, on the merits of expungement, nor consider any argument between the parties to expunge, at any time during the proceeding."

Delete the title and insert:

"A bill for an act relating to housing court; providing for expungement of certain court records of eviction actions; amending Minnesota Statutes 2000, section 484.014."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1104, A bill for an act relating to real estate; providing for the electronic filing of real estate documents; implementing the work plan of the task force; providing support; appropriating money.

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

The report was adopted.

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

H. F. No. 1151, A bill for an act relating to professions; modifying penalty provisions for psychologists; amending Minnesota Statutes 2000, section 148.941, subdivision 2, and by adding a subdivision.

Reported the same back with the following amendments:

Page 4, line 27, delete "provider" and insert "the applicant or licensee"

Page 5, line 8, delete "providers" and insert "applicants or licensees"

Page 5, line 9, delete "a provider" and insert "an applicant or licensee"

Page 5, lines 24 and 26, delete "provider" and insert "applicant or licensee"

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1153, A bill for an act relating to local government; exempting certain building projects from the requirement to employ an architect; amending Minnesota Statutes 2000, section 326.03, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 326.03, is amended by adding a subdivision to read:

Subd. 2a. [LOCAL GOVERNMENT BUILDINGS UNDER \$150,000.] Sections 326.02 to 326.15 do not prevent a person other than an architect from planning, designing, or supervising the construction of a noninstitutional or nonassembly building, estimated to cost less than \$150,000, to be owned by a county, city, town, or school district if the building plans and structure meet all the requirements of the Minnesota State Building Code and Fire Code."

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. 1236, A bill for an act relating to metropolitan government; requiring house and senate confirmation of members and the executive director of the metropolitan airports commission; amending Minnesota Statutes 2000, sections 473.604, subdivision 1; and 473.606, subdivision 4.

Reported the same back with the following amendments:

Page 2, line 30, delete everything after the period

Page 2, delete lines 31 to 34

Page 2, line 35, delete "first."

Page 3, line 23, delete everything after the period

Page 3, delete lines 24 to 27

Page 3, line 28, delete "first."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1276, A bill for an act relating to labor; requiring the certification and regulation of crane operators; requiring rulemaking; authorizing civil penalties; proposing coding for new law as Minnesota Statutes, chapter 184C.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [184C.01] [CERTIFICATION REQUIRED.]

No individual may operate a crane on a construction site with a lifting capacity of five tons or more unless the individual has a valid crane operator certificate received from a crane operator certification program approved by the National Commission for the Certification of Crane Operators. No employer, and no person who is under a contract to construct an improvement to land, may permit any employee, agent, or independent contractor to perform work in violation of this section.

Sec. 2. [184C.02] [EXCEPTIONS.]

The requirements of section 184C.01 do not apply to:

(1) an individual who is receiving training as a crane operator, if the individual is under the supervision of a crane operator who holds a valid crane operator certificate received from a crane operator certification program approved under section 184C.01;

(2) a person engaged in the occupation of crane operator on or within one year of the effective date of sections 184C.01 to 184C.03, provided that the person obtains a license within one year of the effective date of sections 184C.01 to 184C.03;

(3) an individual directly employed by a Class 1 or 2 railroad who holds seniority as, and is qualified by the employing railroad as, a crane operator or boom truck operator while that individual is performing work on property owned, leased, or controlled by the employing railroad;

(4) an engineer or operator employed by public utilities or industrial manufacturing plants, or who is subject to inspection and regulation under the provisions of the Mine Safety and Health Act, United States Code, title 30, sections 801 to 962;

(5) a person engaged in boating, fishing, agriculture, or arboriculture;

(6) an individual who is a member of a uniformed service or who is a member of the United States merchant marine, if the individual is performing work for the uniformed service or for the United States merchant marine, respectively;

(7) an individual who is operating a crane for personal use on premises owned or leased by the individual; and

(8) an individual who is operating a crane in an attempt to remedy an emergency.

Sec. 3. [184C.03] [PENALTIES.]

Any person who violates the provisions of sections 184C.01 and 184C.02 may be fined not more than \$5,000.

Sec. 4. [EFFECTIVE DATE.]

Sections 1 to 3 are effective August 1, 2002."

Delete the title and insert:

"A bill for an act relating to labor; requiring the certification and regulation of crane operators; authorizing civil penalties; proposing coding for new law as Minnesota Statutes, chapter 184C."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1306, A bill for an act relating to natural resources; modifying provisions of the youth corps program; modifying provisions for decorative forest products; delaying repeal of sustainable forest resources provisions; requiring a study; providing civil penalties; appropriating money; amending Minnesota Statutes 2000, sections 84.0887, subdivisions 1, 2, 4, 5, 6, and 9; 88.641, subdivision 2, and by adding subdivisions; 88.642; 88.645; 88.647; 88.648; and 256J.20, subdivision 3; Laws 1995, chapter 220, section 142, as amended; proposing coding for new law in Minnesota Statutes, chapter 88; repealing Minnesota Statutes 2000, sections 88.641, subdivisions 4 and 5; and 88.644.

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

The report was adopted.

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

H. F. No. 1309, A bill for an act relating to liquor; allowing licensed brewers to make retail and wholesale sales of the brewer's own products under certain circumstances; amending Minnesota Statutes 2000, sections 340A.301, subdivisions 1, 6, 7, and 8; and 340A.308.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [LEGISLATIVE STUDY COMMITTEE; OFF-SALE AND WHOLESALE BY BREWPUBS.]

Subdivision 1. [APPOINTMENT.] The chairs of the senate committee on commerce and the house of representatives committee on commerce, jobs and economic development shall establish a study committee to study the issue of off-sales and wholesales by brewpubs. The committee shall consist of:

- (1) two members of the senate appointed by the chair of the committee on commerce;
- (2) two members of the house of representatives appointed by the chair of the committee on commerce, jobs and economic development;
- (3) four nonlegislative members appointed jointly by the two chairs, representing the brewpub industry, labor, alcoholic beverage retailers, and beer wholesalers; and
- (4) the director of the division of alcohol and gambling control of the department of public safety or the director's designee. Nonlegislative members of the study committee shall serve without compensation.

Subd. 2. [STUDY.] The legislative study committee shall study and report on the feasibility and desirability of:

- (1) permitting brewers holding on-sale licenses under Minnesota Statutes, section 340A.301, subdivision 6, clause (d), to sell their products at off-sale and wholesale;
- (2) permitting other brewers with a limited brewing capacity to obtain on-sale licenses; and
- (3) permitting customers of such brewers to take home the products of such brewers in a manner as similar as possible to the removal of wine authorized under Minnesota Statutes, section 340A.404, subdivision 11.

Subd. 3. [REPORT.] The study committee shall report to the legislature on the results of its study by February 15, 2002."

Delete the title and insert:

"A bill for an act relating to alcoholic beverages; creating a legislative study committee to study issues surrounding off-sales and wholesales by brewpubs."

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.

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

H. F. No. 1319, A bill for an act relating to human services; extending the nursing home pass-through reimbursement; amending Minnesota Statutes 2000, section 256B.431, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 256B.434, is amended by adding a subdivision to read:

Subd. 4c. [NURSING FACILITY LAUNDRY COSTS.] For any nursing facility in St. Louis county that owns and operates its own laundry facility, the commissioner, for rate years beginning on or after July 1, 2001, shall consider employees working in the laundry facility to be nursing facility employees, when calculating adjustments to the total operating payment rate or calculating employee compensation adjustments under this section or any other section. This provision is not restricted to laundry facilities that are located exclusively within the nursing facility."

Delete the title and insert:

"A bill for an act relating to human services; adjusting certain nursing facility costs; amending Minnesota Statutes 2000, section 256B.434, by adding a subdivision."

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.

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

H. F. No. 1356, A bill for an act relating to agriculture; expanding nuisance liability protection for agricultural operations; amending Minnesota Statutes 2000, section 561.19, subdivisions 1 and 2.

Reported the same back with the following amendments:

Page 2, delete line 11

Page 2, line 12, delete "(3)" and insert "(2)" and delete "farming" and insert "cropping"

Page 2, delete line 14

Page 2, line 15, delete "(5)" and insert "(3)"

Page 2, line 16, delete "(6)" and insert "(4)"

Page 2, delete section 2

Page 3, line 14, delete "3" and insert "2"

Page 3, line 15, delete "Sections 1 and 2 are" and insert "Section 1 is"

Amend the title as follows:

Page 1, line 2, delete everything after the semicolon

Page 1, line 3, delete everything before "amending" and insert "clarifying a definition;"

Page 1, lines 4 and 5, delete "subdivisions 1 and 2" and insert "subdivision 1"

With the recommendation that when so amended the bill pass.

The report was adopted.

Stanek from the Committee on Judiciary Finance to which was referred:

H. F. No. 1360, A bill for an act relating to public safety; enacting the Minnesota Citizens' Personal Protection Act of 2001; recognizing the inherent right of law-abiding citizens to self-protection through the lawful use of self-defense; providing a system under which responsible, competent adults can exercise their right to self-protection

by authorizing them to obtain a permit to carry a pistol; providing criminal penalties; amending Minnesota Statutes 2000, section 624.714, subdivisions 2, 3, 4, 6, 7, 8, 10, 12, by adding subdivisions; repealing Minnesota Statutes 2000, section 624.714, subdivisions 1, 5.

Reported the same back with the following amendments:

Page 5, line 13, delete "\$30" and insert "\$45. Of this amount, \$35 must be submitted to the commissioner of public safety and deposited into the general fund"

Page 8, line 27, after the period, insert "Of this amount, \$3 must be submitted to the commissioner of public safety and deposited into the general fund."

Page 12, line 28, delete "FUNDS;"

Page 12, line 29, delete everything after the headnote

Page 12, delete lines 30 to 32

Page 12, line 33, delete "(b)" and insert "(a)"

Page 12, line 35, delete "(c)" and insert "(b)"

Page 14, after line 28, insert:

"Sec. 24. [APPROPRIATION.]

\$1,618,000 for the fiscal year ending June 30, 2002, and \$308,000 for the fiscal year ending June 30, 2003, is appropriated from the general fund to the commissioner of public safety to implement the provisions of this act.

Sec. 25. [TEMPORARY EXTENSION ON SHERIFF'S TURNAROUND TIME.]

Notwithstanding section 8, until March 1, 2002, a sheriff has five business days to send information relating to a background check required under section 7 for a new or renewal permit to the commissioner of public safety. Additionally, the sheriff's 15 business day turnaround period under section 8 is stayed until the commissioner of public safety responds to the sheriff with the results of the background check.

Sec. 26. [GRANDFATHER CLAUSE.]

Permits to carry pistols issued prior to the effective date of this act remain in effect and are valid under the terms of issuance until the date of expiration applicable at the time of issuance. However, a person holding a permit that was issued prior to the effective date of this act may nevertheless apply for a permit under the terms and conditions of this act."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 10, after the semicolon, insert "appropriating money;"

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

The report was adopted.

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

H. F. No. 1373, A bill for an act relating to government data practices; providing for Internet access to certain criminal history data; amending Minnesota Statutes 2000, section 13.87, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 13.87, is amended by adding a subdivision to read:

Subd. 3. [INTERNET ACCESS.] (a) Notwithstanding section 13.03, subdivision 3, paragraph (a), the bureau of criminal apprehension may charge a fee for Internet access to public criminal history data provided through August 1, 2005. The fee may not exceed \$5 per inquiry or the amount needed to recoup the actual cost of implementing and providing Internet access, whichever is less.

(b) The Web site must include a notice to the subject of the data of the right to contest the accuracy or completeness of data, as provided under section 13.04, subdivision 4, and provide a telephone number and address that the subject may contact for further information on this process.

(c) The Web site must include the effective date of data that is posted.

(d) The Web site must include a description of the types of criminal history data not available on the site, including arrest data, juvenile data, criminal history data from other states, federal data, data on convictions where 15 years have elapsed since discharge of the sentence, and other data that are not accessible to the public.

(e) The Web site must include a notice that a person obtaining access to the site has a duty to disclose criminal history data obtained from the site to the subject of the data if any adverse decision regarding employment, housing, or credit is based in whole or in part on the data. This paragraph does not create a civil cause of action on behalf of the data subject."

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

The report was adopted.

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

H. F. No. 1376, A bill for an act relating to human services; changing provisions for licensing background studies; amending Minnesota Statutes 2000, sections 13.46, subdivision 4; 214.104; and 245A.04, subdivisions 3a and 3d.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 13.46, subdivision 4, is amended to read:

Subd. 4. [LICENSING DATA.] (a) As used in this subdivision:

(1) "licensing data" means all data collected, maintained, used, or disseminated by the welfare system pertaining to persons licensed or registered or who apply for licensure or registration or who formerly were licensed or registered under the authority of the commissioner of human services;

(2) "client" means a person who is receiving services from a licensee or from an applicant for licensure; and

(3) "personal and personal financial data" means social security numbers, identity of and letters of reference, insurance information, reports from the bureau of criminal apprehension, health examination reports, and social/home studies.

(b)(1) Except as provided in paragraph (c), the following data on current and former licensees are public: name, address, telephone number of licensees, licensed capacity, type of client preferred, variances granted, type of dwelling, name and relationship of other family members, previous license history, class of license, and the existence and status of complaints. When disciplinary action has been taken against a licensee or the complaint is resolved, the following data are public: the substance of the complaint, the findings of the investigation of the complaint, the record of informal resolution of a licensing violation, orders of hearing, findings of fact, conclusions of law, and specifications of the final disciplinary action contained in the record of disciplinary action.

(2) The following data on persons subject to disqualification under section 245A.04 in connection with a license to provide family day care for children, child care center services, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home, are public: the nature of any disqualification set aside under section 245A.04, subdivision 3b, and the reasons for setting aside the disqualification; and the reasons for granting any variance under section 245A.04, subdivision 9.

(3) When maltreatment is substantiated under section 626.556 or 626.557 and the victim and the substantiated perpetrator are affiliated with a program licensed under chapter 245A, the commissioner of human services, local social services agency, or county welfare agency may inform the license holder where the maltreatment occurred of the identity of the substantiated perpetrator and the victim.

(c) The following are private data on individuals under section 13.02, subdivision 12, or nonpublic data under section 13.02, subdivision 9: personal and personal financial data on family day care program and family foster care program applicants and licensees and their family members who provide services under the license.

(d) The following are private data on individuals: the identity of persons who have made reports concerning licensees or applicants that appear in inactive investigative data, and the records of clients or employees of the licensee or applicant for licensure whose records are received by the licensing agency for purposes of review or in anticipation of a contested matter. The names of reporters under sections 626.556 and 626.557 may be disclosed only as provided in section 626.556, subdivision 11, or 626.557, subdivision 12b.

(e) Data classified as private, confidential, nonpublic, or protected nonpublic under this subdivision become public data if submitted to a court or administrative law judge as part of a disciplinary proceeding in which there is a public hearing concerning the disciplinary action.

(f) Data generated in the course of licensing investigations that relate to an alleged violation of law are investigative data under subdivision 3.

(g) Data that are not public data collected, maintained, used, or disseminated under this subdivision that relate to or are derived from a report as defined in section 626.556, subdivision 2, are subject to the destruction provisions of section 626.556, subdivision 11.

(h) Upon request, not public data collected, maintained, used, or disseminated under this subdivision that relate to or are derived from a report of substantiated maltreatment as defined in section 626.556 or 626.557 may be exchanged with the department of health for purposes of completing background studies pursuant to section 144.057.

(i) Data on individuals collected according to licensing activities under chapter 245A, and data on individuals collected by the commissioner of human services according to maltreatment investigations under sections 626.556 and 626.557, may be shared with the department of human rights, the department of health, the department of

corrections, the ombudsman for mental health and retardation, and the individual's professional regulatory board when there is reason to believe that laws or standards under the jurisdiction of those agencies may have been violated.

(j) In addition to the notice of determinations required under section 626.556, subdivision 10f, if the commissioner or the local social services agency has determined that an individual is a substantiated perpetrator of maltreatment of a child based on sexual abuse, as defined in section 626.556, subdivision 2, and the commissioner or local social services agency knows that the individual is a person responsible for a child's care in another facility, the commissioner or local social services agency shall notify the head of that facility of this determination. The notification must include an explanation of the individual's available appeal rights and the status of any appeal. If a notice is given under this paragraph, the government entity making the notification shall provide a copy of the notice to the individual who is the subject of the notice.

Sec. 2. Minnesota Statutes 2000, section 144.057, subdivision 3, is amended to read:

Subd. 3. [RECONSIDERATIONS.] Except for the provisions under section 245A.04, subdivisions 3b, paragraphs (e) and (f); and 3c, the commissioner of health shall review and decide reconsideration requests, including the granting of variances, in accordance with the procedures and criteria contained in chapter 245A and Minnesota Rules, parts 9543.3000 to 9543.3090. The commissioner's decision shall be provided to the individual and to the department of human services. The commissioner's decision to grant or deny a reconsideration of disqualification is the final administrative agency action.

Sec. 3. Minnesota Statutes 2000, section 214.104, is amended to read:

214.104 [HEALTH-RELATED LICENSING BOARDS; DETERMINATIONS REGARDING ~~DISQUALIFICATIONS FOR MALTREATMENT.~~]

(a) A health-related licensing board shall make determinations as to whether licensees regulated persons who are under the board's jurisdiction should be disqualified under section 245A.04, subdivision 3d, from positions allowing direct contact with persons receiving services the subject of disciplinary or corrective action because of substantiated maltreatment under section 626.556 or 626.557. A determination under this section may be done as part of an investigation under section 214.103. The board shall make a determination within 90 days of upon receipt, and after the review, of an investigation memorandum or other notice of substantiated maltreatment under section 626.556 or 626.557, or of a notice from the commissioner of human services that a background study of a licensee regulated person shows substantiated maltreatment. The board shall also make a determination under this section upon consideration of the licensure of an individual who was subject to disqualification before licensure because of substantiated maltreatment.

(b) In making a determination under this section, the board shall consider the nature and extent of any injury or harm resulting from the conduct that would constitute grounds for disqualification, the seriousness of the misconduct, the extent that disqualification is necessary to protect persons receiving services or the public, and other factors specified in section 245A.04, subdivision 3b, paragraph (b).

(c) The board shall determine the duration and extent of the disqualification or may establish conditions under which the licensee may hold a position allowing direct contact with persons receiving services or in a licensed facility.

(b) Upon completion of its review of a report of substantiated maltreatment, the board shall notify the commissioner of human services and the lead agency that conducted an investigation under section 626.556 or 626.557, as applicable, of its determination. The board shall notify the commissioner of human services if, following a review of the report of substantiated maltreatment, the board determines that it does not have jurisdiction in the matter and the commissioner shall make the appropriate disqualification decision regarding the regulated person as otherwise provided in chapter 245A. The board shall also notify the commissioner of health or the commissioner

of human services immediately upon receipt of knowledge of a facility or program allowing a regulated person to provide direct contact services at the facility or program while not complying with requirements placed on the regulated person.

(c) In addition to any other remedy provided by law, the board may, through its designated board member, temporarily suspend the license of a licensee; deny a credential to an applicant; or require the regulated person to be continuously supervised, if the board finds there is probable cause to believe the regulated person referred to the board according to paragraph (a) poses an immediate risk of harm to vulnerable persons. The board shall consider all relevant information available, which may include but is not limited to:

- (1) the extent the action is needed to protect persons receiving services or the public;
- (2) the recency of the maltreatment;
- (3) the number of incidents of maltreatment;
- (4) the intrusiveness or violence of the maltreatment; and
- (5) the vulnerability of the victim of maltreatment.

The action shall take effect upon written notice to the regulated person, served by certified mail, specifying the statute violated. The board shall notify the commissioner of health or the commissioner of human services of the suspension or denial of a credential. The action shall remain in effect until the board issues a temporary stay or a final order in the matter after a hearing or upon agreement between the board and the regulated person. At the time the board issues the notice, the regulated person shall inform the board of all settings in which the regulated person is employed or practices and the board shall inform all known employment and practice settings of the board action and schedule a disciplinary hearing to be held under chapter 14. The board shall provide the regulated person with at least 30 days' notice of the hearing, unless the parties agree to a hearing date that provides less than 30 days notice, and shall schedule the hearing to begin no later than 90 days after issuance of the notice of hearing.

Sec. 4. Minnesota Statutes 2000, section 245A.03, subdivision 2b, is amended to read:

Subd. 2b. [EXCEPTION.] The provision in subdivision 2, clause (2), does not apply to:

(1) a child care provider who as an applicant for licensure or as a license holder has received a license denial under section 245A.05, a ~~fine~~ conditional license under section 245A.06, or a sanction under section 245A.07 from the commissioner that has not been reversed on appeal; or

(2) a child care provider, or a child care provider who has a household member who, as a result of a licensing process, has a disqualification under this chapter that has not been set aside by the commissioner.

Sec. 5. Minnesota Statutes 2000, section 245A.04, subdivision 3a, is amended to read:

Subd. 3a. [NOTIFICATION TO SUBJECT AND LICENSE HOLDER OF STUDY RESULTS; DETERMINATION OF RISK OF HARM.] (a) The commissioner shall notify the applicant or license holder and the individual who is the subject of the study, in writing or by electronic transmission, of the results of the study. When the study is completed, a notice that the study was undertaken and completed shall be maintained in the personnel files of the program. For studies on individuals pertaining to a license to provide family day care or group family day care, foster care for children in the provider's own home, or foster care or day care services for adults in the provider's own home, the commissioner is not required to provide a separate notice of the background study results to the individual who is the subject of the study unless the study results in a disqualification of the individual.

The commissioner shall notify the individual studied if the information in the study indicates the individual is disqualified from direct contact with persons served by the program. The commissioner shall disclose the information causing disqualification and instructions on how to request a reconsideration of the disqualification to the individual studied. An applicant or license holder who is not the subject of the study shall be informed that the commissioner has found information that disqualifies the subject from direct contact with persons served by the program. However, only the individual studied must be informed of the information contained in the subject's background study unless the only basis for the disqualification is failure to cooperate, substantiated maltreatment under section 626.556 or 626.557, the Data Practices Act provides for release of the information, or the individual studied authorizes the release of the information. When a disqualification is based on the subject's failure to cooperate with the background study or substantiated maltreatment under section 626.556 or 626.557, the agency that initiated the study shall be informed by the commissioner of the reason for the disqualification.

(b) Except as provided in subdivision 3d, paragraph (b), if the commissioner determines that the individual studied has a disqualifying characteristic, the commissioner shall review the information immediately available and make a determination as to the subject's immediate risk of harm to persons served by the program where the individual studied will have direct contact. The commissioner shall consider all relevant information available, including the following factors in determining the immediate risk of harm: the recency of the disqualifying characteristic; the recency of discharge from probation for the crimes; the number of disqualifying characteristics; the intrusiveness or violence of the disqualifying characteristic; the vulnerability of the victim involved in the disqualifying characteristic; and the similarity of the victim to the persons served by the program where the individual studied will have direct contact. The commissioner may determine that the evaluation of the information immediately available gives the commissioner reason to believe one of the following:

(1) The individual poses an imminent risk of harm to persons served by the program where the individual studied will have direct contact. If the commissioner determines that an individual studied poses an imminent risk of harm to persons served by the program where the individual studied will have direct contact, the individual and the license holder must be sent a notice of disqualification. The commissioner shall order the license holder to immediately remove the individual studied from direct contact. The notice to the individual studied must include an explanation of the basis of this determination.

(2) The individual poses a risk of harm requiring continuous supervision while providing direct contact services during the period in which the subject may request a reconsideration. If the commissioner determines that an individual studied poses a risk of harm that requires continuous supervision, the individual and the license holder must be sent a notice of disqualification. The commissioner shall order the license holder to immediately remove the individual studied from direct contact services or assure that the individual studied is within sight or hearing of another staff person when providing direct contact services during the period in which the individual may request a reconsideration of the disqualification. If the individual studied does not submit a timely request for reconsideration, or the individual submits a timely request for reconsideration, but the disqualification is not set aside for that license holder, the license holder will be notified of the disqualification and ordered to immediately remove the individual from any position allowing direct contact with persons receiving services from the license holder.

(3) The individual does not pose an imminent risk of harm or a risk of harm requiring continuous supervision while providing direct contact services during the period in which the subject may request a reconsideration. If the commissioner determines that an individual studied does not pose a risk of harm that requires continuous supervision, only the individual must be sent a notice of disqualification. The license holder must be sent a notice that more time is needed to complete the individual's background study. If the individual studied submits a timely request for reconsideration, and if the disqualification is set aside for that license holder, the license holder will receive the same notification received by license holders in cases where the individual studied has no disqualifying characteristic. If the individual studied does not submit a timely request for reconsideration, or the individual submits a timely request for reconsideration, but the disqualification is not set aside for that license holder, the license holder will be notified of the disqualification and ordered to immediately remove the individual from any position allowing direct contact with persons receiving services from the license holder.

(c) County licensing agencies performing duties under this subdivision may develop an alternative system for determining the subject's immediate risk of harm to persons served by the program, providing the notices under paragraph (b), and documenting the action taken by the county licensing agency. Each county licensing agency's implementation of the alternative system is subject to approval by the commissioner. Notwithstanding this alternative system, county licensing agencies shall complete the requirements of paragraph (a).

Sec. 6. Minnesota Statutes 2000, section 245A.04, subdivision 3b, is amended to read:

Subd. 3b. [RECONSIDERATION OF DISQUALIFICATION.] (a) The individual who is the subject of the disqualification may request a reconsideration of the disqualification.

The individual must submit the request for reconsideration to the commissioner in writing. A request for reconsideration for an individual who has been sent a notice of disqualification under subdivision 3a, paragraph (b); ~~clause (1) or (2), must be submitted within 30~~ 15 calendar days of the disqualified individual's receipt of the notice of disqualification. ~~A request for reconsideration for an individual who has been sent a notice of disqualification under subdivision 3a, paragraph (b), clause (3), must be submitted within 15 calendar days of the disqualified individual's receipt of the notice of disqualification.~~ Removal of a disqualified individual from direct contact shall be ordered if the individual does not request reconsideration within the prescribed time, and for an individual who submits a timely request for reconsideration, if the disqualification is not set aside. The individual must present information showing that:

(1) the information the commissioner relied upon is incorrect or inaccurate. If the basis of a reconsideration request is that a maltreatment determination or disposition under section 626.556 or 626.557 is incorrect, and the commissioner has issued a final order in an appeal of that determination or disposition under section 256.045 or 245A.08, subdivision 5, the commissioner's order is conclusive on the issue of maltreatment. If the individual did not request reconsideration of the maltreatment determination, the maltreatment determination is deemed conclusive; or

(2) the subject of the study does not pose a risk of harm to any person served by the applicant or license holder.

(b) The commissioner shall rescind the disqualification if the commissioner finds that the information relied on to disqualify the subject is incorrect. The commissioner may set aside the disqualification under this section if the commissioner finds that the ~~information the commissioner relied upon is incorrect or~~ the individual does not pose a risk of harm to any person served by the applicant or license holder. In determining that an individual does not pose a risk of harm, the commissioner shall consider the consequences of the event or events that lead to disqualification, whether there is more than one disqualifying event, the vulnerability of the victim at the time of the event, the time elapsed without a repeat of the same or similar event, documentation of successful completion by the individual studied of training or rehabilitation pertinent to the event, and any other information relevant to reconsideration. In reviewing a disqualification under this section, the commissioner shall give preeminent weight to the safety of each person to be served by the license holder or applicant over the interests of the license holder or applicant.

(c) Unless the information the commissioner relied on in disqualifying an individual is incorrect, the commissioner may not set aside the disqualification of an individual in connection with a license to provide family day care for children, foster care for children in the provider's own home, or foster care or day care services for adults in the provider's own home if:

(1) less than ten years have passed since the discharge of the sentence imposed for the offense; and the individual has been convicted of a violation of any offense listed in sections 609.20 (manslaughter in the first degree), 609.205 (manslaughter in the second degree), criminal vehicular homicide under 609.21 (criminal vehicular homicide and injury), 609.215 (aiding suicide or aiding attempted suicide), felony violations under 609.221 to 609.2231 (assault in the first, second, third, or fourth degree), 609.713 (terroristic threats), 609.235 (use of drugs to injure or to facilitate crime), 609.24 (simple robbery), 609.245 (aggravated robbery), 609.25 (kidnapping), 609.255 (false imprisonment), 609.561 or 609.562 (arson in the first or second degree), 609.71 (riot), burglary in the first or second

degree under 609.582 (burglary), 609.66 (dangerous weapon), 609.665 (spring guns), 609.67 (machine guns and short-barreled shotguns), 609.749 (harassment; stalking), 152.021 or 152.022 (controlled substance crime in the first or second degree), 152.023, subdivision 1, clause (3) or (4), or subdivision 2, clause (4) (controlled substance crime in the third degree), 152.024, subdivision 1, clause (2), (3), or (4) (controlled substance crime in the fourth degree), 609.224, subdivision 2, paragraph (c) (fifth-degree assault by a caregiver against a vulnerable adult), 609.228 (great bodily harm caused by distribution of drugs), 609.23 (mistreatment of persons confined), 609.231 (mistreatment of residents or patients), 609.2325 (criminal abuse of a vulnerable adult), 609.233 (criminal neglect of a vulnerable adult), 609.2335 (financial exploitation of a vulnerable adult), 609.234 (failure to report), 609.265 (abduction), 609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree), 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree), 609.268 (injury or death of an unborn child in the commission of a crime), 617.293 (disseminating or displaying harmful material to minors), a gross misdemeanor offense under 609.324, subdivision 1 (other prohibited acts), a gross misdemeanor offense under 609.378 (neglect or endangerment of a child), a gross misdemeanor offense under 609.377 (malicious punishment of a child), 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state, the elements of which are substantially similar to the elements of any of the foregoing offenses;

(2) regardless of how much time has passed since the discharge of the sentence imposed for the offense, the individual was convicted of a violation of any offense listed in sections 609.185 to 609.195 (murder in the first, second, or third degree), 609.2661 to 609.2663 (murder of an unborn child in the first, second, or third degree), a felony offense under 609.377 (malicious punishment of a child), a felony offense under 609.324, subdivision 1 (other prohibited acts), a felony offense under 609.378 (neglect or endangerment of a child), 609.322 (solicitation, inducement, and promotion of prostitution), 609.342 to 609.345 (criminal sexual conduct in the first, second, third, or fourth degree), 609.352 (solicitation of children to engage in sexual conduct), 617.246 (use of minors in a sexual performance), 617.247 (possession of pictorial representations of a minor), 609.365 (incest), a felony offense under sections 609.2242 and 609.2243 (domestic assault), a felony offense of spousal abuse, a felony offense of child abuse or neglect, a felony offense of a crime against children, or an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes, or an offense in any other state, the elements of which are substantially similar to any of the foregoing offenses;

(3) within the seven years preceding the study, the individual committed an act that constitutes maltreatment of a child under section 626.556, subdivision 10e, and that resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence; or

(4) within the seven years preceding the study, the individual was determined under section 626.557 to be the perpetrator of a substantiated incident of maltreatment of a vulnerable adult that resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence.

In the case of any ground for disqualification under clauses (1) to (4), if the act was committed by an individual other than the applicant or license holder residing in the applicant's or license holder's home, the applicant or license holder may seek reconsideration when the individual who committed the act no longer resides in the home.

The disqualification periods provided under clauses (1), (3), and (4) are the minimum applicable disqualification periods. The commissioner may determine that an individual should continue to be disqualified from licensure because the license holder or applicant poses a risk of harm to a person served by that individual after the minimum disqualification period has passed.

(d) The commissioner shall respond in writing or by electronic transmission to all reconsideration requests for which the basis for the request is that the information relied upon by the commissioner to disqualify is incorrect or inaccurate within 30 working days of receipt of a request and all relevant information. If the basis for the request is that the individual does not pose a risk of harm, the commissioner shall respond to the request within 15 working days after receiving the request for reconsideration and all relevant information. If the request is based on both the

correctness or accuracy of the information relied on to disqualify the individual and the risk of harm, the commissioner shall respond to the request within 45 working days after receiving the request for reconsideration and all relevant information. If the disqualification is set aside, the commissioner shall notify the applicant or license holder in writing or by electronic transmission of the decision.

~~(e) Except as provided in subdivision 3c, the commissioner's decision to disqualify an individual, including the decision to grant or deny a rescission or set aside a disqualification under this section, is the final administrative agency action and shall not be subject to further review in a contested case under chapter 14 involving a negative licensing appeal taken in response to the disqualification or involving an accuracy and completeness appeal under section 13.04~~ if a disqualification is not set aside, an individual who was disqualified on the basis of a preponderance of evidence that the individual committed an act or acts that meet the definition of any of the crimes lists in subdivision 3d, clauses (1) to (4); or for failure to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, pursuant to subdivision 3d, clause (4), may request a fair hearing under section 256.045.

(f) Except as provided under subdivision 3c, if an individual was disqualified on the basis of a determination of maltreatment under section 626.556 or 626.557, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under section 626.556, subdivision 10i, or 626.557, subdivision 9d, and also requested reconsideration of the disqualification under this subdivision, reconsideration of the maltreatment determination and reconsideration of the disqualification shall be consolidated into a single reconsideration. For maltreatment and disqualification determinations made by county agencies, the consolidated reconsideration shall be conducted by the county agency. Except as provided under subdivision 3c, if an individual who was disqualified on the basis of serious recurring maltreatment requests a fair hearing on the maltreatment determination under section 626.556, subdivision 10i, or 626.557, subdivision 9d, the scope of the fair hearing under section 256.045 shall include the maltreatment determination and the disqualification. Except as provided under subdivision 3c, the hearing for an individual under this paragraph is conclusive on the issue of maltreatment and disqualification, including for purposes of subsequent studies conducted under subdivision 3, and is the only administrative appeal of the final agency determination, specifically, including a challenge to the accuracy and completeness of data under section 13.04.

Sec. 7. Minnesota Statutes 2000, section 245A.04, subdivision 3c, is amended to read:

Subd. 3c. [CONTESTED CASE.] (a) Notwithstanding subdivision 3b, paragraphs (e) and (f), if a disqualification is not set aside, a person who is an employee of an employer, as defined in section 179A.03, subdivision 15, may request a contested case hearing under chapter 14. If the disqualification which was not set aside was based on a maltreatment determination, the scope of the contested case hearing shall include the maltreatment determination and the disqualification. In such cases, a fair hearing shall not be conducted under section 256.045. Rules adopted under this chapter may not preclude an employee in a contested case hearing for disqualification from submitting evidence concerning information gathered under subdivision 3, paragraph (e).

(b) If a disqualification for which reconsideration was requested and which was not set aside under subdivision 3b is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.5100 to 1400.5900. The appeal must be submitted in accordance with section 245A.05 or 245A.07, subdivision 3. As provided for under section 245A.08, subdivision 2a, the scope of the consolidated contested case hearing shall include the disqualification and the licensing sanction. If the disqualification was based on a determination of substantiated serious or recurring maltreatment under section 626.556 or 626.557, the appeal must be submitted in accordance with sections 245A.07, subdivision 3, and 626.556, subdivision 10i, or 626.557, subdivision 9d. As provided for under section 245A.08, subdivision 2a, the scope of the contested case hearing shall include the maltreatment determination, the disqualification, and the licensing sanction. In such cases, a fair hearing shall not be conducted under section 256.045.

(c) If a maltreatment determination or disqualification, which was not set aside under subdivision 3b, is the basis for licensing sanction under section 245A.07, and the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under subdivision 3, the hearing of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.

(d) The commissioner's final order under section 245A.08, subdivision 5, is conclusive on the issue of maltreatment and disqualification, including for purposes of subsequent background studies. The contested case hearing under this subdivision is the only administrative appeal of the final agency determination, specifically, including a challenge to the accuracy and completeness of data under section 13.04.

Sec. 8. Minnesota Statutes 2000, section 245A.04, subdivision 3d, is amended to read:

Subd. 3d. [DISQUALIFICATION.] (a) Except as provided in paragraph (b), when a background study completed under subdivision 3 shows any of the following: a conviction of one or more crimes listed in clauses (1) to (4); the individual has admitted to or a preponderance of the evidence indicates the individual has committed an act or acts that meet the definition of any of the crimes listed in clauses (1) to (4); or an investigation results in an administrative determination listed under clause (4), the individual shall be disqualified from any position allowing direct contact with persons receiving services from the license holder:

(1) regardless of how much time has passed since the discharge of the sentence imposed for the offense, and unless otherwise specified, regardless of the level of the conviction, the individual was convicted of any of the following offenses: sections 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third degree); 609.322 (solicitation, inducement, and promotion of prostitution); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.352 (solicitation of children to engage in sexual conduct); 609.365 (incest); felony offense under 609.377 (malicious punishment of a child); a felony offense under 609.378 (neglect or endangerment of a child); a felony offense under 609.324, subdivision 1 (other prohibited acts); 617.246 (use of minors in sexual performance prohibited); 617.247 (possession of pictorial representations of minors); a felony offense under sections 609.2242 and 609.2243 (domestic assault), a felony offense of spousal abuse, a felony offense of child abuse or neglect, a felony offense of a crime against children; or attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes, or an offense in any other state or country, where the elements are substantially similar to any of the offenses listed in this clause;

(2) if less than 15 years have passed since the discharge of the sentence imposed for the offense; and the individual has received a felony conviction for a violation of any of these offenses: sections 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.21 (criminal vehicular homicide and injury); 609.215 (suicide); 609.221 to 609.2231 (assault in the first, second, third, or fourth degree); repeat offenses under 609.224 (assault in the fifth degree); repeat offenses under 609.3451 (criminal sexual conduct in the fifth degree); 609.713 (terroristic threats); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.561 (arson in the first degree); 609.562 (arson in the second degree); 609.563 (arson in the third degree); repeat offenses under 617.23 (indecent exposure; penalties); repeat offenses under 617.241 (obscene materials and performances; distribution and exhibition prohibited; penalty); 609.71 (riot); 609.66 (dangerous weapons); 609.67 (machine guns and short-barreled shotguns); 609.749 (harassment; stalking; penalties); 609.228 (great bodily harm caused by distribution of drugs); 609.2325 (criminal abuse of a vulnerable adult); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.268 (injury or death of an unborn child in the commission of a crime); 609.52 (theft); 609.2335 (financial exploitation of a vulnerable adult); 609.521 (possession of shoplifting gear); 609.582 (burglary); 609.625 (aggravated forgery); 609.63 (forgery); 609.631 (check forgery; offering a forged check); 609.635 (obtaining signature by false pretense); 609.27 (coercion); 609.275 (attempt to coerce); 609.687 (adulteration); 260C.301 (grounds for termination of parental rights); and chapter 152 (drugs; controlled substance). An attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state or country, the elements of which are substantially similar to the elements of the offenses in this clause. If the individual studied is convicted of one of the felonies listed in this clause, but the sentence is a gross misdemeanor or misdemeanor disposition, the lookback period for the conviction is the period applicable to the disposition, that is the period for gross misdemeanors or misdemeanors;

(3) if less than ten years have passed since the discharge of the sentence imposed for the offense; and the individual has received a gross misdemeanor conviction for a violation of any of the following offenses: sections 609.224 (assault in the fifth degree); 609.2242 and 609.2243 (domestic assault); violation of an order for protection under 518B.01, subdivision 14; 609.3451 (criminal sexual conduct in the fifth degree); repeat offenses under 609.746 (interference with privacy); repeat offenses under 617.23 (indecent exposure); 617.241 (obscene materials and performances); 617.243 (indecent literature, distribution); 617.293 (harmful materials; dissemination and display to minors prohibited); 609.71 (riot); 609.66 (dangerous weapons); 609.749 (harassment; stalking; penalties); 609.224, subdivision 2, paragraph (c) (assault in the fifth degree by a caregiver against a vulnerable adult); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); 609.265 (abduction); 609.378 (neglect or endangerment of a child); 609.377 (malicious punishment of a child); 609.324, subdivision 1a (other prohibited acts; minor engaged in prostitution); 609.33 (disorderly house); 609.52 (theft); 609.582 (burglary); 609.631 (check forgery; offering a forged check); 609.275 (attempt to coerce); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in this clause. If the defendant is convicted of one of the gross misdemeanors listed in this clause, but the sentence is a misdemeanor disposition, the lookback period for the conviction is the period applicable to misdemeanors; or

(4) if less than seven years have passed since the discharge of the sentence imposed for the offense; and the individual has received a misdemeanor conviction for a violation of any of the following offenses: sections 609.224 (assault in the fifth degree); 609.2242 (domestic assault); violation of an order for protection under 518B.01 (Domestic Abuse Act); violation of an order for protection under 609.3232 (protective order authorized; procedures; penalties); 609.746 (interference with privacy); 609.79 (obscene or harassing phone calls); 609.795 (letter, telegram, or package; opening; harassment); 617.23 (indecent exposure; penalties); 609.2672 (assault of an unborn child in the third degree); 617.293 (harmful materials; dissemination and display to minors prohibited); 609.66 (dangerous weapons); 609.665 (spring guns); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.52 (theft); 609.27 (coercion); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in this clause; failure to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, for incidents in which: (i) the final disposition under section 626.556 or 626.557 was substantiated maltreatment, and (ii) the maltreatment was recurring or serious; or substantiated serious or recurring maltreatment of a minor under section 626.556 or of a vulnerable adult under section 626.557 for which there is a preponderance of evidence that the maltreatment occurred, and that the subject was responsible for the maltreatment.

For the purposes of this section, "serious maltreatment" means sexual abuse; maltreatment resulting in death; or maltreatment resulting in serious injury which reasonably requires the care of a physician whether or not the care of a physician was sought; or abuse resulting in serious injury. For purposes of this section, "abuse resulting in serious injury" means: bruises, bites, skin laceration or tissue damage; fractures; dislocations; evidence of internal injuries; head injuries with loss of consciousness; extensive second-degree or third-degree burns and other burns for which complications are present; extensive second-degree or third-degree frostbite, and others for which complications are present; irreversible mobility or avulsion of teeth; injuries to the eyeball; ingestion of foreign substances and objects that are harmful; near drowning; and heat exhaustion or sunstroke. For purposes of this section, "care of a physician" is treatment received or ordered by a physician, but does not include diagnostic testing, assessment, or observation. For the purposes of this section, "recurring maltreatment" means more than one incident of maltreatment for which there is a preponderance of evidence that the maltreatment occurred, and that the subject was responsible for the maltreatment.

(b) ¶ Except for background studies related to child foster care, adult foster care, or family child care licensure, when the subject of a background study is licensed regulated by a health-related licensing board as defined in chapter 214, and the regulated person has been determined to have been responsible for substantiated maltreatment under section 626.556 or 626.557, instead of the commissioner making a decision regarding

~~disqualification, the board shall make the a determination regarding a disqualification under this subdivision based on a finding of substantiated maltreatment under section 626.556 or 626.557. The commissioner shall notify the health-related licensing board if a background study shows that a licensee would be disqualified because of substantiated maltreatment and the board shall make a determination under section 214.104: whether to impose disciplinary or corrective action under chapter 214.~~

(1) The commissioner shall notify the health-related licensing board:

(i) upon completion of a background study that produces a record showing that the individual was determined to have been responsible for substantiated maltreatment;

(ii) upon the commissioner's completion of an investigation that determined the individual was responsible for substantiated maltreatment; or

(iii) upon receipt from another agency of a finding of substantiated maltreatment for which the individual was responsible.

(2) The commissioner's notice shall indicate whether the individual would have been disqualified by the commissioner for the substantiated maltreatment if the individual were not regulated by the board. The commissioner shall concurrently send a copy of this notice to the individual.

(3) Notwithstanding the exclusion from this subdivision for individuals who provide child foster care, adult foster care, or family child care, when the commissioner or a local agency has reason to believe that the direct contact services provided by the individual may fall within the jurisdiction of a health-related licensing board, a referral shall be made to the board as provided in this section.

(4) If, upon review of the information provided by the commissioner, a health-related licensing board informs the commissioner that the board does not have jurisdiction to take disciplinary or corrective action, the commissioner shall make the appropriate disqualification decision regarding the individual as otherwise provided in this chapter.

(5) The commissioner has the authority to monitor the facility's compliance with any requirements that the health-related licensing board places on regulated persons practicing in a facility either during the period pending a final decision on a disciplinary or corrective action or as a result of a disciplinary or corrective action. The commissioner has the authority to order the immediate removal of a regulated person from direct contact or access when a board issues an order of temporary suspension based on a determination that the regulated person poses an immediate risk of harm to persons receiving services in a licensed facility.

(6) A facility that allows a regulated person to provide direct contact services while not complying with the requirements imposed by the health-related licensing board is subject to action by the commissioner as specified under sections 245A.06 and 245A.07.

(7) The commissioner shall notify a health-related licensing board immediately upon receipt of knowledge of noncompliance with requirements placed on a facility or upon a person regulated by the board.

Sec. 9. Minnesota Statutes 2000, section 245A.05, is amended to read:

245A.05 [DENIAL OF APPLICATION.]

The commissioner may deny a license if an applicant fails to comply with applicable laws or rules, or knowingly withholds relevant information from or gives false or misleading information to the commissioner in connection with an application for a license or during an investigation. An applicant whose application has been denied by the commissioner must be given notice of the denial. Notice must be given by certified mail. The notice must state the reasons the application was denied and must inform the applicant of the right to a contested case hearing under

chapter 14 and Minnesota Rules, parts 1400.5100 to 1400.5900. The applicant may appeal the denial by notifying the commissioner in writing by certified mail within 20 calendar days after receiving notice that the application was denied. Section 245A.08 applies to hearings held to appeal the commissioner's denial of an application.

Sec. 10. Minnesota Statutes 2000, section 245A.06, is amended to read:

245A.06 [~~CORRECTION ORDER AND FINES~~ CONDITIONAL LICENSE.]

Subdivision 1. [~~CONTENTS OF CORRECTION ORDERS OR FINES AND CONDITIONAL LICENSES.~~] (a) If the commissioner finds that the applicant or license holder has failed to comply with an applicable law or rule and this failure does not imminently endanger the health, safety, or rights of the persons served by the program, the commissioner may issue a correction order and an order of conditional license to ~~or impose a fine on~~ the applicant or license holder. When issuing a conditional license, the commissioner shall consider the nature, chronicity, or severity of the violation of law or rule and the effect of the violation on the health, safety, or rights of persons served by the program. The correction order ~~or fine~~ conditional license must state:

(1) the conditions that constitute a violation of the law or rule;

(2) the specific law or rule violated;

(3) the time allowed to correct each violation; and

(4) if a ~~fine is imposed, the amount of the fine~~ license is made conditional, the length and terms of the conditional license.

(b) Nothing in this section prohibits the commissioner from proposing a sanction as specified in section 245A.07, prior to issuing a correction order or ~~fine~~ conditional license.

Subd. 2. [~~RECONSIDERATION OF CORRECTION ORDERS.~~] If the applicant or license holder believes that the contents of the commissioner's correction order are in error, the applicant or license holder may ask the department of human services to reconsider the parts of the correction order that are alleged to be in error. The request for reconsideration must be in writing and received by the commissioner within 20 calendar days after receipt of the correction order by the applicant or license holder, and:

(1) specify the parts of the correction order that are alleged to be in error;

(2) explain why they are in error; and

(3) include documentation to support the allegation of error.

A request for reconsideration does not stay any provisions or requirements of the correction order. The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14.

Subd. 3. [~~FAILURE TO COMPLY.~~] If the commissioner finds that the applicant or license holder has not corrected the violations specified in the correction order or conditional license, the commissioner may impose a fine and order other licensing sanctions pursuant to section 245A.07. ~~If a fine was imposed and the violation was not corrected, the commissioner may impose an additional fine.~~ This section does not prohibit the commissioner from seeking a court order, denying an application, or suspending, revoking, or making conditional the license in addition ~~to imposing a fine.~~

Subd. 4. [~~NOTICE OF FINE~~ CONDITIONAL LICENSE; RECONSIDERATION OF FINE CONDITIONAL LICENSE.] ~~A license holder who is ordered to pay a fine~~ If a license is made conditional, the license holder must be notified of the order by certified mail. The notice must be mailed to the address shown on the application or the last known address of the license holder. The notice must state the reasons the ~~fine~~ conditional license was ordered

and must inform the license holder of the responsibility for payment of fines in subdivision 7 and the right to request reconsideration of the ~~fine conditional license by the commissioner~~. The license holder may request reconsideration of the order to ~~forfeit a fine of conditional license~~ by notifying the commissioner by certified mail ~~within 20 calendar days after receiving the order~~. The request must be in writing and must be received by the commissioner within ten calendar days after the license holder received the order. The license holder may submit with the request for reconsideration written argument or evidence in support of the request for reconsideration. A timely request for reconsideration shall stay ~~forfeiture of the fine imposition of the terms of the conditional license~~ until the commissioner issues a decision on the request for reconsideration. ~~The request for reconsideration must be in writing and:~~

- ~~(1) specify the parts of the violation that are alleged to be in error;~~
- ~~(2) explain why they are in error;~~
- ~~(3) include documentation to support the allegation of error; and~~
- ~~(4) any other information relevant to the fine or the amount of the fine.~~

The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14.

~~Subd. 5. [FORFEITURE OF FINES.] The license holder shall pay the fines assessed on or before the payment date specified in the commissioner's order. If the license holder fails to fully comply with the order, the commissioner shall issue a second fine or suspend the license until the license holder complies. If the license holder receives state funds, the state, county, or municipal agencies or departments responsible for administering the funds shall withhold payments and recover any payments made while the license is suspended for failure to pay a fine.~~

~~Subd. 5a. [ACCRUAL OF FINES.] A license holder shall promptly notify the commissioner of human services, in writing, when a violation specified in an order to forfeit is corrected. If upon reinspection the commissioner determines that a violation has not been corrected as indicated by the order to forfeit, the commissioner may issue a second fine. The commissioner shall notify the license holder by certified mail that a second fine has been assessed. The license holder may request reconsideration of the second fine under the provisions of subdivision 4.~~

~~Subd. 6. [AMOUNT OF FINES.] Fines shall be assessed as follows:~~

~~(1) the license holder shall forfeit \$1,000 for each occurrence of violation of law or rule prohibiting the maltreatment of children or the maltreatment of vulnerable adults, including but not limited to corporal punishment, illegal or unauthorized use of physical, mechanical, or chemical restraints, and illegal or unauthorized use of aversive or deprivation procedures;~~

~~(2) the license holder shall forfeit \$200 for each occurrence of a violation of law or rule governing matters of health, safety, or supervision, including but not limited to the provision of adequate staff to child or adult ratios; and~~

~~(3) the license holder shall forfeit \$100 for each occurrence of a violation of law or rule other than those included in clauses (1) and (2).~~

~~For the purposes of this section, "occurrence" means each violation identified in the commissioner's forfeiture order.~~

~~Subd. 7. [RESPONSIBILITY FOR PAYMENT OF FINES.] When a fine has been assessed, the license holder may not avoid payment by closing, selling, or otherwise transferring the licensed program to a third party. In such an event, the license holder will be personally liable for payment. In the case of a corporation, each controlling individual is personally and jointly liable for payment.~~

~~Fines for child care centers must be assessed according to this section.~~

Sec. 11. Minnesota Statutes 2000, section 245A.07, is amended to read:

245A.07 [SANCTIONS.]

Subdivision 1. [~~SANCTIONS AVAILABLE.~~] In addition to ~~ordering forfeiture of fines~~ making a license conditional under section 245A.06, the commissioner may propose to suspend; ~~or revoke, or make conditional~~ the license, impose a fine, or secure an injunction against the continuing operation of the program of a license holder who does not comply with applicable law or rule. When applying sanctions authorized under this section, the commissioner shall consider the nature, chronicity, or severity of the violation of law or rule and the effect of the violation on the health, safety, or rights of persons served by the program.

Subd. 2. [~~IMMEDIATE SUSPENSION IN CASES OF IMMINENT DANGER TO HEALTH, SAFETY, OR RIGHTS~~ TEMPORARY IMMEDIATE SUSPENSION.] If the license holder's actions or failure to comply with applicable law or rule has placed poses an imminent risk of harm to the health, safety, or rights of persons served by the program ~~in imminent danger~~, the commissioner shall act immediately to temporarily suspend the license. No state funds shall be made available or be expended by any agency or department of state, county, or municipal government for use by a license holder regulated under this chapter while a license is under immediate suspension. A notice stating the reasons for the immediate suspension and informing the license holder of the right to a ~~contested case~~ an expedited hearing under chapter 14 and Minnesota Rules, parts 1400.5100 to 1400.5900, must be delivered by personal service to the address shown on the application or the last known address of the license holder. The license holder may appeal an order immediately suspending a license. The appeal of an order immediately suspending a license must be made in writing by certified mail and must be received by the commissioner within five calendar days after the license holder receives notice that the license has been immediately suspended. A license holder and any controlling individual shall discontinue operation of the program upon receipt of the commissioner's order to immediately suspend the license.

Subd. 2a. [~~IMMEDIATE SUSPENSION EXPEDITED HEARING.~~] (a) Within five working days of receipt of the license holder's timely appeal, the commissioner shall request assignment of an administrative law judge. The request must include a proposed date, time, and place of a hearing. A hearing must be conducted by an administrative law judge within 30 calendar days of the request for assignment, unless an extension is requested by either party and granted by the administrative law judge for good cause. The commissioner shall issue a notice of hearing by certified mail at least ten working days before the hearing. The scope of the hearing shall be limited solely to the issue of whether the temporary immediate suspension should remain in effect pending the commissioner's final order under section 245A.08, regarding a licensing sanction issued under subdivision 3 following the immediate suspension. The burden of proof in expedited hearings under this subdivision shall be limited to the commissioner's demonstration that reasonable cause exists to believe that the license holder's actions or failure to comply with applicable law or rule poses an imminent risk of harm to the health, safety, or rights of persons served by the program.

(b) The administrative law judge shall issue findings of fact, conclusions, and a recommendation within ten working days from the date of hearing. The commissioner's final order shall be issued within ten working days from receipt of the recommendation of the administrative law judge. Within 90 calendar days after a final order affirming an immediate suspension, the commissioner shall make a determination regarding whether a final licensing sanction shall be issued under subdivision 3. The license holder shall continue to be prohibited from operation of the program during this 90-day period.

Subd. 3. [~~LICENSE SUSPENSION, REVOCATION, DENIAL OR CONDITIONAL LICENSE FINE.~~] The commissioner may suspend; ~~or revoke, make conditional, or deny~~ a license, or impose a fine if ~~an applicant or~~ a license holder fails to comply fully with applicable laws or rules, or knowingly withholds relevant information from or gives false or misleading information to the commissioner in connection with an application for a license or during an investigation. A license holder who has had a license suspended, revoked, or ~~made conditional~~ has been ordered to pay a fine must be given notice of the action by certified mail. The notice must be mailed to the address shown on the application or the last known address of the license holder. The notice must state the reasons the license was suspended, revoked, or ~~made conditional~~ a fine was ordered.

(a) If the license was suspended or revoked, the notice must inform the license holder of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.5100 to 1400.5900. The license holder may appeal an order suspending or revoking a license. The appeal of an order suspending or revoking a license must be made in writing by certified mail and must be received by the commissioner within ten calendar days after the license holder receives notice that the license has been suspended or revoked.

(b) ~~If the license was made conditional, the notice must inform the license holder of the right to request a reconsideration by the commissioner. The request for reconsideration must be made in writing by certified mail and must be received by the commissioner within ten calendar days after the license holder receives notice that the license has been made conditional. The license holder may submit with the request for reconsideration written argument or evidence in support of the request for reconsideration. The commissioner's disposition of a request for reconsideration is final and is not subject to appeal under chapter 14.~~ (1) If the license holder was ordered to pay a fine, the notice must inform the license holder of the responsibility for payment of fines and the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.5100 to 1400.5900. The appeal of an order to pay a fine must be made in writing by certified mail and must be received by the commissioner within ten calendar days after the license holder receives notice that the fine has been ordered.

(2) The license holder shall pay the fines assessed on or before the payment date specified. If the license holder fails to fully comply with the order, the commissioner may issue a second fine or suspend the license until the license holder complies. If the license holder receives state funds, the state, county, or municipal agencies or departments responsible for administering the funds shall withhold payments and recover any payments made while the license is suspended for failure to pay a fine. A timely appeal shall stay payment of the fine until the commissioner issues a final order.

(3) A license holder shall promptly notify the commissioner of human services, in writing, when a violation specified in the order to forfeit a fine is corrected. If upon reinspection the commissioner determines that a violation has not been corrected as indicated by the order to forfeit a fine, the commissioner may issue a second fine. The commissioner shall notify the license holder by certified mail that a second fine has been assessed. The license holder may appeal the second fine as provided under this subdivision.

(4) Fines shall be assessed as follows: the license holder shall forfeit \$1,000 for each determination of maltreatment of a child under section 626.556 or the maltreatment of a vulnerable adult under section 626.557; the license holder shall forfeit \$200 for each occurrence of a violation of law or rule governing matters of health, safety, or supervision, including failure to submit a background study; and the license holder shall forfeit \$100 for each occurrence of a violation of law or rule other than those subject to a \$1,000 or \$200 fine above. For purposes of this section, "occurrence" means each violation identified in the commissioner's fine order.

(5) When a fine has been assessed, the license holder may not avoid payment by closing, selling, or otherwise transferring the licensed program to a third party. In such an event, the license holder will be personally liable for payment. In the case of a corporation, each controlling individual is personally and jointly liable for payment.

Subd. 4. [ADOPTION AGENCY VIOLATIONS.] If a license holder licensed to place children for adoption fails to provide services as described in the disclosure form required by section 259.37, subdivision 2, the sanctions under this section may be imposed.

Sec. 12. Minnesota Statutes 2000, section 245A.08, is amended to read:

245A.08 [HEARINGS.]

Subdivision 1. [RECEIPT OF APPEAL; CONDUCT OF HEARING.] Upon receiving a timely appeal or petition pursuant to section 245A.04, subdivision 3c, 245A.05, or 245A.07, subdivision 3, the commissioner shall issue a notice of and order for hearing to the appellant under chapter 14 and Minnesota Rules, parts 1400.5100 to 1400.5900.

Subd. 2. [CONDUCT OF HEARINGS.] At any hearing provided for by section 245A.04, subdivision 3c, 245A.05, or 245A.07, subdivision 3, the appellant may be represented by counsel and has the right to call, examine, and cross-examine witnesses. The administrative law judge may require the presence of witnesses and evidence by subpoena on behalf of any party.

Subd. 2a. [CONSOLIDATED CONTESTED CASE HEARINGS FOR SANCTIONS BASED ON MALTREATMENT DETERMINATIONS AND DISQUALIFICATIONS.] (a) When a licensing sanction under section 245A.07, subdivision 3, is based on a disqualification for which reconsideration was requested and which was not set aside under section 245A.04, subdivision 3b, the scope of the contested case hearing shall include the disqualification and the licensing sanction. When the licensing sanction is based on a determination of maltreatment under section 626.556 or 626.557, or a disqualification for serious or recurring maltreatment which was not set aside, the scope of the contested case hearing shall include the maltreatment determination, disqualification, and the licensing sanction. In such cases, a fair hearing under section 256.045 shall not be conducted as provided for in sections 626.556, subdivision 10i, and 626.557, subdivision 9d.

(b) In consolidated contested case hearings regarding sanctions issued in family child care, child foster care, and adult foster care, the county attorney shall defend the commissioner's orders in accordance with section 245A.16, subdivision 4.

(c) The commissioner's final order under subdivision 5 is the final agency action on the issue of maltreatment and disqualification, including for purposes of subsequent background studies under section 245A.04, subdivision 3, and is the only administrative appeal of the final agency determination, specifically, including a challenge to the accuracy and completeness of data under section 13.04.

(d) When consolidated hearings under this subdivision involve a licensing sanction based on a previous maltreatment determination for which the commissioner has issued a final order in an appeal of that determination under section 256.045, or the individual failed to exercise the right to appeal the previous maltreatment determination under section 626.556, subdivision 10i, or 626.557, subdivision 9d, the commissioner's order is conclusive on the issue of maltreatment. In such cases, the scope of the administrative law judge's review shall be limited to the disqualification and the licensing sanction. In the case of a licensing sanction issued to a facility based on a maltreatment determination regarding an individual who is not the license holder or a household member, the scope of the administrative law judge's review includes the maltreatment determination.

(e) If a maltreatment determination or disqualification, which was not set aside under section 245A.04, subdivision 3b, is the basis for a licensing sanction under section 245A.07, and the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under section 245A.04, subdivision 3, the hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.

Subd. 3. [BURDEN OF PROOF.] (a) At a hearing regarding suspension, immediate suspension, or revocation of a license for family day care or foster care a licensing sanction under section 245A.07, including consolidated hearings under subdivision 2a, the commissioner may demonstrate reasonable cause for action taken by submitting statements, reports, or affidavits to substantiate the allegations that the license holder failed to comply fully with applicable law or rule. If the commissioner demonstrates that reasonable cause existed, the burden of proof in hearings involving suspension, immediate suspension, or revocation of a family day care or foster care license shifts to the license holder to demonstrate by a preponderance of the evidence that the license holder was in full compliance with those laws or rules that the commissioner alleges the license holder violated, at the time that the commissioner alleges the violations of law or rules occurred.

(b) At a hearing on denial of an application, the applicant bears the burden of proof to demonstrate by a preponderance of the evidence that the appellant has complied fully with sections 245A.01 to 245A.15 this chapter and other applicable law or rule and that the application should be approved and a license granted.

~~(c) At all other hearings under this section, the commissioner bears the burden of proof to demonstrate, by a preponderance of the evidence, that the violations of law or rule alleged by the commissioner occurred.~~

Subd. 4. [RECOMMENDATION OF ADMINISTRATIVE LAW JUDGE.] The administrative law judge shall recommend whether or not the commissioner's order should be affirmed. The recommendations must be consistent with this chapter and the rules of the commissioner. The recommendations must be in writing and accompanied by findings of fact and conclusions and must be mailed to the parties by certified mail to their last known addresses as shown on the license or application.

Subd. 5. [NOTICE OF THE COMMISSIONER'S FINAL ORDER.] After considering the findings of fact, conclusions, and recommendations of the administrative law judge, the commissioner shall issue a final order. The commissioner shall consider, but shall not be bound by, the recommendations of the administrative law judge. The appellant must be notified of the commissioner's final order as required by chapter 14 and Minnesota Rules, parts 1400.5100 to 1400.5900. The notice must also contain information about the appellant's rights under chapter 14 and Minnesota Rules, parts 1400.5100 to 1400.5900. The institution of proceedings for judicial review of the commissioner's final order shall not stay the enforcement of the final order except as provided in section 14.65. A license holder and each controlling individual of a license holder whose license has been revoked because of noncompliance with applicable law or rule must not be granted a license for five years following the revocation. An applicant whose application was denied must not be granted a license for two years following a denial, unless the applicant's subsequent application contains new information which constitutes a substantial change in the conditions that caused the previous denial.

Sec. 13. Minnesota Statutes 2000, section 245A.16, subdivision 1, is amended to read:

Subdivision 1. [DELEGATION OF AUTHORITY TO AGENCIES.] (a) County agencies and private agencies that have been designated or licensed by the commissioner to perform licensing functions and activities under section 245A.04, to recommend denial of applicants under section 245A.05, to issue correction orders, to issue variances, and recommend ~~finer a conditional license~~ under section 245A.06, or to recommend suspending; ~~or~~ revoking; and making licenses probationary a license or issuing a fine under section 245A.07, shall comply with rules and directives of the commissioner governing those functions and with this section.

(b) For family day care programs, the commissioner may authorize licensing reviews every two years after a licensee has had at least one annual review.

Sec. 14. Minnesota Statutes 2000, section 245B.08, subdivision 3, is amended to read:

Subd. 3. [SANCTIONS AVAILABLE.] Nothing in this subdivision shall be construed to limit the commissioner's authority to suspend; ~~or revoke a license, or make conditional~~ issue a fine at any time ~~a license~~ under section 245A.07; make correction orders and ~~require fines~~ make a license conditional for failure to comply with applicable laws or rules under section 245A.06; or deny an application for license under section 245A.05.

Sec. 15. Minnesota Statutes 2000, section 256.045, subdivision 3, is amended to read:

Subd. 3. [STATE AGENCY HEARINGS.] (a) State agency hearings are available for the following: (1) any person applying for, receiving or having received public assistance, medical care, or a program of social services granted by the state agency or a county agency or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid; (2) any patient or relative aggrieved by an order of the commissioner under section 252.27; (3) a party aggrieved by a ruling of a prepaid health plan; (4) except as provided under chapter 245A, any individual or facility determined by a lead agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557; (5) any person whose claim for foster care payment according to a placement of the child resulting from a child protection assessment under section 626.556 is denied or not acted upon with reasonable promptness, regardless of funding source; (6) any person to whom a right of appeal according to this section is given by other provision of law; (7) an applicant

aggrieved by an adverse decision to an application for a hardship waiver under section 256B.15; ~~or (8) except as provided under chapter 245A,~~ an individual or facility determined to have maltreated a minor under section 626.556, after the individual or facility has exercised the right to administrative reconsideration under section 626.556; ~~or (9) except as provided under chapter 245A, an individual disqualified under section 245A.04, subdivision 3d, on the basis of serious or recurring maltreatment; a preponderance of the evidence that the individual has committed an act or acts that meet the definition of any of the crimes listed in section 245A.04, subdivision 3d, paragraph (a), clauses (1) to (4); or for failing to make reports required under section 626.556, subdivision 3, or 626.557, subdivision 3. Hearings regarding a maltreatment determination under clause (8) and a disqualification under this clause in which the basis for a disqualification is serious and recurring maltreatment, which has not been set aside under section 245A.04, subdivision 3b, shall be consolidated into a single fair hearing. In such cases, the scope of review by the human services referee shall include both the maltreatment determination and the disqualification.~~ The failure to exercise the right to an administrative reconsideration shall not be a bar to a hearing under this section if federal law provides an individual the right to a hearing to dispute a finding of maltreatment. Individuals and organizations specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit.

The hearing for an individual or facility under clause (4) ~~or (8), or (9)~~ is the only administrative appeal to the final agency determination specifically, including a challenge to the accuracy and completeness of data under section 13.04. Hearings requested under clause (4) apply only to incidents of maltreatment that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a contested case proceeding under the provisions of chapter 14. Hearings requested under ~~clause clauses~~ (8) ~~and~~ (9) apply only to incidents of maltreatment that occur on or after July 1, 1997. A hearing for an individual or facility under clause (8) is only available when there is no juvenile court or adult criminal action pending. If such action is filed in either court while an administrative review is pending, the administrative review must be suspended until the judicial actions are completed. If the juvenile court action or criminal charge is dismissed or the criminal action overturned, the matter may be considered in an administrative hearing.

For purposes of this section, bargaining unit grievance procedures are not an administrative appeal.

The scope of hearings involving claims to foster care payments under clause (5) shall be limited to the issue of whether the county is legally responsible for a child's placement under court order or voluntary placement agreement and, if so, the correct amount of foster care payment to be made on the child's behalf and shall not include review of the propriety of the county's child protection determination or child placement decision.

(b) A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services under section 256E.08, subdivision 4, is not a party and may not request a hearing under this section, except if assisting a recipient as provided in subdivision 4.

(c) An applicant or recipient is not entitled to receive social services beyond the services included in the amended community social services plan developed under section 256E.081, subdivision 3, if the county agency has met the requirements in section 256E.081.

(d) The commissioner may summarily affirm the county or state agency's proposed action without a hearing when the sole issue is an automatic change due to a change in state or federal law.

Sec. 16. Minnesota Statutes 2000, section 256.045, subdivision 3b, is amended to read:

Subd. 3b. [STANDARD OF EVIDENCE FOR MALTREATMENT AND DISQUALIFICATION HEARINGS.] The state human services referee shall determine that maltreatment has occurred if a preponderance of evidence exists to support the final disposition under sections 626.556 and 626.557. For purposes of hearings regarding disqualification, the state human services referee shall affirm the proposed disqualification in an appeal under subdivision 3, paragraph (a), clause (9), if a preponderance of the evidence shows the individual has:

- (1) committed maltreatment under section 626.556 or 626.557, which is serious or recurring;
- (2) committed an act or acts meeting the definition of any of the crimes listed in section 245A.04, subdivision 3d, paragraph (a), clauses (1) to (4); or
- (3) failed to make required reports under section 626.556 or 626.557 for incidents in which:
- (i) the final disposition under section 626.556 or 626.557 was substantiated maltreatment; and
- (ii) the maltreatment was recurring or serious; or substantiated serious or recurring maltreatment of a minor under section 626.556 or of a vulnerable adult under section 626.557 for which there is a preponderance of evidence that the maltreatment occurred, and that the subject was responsible for the maltreatment. If the disqualification is affirmed, the state human services referee shall determine whether the individual poses a risk of harm in accordance with the requirements of section 245A.04, subdivision 3b.

The state human services referee shall recommend an order to the commissioner of health or human services, as applicable, who shall issue a final order. The commissioner shall affirm, reverse, or modify the final disposition. Any order of the commissioner issued in accordance with this subdivision is conclusive upon the parties unless appeal is taken in the manner provided in subdivision 7. In any licensing appeal under chapter 245A and sections 144.50 to 144.58 and 144A.02 to 144A.46, the commissioner's determination as to maltreatment is conclusive.

Sec. 17. Minnesota Statutes 2000, section 256.045, subdivision 4, is amended to read:

Subd. 4. [CONDUCT OF HEARINGS.] (a) All hearings held pursuant to subdivision 3, 3a, 3b, or 4a shall be conducted according to the provisions of the federal Social Security Act and the regulations implemented in accordance with that act to enable this state to qualify for federal grants-in-aid, and according to the rules and written policies of the commissioner of human services. County agencies shall install equipment necessary to conduct telephone hearings. A state human services referee may schedule a telephone conference hearing when the distance or time required to travel to the county agency offices will cause a delay in the issuance of an order, or to promote efficiency, or at the mutual request of the parties. Hearings may be conducted by telephone conferences unless the applicant, recipient, former recipient, person, or facility contesting maltreatment objects. The hearing shall not be held earlier than five days after filing of the required notice with the county or state agency. The state human services referee shall notify all interested persons of the time, date, and location of the hearing at least five days before the date of the hearing. Interested persons may be represented by legal counsel or other representative of their choice, including a provider of therapy services, at the hearing and may appear personally, testify and offer evidence, and examine and cross-examine witnesses. The applicant, recipient, former recipient, person, or facility contesting maltreatment shall have the opportunity to examine the contents of the case file and all documents and records to be used by the county or state agency at the hearing at a reasonable time before the date of the hearing and during the hearing. In hearings under subdivision 3, paragraph (a), clauses (4) ~~and~~ (8), and 9, either party may subpoena the private data relating to the investigation prepared by the agency under section 626.556 or 626.557 that is not otherwise accessible under section 13.04, provided the identity of the reporter may not be disclosed.

(b) The private data obtained by subpoena in a hearing under subdivision 3, paragraph (a), clause (4) ~~or~~ (8), or 9, must be subject to a protective order which prohibits its disclosure for any other purpose outside the hearing provided for in this section without prior order of the district court. Disclosure without court order is punishable by a sentence of not more than 90 days imprisonment or a fine of not more than \$700, or both. These restrictions on the use of private data do not prohibit access to the data under section 13.03, subdivision 6. Except for appeals under subdivision 3, paragraph (a), clauses (4), (5), ~~and~~ (8), and 9, upon request, the county agency shall provide reimbursement for transportation, child care, photocopying, medical assessment, witness fee, and other necessary and reasonable costs incurred by the applicant, recipient, or former recipient in connection with the appeal. All evidence, except that privileged by law, commonly accepted by reasonable people in the conduct of their affairs as having probative value with respect to the issues shall be submitted at the hearing and such hearing shall not be

"a contested case" within the meaning of section 14.02, subdivision 3. The agency must present its evidence prior to or at the hearing, and may not submit evidence after the hearing except by agreement of the parties at the hearing, provided the petitioner has the opportunity to respond.

Sec. 18. Minnesota Statutes 2000, section 626.556, subdivision 10i, is amended to read:

Subd. 10i. [ADMINISTRATIVE RECONSIDERATION OF FINAL DETERMINATION OF MALTREATMENT AND DISQUALIFICATION BASED ON SERIOUS OR RECURRING MALTREATMENT.] (a) Except as provided under paragraph (e), an individual or facility that the commissioner or a local social service agency determines has maltreated a child, or the child's designee, regardless of the determination, who contests the investigating agency's final determination regarding maltreatment, may request the investigating agency to reconsider its final determination regarding maltreatment. The request for reconsideration must be submitted in writing to the investigating agency within 15 calendar days after receipt of notice of the final determination regarding maltreatment.

(b) Except as provided under paragraphs (e) and (f), if the investigating agency denies the request or fails to act upon the request within 15 calendar days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045 may submit to the commissioner of human services a written request for a hearing under that section.

(c) If, as a result of the reconsideration, the investigating agency changes the final determination of maltreatment, that agency shall notify the parties specified in subdivisions 10b, 10d, and 10f.

(d) Except as provided under paragraph (f), if an individual or facility contests the investigating agency's final determination regarding maltreatment by requesting a fair hearing under section 256.045, the commissioner of human services shall assure that the hearing is conducted and a decision is reached within 90 days of receipt of the request for a hearing. The time for action on the decision may be extended for as many days as the hearing is postponed or the record is held open for the benefit of either party.

(e) If an individual was disqualified under section 245A.04, subdivision 3d, on the basis of a determination of maltreatment, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under paragraph (a) and requested reconsideration of the disqualification under section 245A.04, subdivision 3b, reconsideration of the maltreatment determination and reconsideration of the disqualification shall be consolidated into a single reconsideration. If an individual disqualified on the basis of a determination of maltreatment, which was serious or recurring requests a fair hearing under paragraph (b), the scope of the fair hearing shall include the maltreatment determination and the disqualification.

(f) If a maltreatment determination or a disqualification based on serious or recurring maltreatment is the basis for a licensing sanction under section 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.5100 to 1400.5900. As provided for under section 245A.08, subdivision 2a, the scope of the contested case hearing shall include the maltreatment determination, disqualification, and licensing sanction. In such cases, a fair hearing regarding the maltreatment determination shall not be conducted under paragraph (b). If the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under section 245A.04, subdivision 3, the hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.

Sec. 19. Minnesota Statutes 2000, section 626.557, subdivision 3, is amended to read:

Subd. 3. [TIMING OF REPORT.] (a) A mandated reporter who has reason to believe that a vulnerable adult is being or has been maltreated, or who has knowledge that a vulnerable adult has sustained a physical injury which is not reasonably explained shall immediately report the information to the common entry point. If an individual is a vulnerable adult solely because the individual is admitted to a facility, a mandated reporter is not required to report suspected maltreatment of the individual that occurred prior to admission, unless:

(1) the individual was admitted to the facility from another facility and the reporter has reason to believe the vulnerable adult was maltreated in the previous facility; or

(2) the reporter knows or has reason to believe that the individual is a vulnerable adult as defined in section 626.5572, subdivision 21, clause (4).

(b) A person not required to report under the provisions of this section may voluntarily report as described above.

(c) Nothing in this section requires a report of known or suspected maltreatment, if the reporter knows or has reason to know that a report has been made to the common entry point.

(d) Nothing in this section shall preclude a reporter from also reporting to a law enforcement agency.

(e) Notwithstanding section 626.5572, subdivision 17, paragraph (c), clause (5), a mandated reporter who knows or has reason to believe that an error in the provision of care or services to a vulnerable adult resulted in injury or harm to the vulnerable adult, which reasonably requires or required the care of a physician must make a report under this subdivision. If the reporter or a facility, at any time believes that an investigation by a lead agency will determine or should determine that the reported error was not neglect according to the criteria under section 626.5572, subdivision 17, paragraph (c), clause (5), the reporter or facility may provide to the common entry point or directly to the lead agency information explaining how the event meets the criteria under section 626.5572, subdivision 17, paragraph (c), clause (5). The lead agency shall consider this information when making an initial disposition of the report under subdivision 9c.

Sec. 20. Minnesota Statutes 2000, section 626.557, subdivision 9d, is amended to read:

Subd. 9d. [ADMINISTRATIVE RECONSIDERATION OF FINAL DISPOSITION OF MALTREATMENT AND DISQUALIFICATION BASED ON SERIOUS OR RECURRING MALTREATMENT; REVIEW PANEL.] (a) Except as provided under paragraph (e), any individual or facility which a lead agency determines has maltreated a vulnerable adult, or the vulnerable adult or an interested person acting on behalf of the vulnerable adult, regardless of the lead agency's determination, who contests the lead agency's final disposition of an allegation of maltreatment, may request the lead agency to reconsider its final disposition. The request for reconsideration must be submitted in writing to the lead agency within 15 calendar days after receipt of notice of final disposition or, if the request is made by an interested person who is not entitled to notice, within 15 days after receipt of the notice by the vulnerable adult or the vulnerable adult's legal guardian.

(b) Except as provided under paragraphs (e) and (f), if the lead agency denies the request or fails to act upon the request within 15 calendar days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045, may submit to the commissioner of human services a written request for a hearing under that statute. The vulnerable adult, or an interested person acting on behalf of the vulnerable adult, may request a review by the vulnerable adult maltreatment review panel under section 256.021 if the lead agency denies the request or fails to act upon the request, or if the vulnerable adult or interested person contests a reconsidered disposition. The lead agency shall notify persons who request reconsideration of their rights under this paragraph. The request must be submitted in writing to the review panel and a copy sent to the lead agency within 30 calendar days of receipt of notice of a denial of a request for reconsideration or of a reconsidered disposition. The request must specifically identify the aspects of the agency determination with which the person is dissatisfied.

(c) If, as a result of a reconsideration or review, the lead agency changes the final disposition, it shall notify the parties specified in subdivision 9c, paragraph (d).

(d) For purposes of this subdivision, "interested person acting on behalf of the vulnerable adult" means a person designated in writing by the vulnerable adult to act on behalf of the vulnerable adult, or a legal guardian or conservator or other legal representative, a proxy or health care agent appointed under chapter 145B or 145C, or an individual who is related to the vulnerable adult, as defined in section 245A.02, subdivision 13.

(e) If an individual was disqualified under section 245A.04, subdivision 3d, on the basis of a determination of maltreatment, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under paragraph (a) and reconsideration of the disqualification under section 245A.04, subdivision 3b, reconsideration of the maltreatment determination and requested reconsideration of the disqualification shall be consolidated into a single reconsideration. If an individual who was disqualified on the basis of serious or recurring maltreatment requests a fair hearing under paragraph (b), the scope of the fair hearing shall include the maltreatment determination and the disqualification.

(f) If a maltreatment determination or a disqualification based on serious or recurring maltreatment is the basis for a licensing sanction under section 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.5100 to 1400.5900. As provided for under section 245A.08, the scope of the contested case hearing shall include the maltreatment determination, disqualification, and licensing sanction. In such cases, a fair hearing shall not be conducted under paragraph (b). If the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under section 245A.04, subdivision 3, the hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.

(g) An individual or facility that was determined by the commissioner of human services or the commissioner of health to be responsible for neglect under section 626.5572, subdivision 17, prior to August 1, 2001, that believes that the finding of neglect does not meet an amended definition of neglect may request a reconsideration of the determination of neglect. The request for reconsideration must state how the established findings no longer meet the elements of the definition of neglect. The commissioner shall review the request for reconsideration and make a determination within 15 calendar days. The commissioner's decision on this reconsideration is the final agency action.

(1) For purposes of compliance with the data destruction schedule under subdivision 12b, paragraph (d), when a finding of substantiated maltreatment has been changed as a result of a reconsideration under this paragraph, the date of the original finding of a substantiated maltreatment must be used to calculate the destruction date.

(2) For purposes of any background studies under section 245A.04, when a determination of substantiated maltreatment has been changed as a result of a reconsideration under this paragraph, any prior disqualification of the individual under section 245A.04 that was based on this determination of maltreatment shall be rescinded, and for future background studies under section 245A.04 the commissioner must not use the previous determination of substantiated maltreatment as a basis for disqualification or as a basis for referring the individual's maltreatment history to a health-related licensing board under section 245A.04, subdivision 3d, paragraph (b).

Sec. 21. Minnesota Statutes 2000, section 626.5572, subdivision 17, is amended to read:

Subd. 17. [NEGLECT.] "Neglect" means:

(a) The failure or omission by a caregiver to supply a vulnerable adult with care or services, including but not limited to, food, clothing, shelter, health care, or supervision which is:

(1) reasonable and necessary to obtain or maintain the vulnerable adult's physical or mental health or safety, considering the physical and mental capacity or dysfunction of the vulnerable adult; and

(2) which is not the result of an accident or therapeutic conduct.

(b) The absence or likelihood of absence of care or services, including but not limited to, food, clothing, shelter, health care, or supervision necessary to maintain the physical and mental health of the vulnerable adult which a reasonable person would deem essential to obtain or maintain the vulnerable adult's health, safety, or comfort considering the physical or mental capacity or dysfunction of the vulnerable adult.

(c) For purposes of this section, a vulnerable adult is not neglected for the sole reason that:

(1) the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections 144.651, 144A.44, chapter 145B, 145C, or 252A, or section 253B.03, or 525.539 to 525.6199, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult, or, where permitted under law, to provide nutrition and hydration parenterally or through intubation; this paragraph does not enlarge or diminish rights otherwise held under law by:

(i) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or

(ii) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct; or

(2) the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult;

(3) the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in sexual contact with:

(i) a person including a facility staff person when a consensual sexual personal relationship existed prior to the caregiving relationship; or

(ii) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship; or

(4) an individual makes an error in the provision of therapeutic conduct to a vulnerable adult which: ~~(i) does not result in injury or harm which reasonably requires medical or mental health care; or, if it reasonably requires care;~~

(5) an individual makes an error in the provision of therapeutic conduct to a vulnerable adult that results in injury or harm which reasonably requires the care of a physician; and:

(i) the necessary care is sought and provided in a timely fashion as dictated by the condition of the vulnerable adult; and the injury or harm that required care does not result in substantial acute, or chronic injury or illness, or permanent disability above and beyond the vulnerable adult's preexisting condition;

(ii) is after receiving care, the health status of the vulnerable adult can be reasonably expected to be restored to the vulnerable adult's preexisting condition as determined by the vulnerable adult's personal physician;

(iii) the error is not part of a pattern of errors by the individual;

(iv) if in a facility, the error is immediately reported as required under section 626.557, and recorded internally by the employee or person providing services in the facility in order to evaluate and identify corrective action;

(v) if in a facility, the facility identifies and takes corrective action and implements measures designed to reduce the risk of further occurrence of this error and similar errors; and

~~(iii) is~~ (vi) if in a facility, the actions required under items (iv) and (v) are sufficiently documented for review and evaluation by the facility and any applicable licensing, certification, and ombudsman agency; and,

(iv) is not part of a pattern of errors by the individual.

(d) Nothing in this definition requires a caregiver, if regulated, to provide services in excess of those required by the caregiver's license, certification, registration, or other regulation.

(e) If the findings of an investigation by a lead agency result in a determination of substantiated maltreatment for the sole reason that the actions required of a facility under paragraph (c), clause (5), item (iv), (v), or (vi), were not taken, then the facility is subject to a correction order. This must not alter the lead agency's determination of mitigating factors under section 626.557, subdivision 9c, paragraph (c).

Sec. 22. [FEDERAL LAW CHANGE REQUEST OR WAIVER.]

The commissioner of health or human services, whichever is appropriate, shall pursue changes to federal law necessary to allow greater discretion on disciplinary activities of unlicensed health care workers and apply for necessary federal waivers or approval that would allow for a set-aside process related to disqualifications for nurse aides in nursing homes by July 1, 2001.

Sec. 23. [WAIVER FROM FEDERAL RULES AND REGULATIONS.]

By January 2002, the commissioner of health shall work with providers to examine federal rules and regulations prohibiting neglect, abuse, and financial exploitation of residents in licensed nursing facilities and shall apply for federal waivers to:

(1) allow the use of Minnesota Statutes, section 626.5572, to control the identification and prevention of maltreatment of residents in licensed nursing facilities, rather than the definitions under federal rules and regulations; and

(2) allow the use of Minnesota Statutes, sections 214.104, 245A.04, and 626.557 to control the disqualification or discipline of any persons providing services to residents in licensed nursing facilities, rather than the nurse aide registry or other exclusionary provisions of federal rules and regulations."

Delete the title and insert:

"A bill for an act relating to human services; changing certain licensing provisions; amending Minnesota Statutes 2000, sections 13.46, subdivision 4; 144.057, subdivision 3; 214.104; 245A.03, subdivision 2b; 245A.04, subdivisions 3a, 3b, 3c, 3d; 245A.05; 245A.06; 245A.07; 245A.08; 245A.16, subdivision 1; 245B.08, subdivision 3; 256.045, subdivisions 3, 3b, 4; 626.556, subdivision 10i; 626.557, subdivisions 3, 9d; 626.5572, subdivision 17."

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

The report was adopted.

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

H. F. No. 1381, A bill for an act relating to health and human services; changing requirements to background studies for licensed programs; amending Minnesota Statutes 2000, sections 13.46, subdivision 4; 144.057; 214.104; 241.021, subdivision 1; 245A.02, subdivisions 1, 9, and by adding a subdivision; 245A.03, subdivision 2, and by adding a subdivision; 245A.035, subdivision 1; 245A.04, subdivisions 3, 3a, 3b, 3d, 6, 11, and by adding a subdivision; 245A.06, subdivision 6; 245A.14, by adding a subdivision; and 245A.16, subdivisions 1 and 4; repealing Minnesota Rules, parts 9543.3000; 9543.3010; 9543.3020; 9543.3030; 9543.3040; 9543.3050; 9543.3060; 9543.3080; and 9543.3090.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 13.46, subdivision 4, is amended to read:

Subd. 4. [LICENSING DATA.] (a) As used in this subdivision:

(1) "licensing data" means all data collected, maintained, used, or disseminated by the welfare system pertaining to persons licensed or registered or who apply for licensure or registration or who formerly were licensed or registered under the authority of the commissioner of human services;

(2) "client" means a person who is receiving services from a licensee or from an applicant for licensure; and

(3) "personal and personal financial data" means social security numbers, identity of and letters of reference, insurance information, reports from the bureau of criminal apprehension, health examination reports, and social/home studies.

(b)(1) Except as provided in paragraph (c), the following data on current and former licensees are public: name, address, telephone number of licensees, the date of receipt of a completed application, the dates of licensure, licensed capacity, type of client preferred, variances granted, type of dwelling, name and relationship of other family members, previous license history, class of license, and the existence and status of complaints. ~~When disciplinary action has been taken against a licensee a correction order or fine has been issued, a license is suspended, immediately suspended, revoked, denied, or made conditional, or the~~ a complaint is resolved, the following data on current and former licensees are public: the substance and investigative findings of the complaint, the findings of the investigation of the complaint, licensing violation, or substantiated maltreatment; the record of informal resolution of a licensing violation; orders of hearing; findings of fact; conclusions of law; ~~and~~ specifications of the final ~~disciplinary action~~ correction order, fine, suspension, immediate suspension, revocation, denial, or conditional license contained in the record of disciplinary licensing action; and the status of any appeal of these actions. When an individual licensee is a substantiated perpetrator of maltreatment, and the substantiated maltreatment is a reason for the licensing action, and the maltreatment determination has been upheld under section 256.045, 626.556, subdivision 10, or 626.557, subdivision 9d, or an individual or facility has not timely exercised the appeal rights under these sections, the identity of the licensee as a perpetrator is public data.

(2) For applicants who withdraw their application prior to licensure or denial of a license, the following data are public: the name of the applicant, the city and county in which the applicant was seeking licensure, the dates of the commissioner's receipt of the initial application and completed application, the type of license sought, and the date of withdrawal of the application.

(3) For applicants who are denied a license, the following data are public: the name of the applicant, the city and county in which the applicant was seeking licensure, the dates of receipt of initial application and completed application, the type of license sought, the date of denial of the application, the nature of the basis for the denial, and the status of any appeal of the denial.

(4) The following data on persons subject to disqualification under section 245A.04 in connection with a license to provide family day care for children, child care center services, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home, are public: the nature of any disqualification set aside under section 245A.04, subdivision 3b, and the reasons for setting aside the disqualification; and the reasons for granting any variance under section 245A.04, subdivision 9.

(c) The following are private data on individuals under section 13.02, subdivision 12, or nonpublic data under section 13.02, subdivision 9: personal and personal financial data on family day care program and family foster care program applicants and licensees and their family members who provide services under the license.

(d) The following are private data on individuals: the identity of persons who have made reports concerning licensees or applicants that appear in inactive investigative data, and the records of clients or employees of the licensee or applicant for licensure whose records are received by the licensing agency for purposes of review or in anticipation of a contested matter. The names of reporters under sections 626.556 and 626.557 may be disclosed only as provided in section 626.556, subdivision 11, or 626.557, subdivision 12b.

(e) Data classified as private, confidential, nonpublic, or protected nonpublic under this subdivision become public data if submitted to a court or administrative law judge as part of a disciplinary proceeding in which there is a public hearing concerning ~~the disciplinary action on a license which has been~~ suspended, immediately suspended, revoked, or denied.

(f) Data generated in the course of licensing investigations that relate to an alleged violation of law are investigative data under subdivision 3.

(g) Data that are not public data collected, maintained, used, or disseminated under this subdivision that relate to or are derived from a report as defined in section 626.556, subdivision 2, or 626.5572, subdivision 18, are subject to the destruction provisions of ~~section~~ sections 626.556, subdivision 11c, and 626.557, subdivision 12b.

Sec. 2. Minnesota Statutes 2000, section 144.057, is amended to read:

144.057 [BACKGROUND STUDIES ON LICENSEES.]

Subdivision 1. [BACKGROUND STUDIES REQUIRED.] The commissioner of health shall contract with the commissioner of human services to conduct background studies of:

(1) individuals providing services which have direct contact, as defined under section 245A.04, subdivision 3, with patients and residents in hospitals, boarding care homes, outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and home care agencies licensed under chapter 144A; residential care homes licensed under chapter 144B, and board and lodging establishments that are registered to provide supportive or health supervision services under section 157.17; ~~and~~

(2) individuals specified in section 245A.04, subdivision 3, paragraph (c), who perform direct contact services in a nursing home or a home care agency licensed under chapter 144A or a boarding care home licensed under sections 144.50 to 144.58, and if the individual under study resides outside Minnesota, the study must be at least as comprehensive as that of a Minnesota resident and include a search of information from the criminal justice data communications network in the state where the subject of the study resides; and

(3) beginning July 1, 1999, all other employees in nursing homes licensed under chapter 144A, and boarding care homes licensed under sections 144.50 to 144.58. A disqualification of an individual in this section shall disqualify the individual from positions allowing direct contact or access to patients or residents receiving services. "Access" means physical access to a client or the client's personal property without continuous, direct supervision as defined in section 245A.04, subdivision 3, paragraph (b), clause (2), when the employee's employment responsibilities do not include providing direct contact services.

If a facility or program is licensed by the department of human services and subject to the background study provisions of chapter 245A and is also licensed by the department of health, the department of human services is solely responsible for the background studies of individuals in the jointly licensed programs.

Subd. 2. [RESPONSIBILITIES OF DEPARTMENT OF HUMAN SERVICES.] The department of human services shall conduct the background studies required by subdivision 1 in compliance with the provisions of chapter 245A ~~and Minnesota Rules, parts 9543.3000 to 9543.3090.~~ For the purpose of this section, the term "residential program" shall include all facilities described in subdivision 1. The department of human services shall provide necessary forms and instructions, shall conduct the necessary background studies of individuals, and shall provide notification of the results of the studies to the facilities, individuals, and the commissioner of health. Individuals shall

be disqualified under the provisions of chapter 245A ~~and Minnesota Rules, parts 9543.3000 to 9543.3090~~. If an individual is disqualified, the department of human services shall notify the facility and the individual and shall inform the individual of the right to request a reconsideration of the disqualification by submitting the request to the department of health.

Subd. 3. [RECONSIDERATIONS.] The commissioner of health shall review and decide reconsideration requests, including the granting of variances, in accordance with the procedures and criteria contained in chapter 245A ~~and Minnesota Rules, parts 9543.3000 to 9543.3090~~. The commissioner's decision shall be provided to the individual and to the department of human services. The commissioner's decision to grant or deny a reconsideration of disqualification is the final administrative agency action.

Subd. 4. [RESPONSIBILITIES OF FACILITIES.] Facilities described in subdivision 1 shall be responsible for cooperating with the departments in implementing the provisions of this section. The responsibilities imposed on applicants and licensees under chapter 245A ~~and Minnesota Rules, parts 9543.3000 to 9543.3090~~, shall apply to these facilities. The provision of section 245A.04, subdivision 3, paragraph (e), shall apply to applicants, licensees, or an individual's refusal to cooperate with the completion of the background studies.

Sec. 3. Minnesota Statutes 2000, section 245A.02, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] The terms used in this chapter and chapter 245B have the meanings given them in this section.

Sec. 4. Minnesota Statutes 2000, section 245A.02, is amended by adding a subdivision to read:

Subd. 3a. [CERTIFICATION.] "Certification" means the commissioner's written authorization for a license holder licensed by the commissioner of human services or the commissioner of corrections to serve children in a residential program and provide specialized services based on certification standards in Minnesota Rules. The term "certification" and its derivatives have the same meaning and may be substituted for the term "licensure" and its derivatives in this chapter.

Sec. 5. Minnesota Statutes 2000, section 245A.02, subdivision 9, is amended to read:

Subd. 9. [LICENSE HOLDER.] "License holder" means an individual, corporation, partnership, voluntary association, or other organization that is legally responsible for the operation of the program, has been granted a license by the commissioner under this chapter or chapter 245B and the rules of the commissioner, and is a controlling individual.

Sec. 6. Minnesota Statutes 2000, section 245A.03, subdivision 2, is amended to read:

Subd. 2. [EXCLUSION FROM LICENSURE.] This chapter does not apply to:

(1) residential or nonresidential programs that are provided to a person by an individual who is related unless the residential program is a child foster care placement made by a local social services agency or a licensed child-placing agency, except as provided in subdivision 2a;

(2) nonresidential programs that are provided by an unrelated individual to persons from a single related family;

(3) residential or nonresidential programs that are provided to adults who do not abuse chemicals or who do not have a chemical dependency, a mental illness, mental retardation or a related condition, a functional impairment, or a physical handicap;

(4) sheltered workshops or work activity programs that are certified by the commissioner of economic security;

(5) programs for children enrolled in kindergarten to the 12th grade and prekindergarten special education in a school as defined in section 120A.22, subdivision 4, and programs serving children in combined special education and regular prekindergarten programs that are operated or assisted by the commissioner of children, families, and learning;

(6) nonresidential programs primarily for children that provide care or supervision, without charge for ten or fewer days a year, and for periods of less than three hours a day while the child's parent or legal guardian is in the same building as the nonresidential program or present within another building that is directly contiguous to the building in which the nonresidential program is located;

(7) nursing homes or hospitals licensed by the commissioner of health except as specified under section 245A.02;

(8) board and lodge facilities licensed by the commissioner of health that provide services for five or more persons whose primary diagnosis is mental illness who have refused an appropriate residential program offered by a county agency. This exclusion expires on July 1, 1990;

(9) homes providing programs for persons placed there by a licensed agency for legal adoption, unless the adoption is not completed within two years;

(10) programs licensed by the commissioner of corrections;

(11) recreation programs for children or adults that operate for fewer than 40 calendar days in a calendar year or programs operated by a park and recreation board of a city of the first class whose primary purpose is to provide social and recreational activities to school age children, provided the program is approved by the park and recreation board;

(12) programs operated by a school as defined in section 120A.22, subdivision 4, whose primary purpose is to provide child care to school-age children, provided the program is approved by the district's school board;

(13) Head Start nonresidential programs which operate for less than 31 days in each calendar year;

(14) noncertified boarding care homes unless they provide services for five or more persons whose primary diagnosis is mental illness or mental retardation;

(15) nonresidential programs for nonhandicapped children provided for a cumulative total of less than 30 days in any 12-month period;

(16) residential programs for persons with mental illness, that are located in hospitals, until the commissioner adopts appropriate rules;

(17) the religious instruction of school-age children; Sabbath or Sunday schools; or the congregate care of children by a church, congregation, or religious society during the period used by the church, congregation, or religious society for its regular worship;

(18) camps licensed by the commissioner of health under Minnesota Rules, chapter 4630;

(19) mental health outpatient services for adults with mental illness or children with emotional disturbance;

(20) residential programs serving school-age children whose sole purpose is cultural or educational exchange, until the commissioner adopts appropriate rules;

(21) unrelated individuals who provide out-of-home respite care services to persons with mental retardation or related conditions from a single related family for no more than 90 days in a 12-month period and the respite care services are for the temporary relief of the person's family or legal representative;

(22) respite care services provided as a home and community-based service to a person with mental retardation or a related condition, in the person's primary residence;

(23) community support services programs as defined in section 245.462, subdivision 6, and family community support services as defined in section 245.4871, subdivision 17;

(24) the placement of a child by a birth parent or legal guardian in a preadoptive home for purposes of adoption as authorized by section 259.47; ~~or~~

(25) settings registered under chapter 144D which provide home care services licensed by the commissioner of health to fewer than seven adults; ~~or~~

(26) consumer-directed community support service funded under the Medicaid waiver for persons with mental retardation and related conditions when the individual who provided the service is:

(i) the same individual who is the direct payee of these specific waiver funds; and

(ii) not under the control of a residential or nonresidential program that is required to be licensed under this chapter when providing the service.

For purposes of clause (6), a building is directly contiguous to a building in which a nonresidential program is located if it shares a common wall with the building in which the nonresidential program is located or is attached to that building by skyway, tunnel, atrium, or common roof.

Sec. 7. Minnesota Statutes 2000, section 245A.03, is amended by adding a subdivision to read:

Subd. 6. [RIGHT TO SEEK CERTIFICATION.] Nothing in this section shall prohibit a residential program licensed by the commissioner of corrections to serve children, that is excluded from licensure under subdivision 2, clause (10), from seeking certification from the commissioner of human services under this chapter for program services for which certification standards have been adopted.

Sec. 8. Minnesota Statutes 2000, section 245A.035, subdivision 1, is amended to read:

Subdivision 1. [GRANT OF EMERGENCY LICENSE.] Notwithstanding section 245A.03, subdivision 2a, a county agency may place a child for foster care with a relative who is not licensed to provide foster care, provided the requirements of subdivision 2 are met. As used in this section, the term "relative" has the meaning given it under ~~section 260.181, subdivision 3~~ 260C.007, subdivision 14.

Sec. 9. Minnesota Statutes 2000, section 245A.04, subdivision 3, is amended to read:

Subd. 3. [BACKGROUND STUDY OF THE APPLICANT; DEFINITIONS.] (a) ~~Before the commissioner issues a license, the commissioner shall conduct a study of the individuals specified in paragraph (c), clauses (1) to (5), according to rules of the commissioner:~~

Beginning January 1, 1997, the commissioner shall also conduct a study of employees providing direct contact services for nonlicensed personal care provider organizations. Individuals and organizations that are required in statute to initiate background studies under this section shall comply with the following requirements:

(1) Applicants for licensure, license holders, and other entities as provided in this section must submit completed background study forms to the commissioner before individuals specified in paragraph (c), clauses (1) to (4), (6), and (7), begin positions allowing direct contact in any licensed program.

(2) Applicants and license holders under the jurisdiction of other state agencies who are required in other statutory sections to initiate background studies under this section must submit completed background study forms to the commissioner prior to the background study subject beginning in a position allowing direct contact in the licensed program, or where applicable, prior to being employed.

(3) Organizations required to initiate background studies under section 256B.0627 for individuals described in paragraph (c), clause (5), must submit a completed background study form to the commissioner before those individuals begin a position allowing direct contact with persons served by the organization. The commissioner shall recover the cost of these background studies through a fee of no more than \$12 per study charged to the ~~personal care provider~~ organization responsible for submitting the background study form.

Beginning August 1, 1997, Upon receipt of the background study forms from the entities in clauses (1) to (3), the commissioner shall conduct all background studies required under this chapter for adult foster care providers who are licensed by the commissioner of human services and registered under chapter 144D. The commissioner shall conduct these background studies in accordance with this chapter. The commissioner shall initiate a pilot project to conduct up to 5,000 background studies under this chapter complete the background study as specified under this section and provide notices required in subdivision 3a. Unless otherwise specified, the subject of a background study may have direct contact with persons served by a program after the background study form is mailed or submitted to the commissioner pending notification of the study results under subdivision 3a. A county agency may accept a background study completed by the commissioner under this section in place of the background study required under section 245A.16, subdivision 3, in programs with joint licensure as home and community-based services and adult foster care for people with developmental disabilities when the license holder does not reside in the foster care residence and the subject of the study has been continuously affiliated with the license holder since the date of the commissioner's study.

(b) Beginning July 1, 1998, the commissioner shall conduct a background study on individuals specified in paragraph (c), clauses (1) to (5), who perform direct contact services in a nursing home or a home care agency licensed under chapter 144A or a boarding care home licensed under sections 144.50 to 144.58, when the subject of the study resides outside Minnesota; the study must be at least as comprehensive as that of a Minnesota resident and include a search of information from the criminal justice data communications network in the state where the subject of the study resides. The definitions in this paragraph apply only to subdivisions 3 to 3e.

(1) "Background study" means the review of records conducted by the commissioner to determine whether a subject is disqualified from direct contact with persons served by a program, and where specifically provided in statutes, whether a subject is disqualified from having access to persons served by a program.

(2) "Continuous, direct supervision" means an individual is within sight or hearing of the supervising person to the extent that supervising person is capable at all times of intervening to protect the health and safety of the persons served by the program.

(3) "Contractor" means any person, regardless of employer, who is providing program services for hire under the control of the provider.

(4) "Direct contact" means providing face-to-face care, training, supervision, counseling, consultation, or medication assistance to persons served by the program.

(5) "Reasonable cause" means information or circumstances exist which provide the commissioner with articulable suspicion that further pertinent information may exist concerning a subject. The commissioner has reasonable cause when, but not limited to, the commissioner has received a report from the subject, the license holder, or a third party indicating that the subject has a history that would disqualify the person or that may pose a risk to the health or safety of persons receiving services.

(6) "Subject of a background study" means an individual on whom a background study is required or completed.

(c) The applicant, license holder, the bureau of criminal apprehension, the commissioner of health and county agencies, after written notice to the individual who is the subject of the study, shall help with the study by giving the commissioner criminal conviction data and reports about the maltreatment of adults substantiated under section 626.557 and the maltreatment of minors in licensed programs substantiated under section 626.556. The individuals to be studied shall include:

- (1) the applicant;
- (2) persons ~~over the age of 13 and over~~ living in the household where the licensed program will be provided;
- (3) current employees or contractors of the applicant who will have direct contact with persons served by the facility, agency, or program;
- (4) volunteers or student volunteers who have direct contact with persons served by the program to provide program services, if the contact is not directly supervised by the individuals listed in clause (1) or (3); ~~and~~
- (5) any person ~~who, as an individual or as a member of an organization, exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a. required under section 256B.0627 to have a background study completed under this section;~~
- (6) persons ages 10 to 12 living in the household where the licensed services will be provided when the commissioner has reasonable cause; and

(7) persons who, without providing direct contact services at a licensed program, may have unsupervised access to children or vulnerable adults receiving services from the program licensed to provide family child care for children, foster care for children in the provider's own home, or foster care or day care services for adults in the provider's own home when the commissioner has reasonable cause.

(d) According to paragraph (c), clauses (2) and (6), the commissioner shall review records from the juvenile courts. For persons under paragraph (c), clauses (1), (3), (4), (5), and (7), who are ages 13 to 17, the commissioner shall review records from the juvenile courts when the commissioner has reasonable cause. The juvenile courts shall ~~also~~ help with the study by giving the commissioner existing juvenile court records on individuals described in ~~clause~~ paragraph (c), clauses (2), (6), and (7), relating to delinquency proceedings held within either the five years immediately preceding the application background study or the five years immediately preceding the individual's 18th birthday, whichever time period is longer. The commissioner shall destroy juvenile records obtained pursuant to this subdivision when the subject of the records reaches age 23.

(e) For purposes of this section ~~and Minnesota Rules, part 9543.3070,~~ a finding that a delinquency petition is proven in juvenile court shall be considered a conviction in state district court.

For purposes of this subdivision, "direct contact" means ~~providing face-to-face care, training, supervision, counseling, consultation, or medication assistance to persons served by a program. For purposes of this subdivision, "directly supervised" means an individual listed in clause (1), (3), or (5) is within sight or hearing of a volunteer to the extent that the individual listed in clause (1), (3), or (5) is capable at all times of intervening to protect the health and safety of the persons served by the program who have direct contact with the volunteer.~~

(f) A study of an individual in paragraph (c), clauses (1) to (5) (7), shall be conducted at least upon application for initial license for all license types and at reapplication for a license for family child care, child foster care, and adult foster care. The commissioner is not required to conduct a study of an individual at the time of reapplication for a license or if the individual has been continuously affiliated with a foster care provider licensed by the commissioner of human services and registered under chapter 144D, other than a family day care or foster care license, if: (i) a study of the individual was conducted either at the time of initial licensure or when the individual became affiliated with the license holder; (ii) the individual has been continuously affiliated with the license holder

since the last study was conducted; and (iii) the procedure described in paragraph ~~(d)~~ (i) has been implemented and was in effect continuously since the last study was conducted. For the purposes of this section, a physician licensed under chapter 147 is considered to be continuously affiliated upon the license holder's receipt from the commissioner of health or human services of the physician's background study results. For individuals who are required to have background studies under ~~clauses (1) to (5)~~ paragraph (c) and who have been continuously affiliated with a foster care provider that is licensed in more than one county, criminal conviction data may be shared among those counties in which the foster care programs are licensed. A county agency's receipt of criminal conviction data from another county agency shall meet the criminal data background study requirements of this section.

(g) The commissioner may also conduct studies on individuals specified in paragraph (c), clauses (3) and (4), when the studies are initiated by:

(i) (1) personnel pool agencies;

(ii) (2) temporary personnel agencies;

(iii) (3) educational programs that train persons by providing direct contact services in licensed programs; and

(iv) (4) professional services agencies that are not licensed and which contract with licensed programs to provide direct contact services or individuals who provide direct contact services.

(h) Studies on individuals in ~~items (i) to (iv)~~ paragraph (g), clauses (1) to (4), must be initiated annually by these agencies, programs, and individuals. Except for ~~personal care provider organizations as provided in paragraph (a), clause (3)~~, no applicant, license holder, or individual who is the subject of the study shall pay any fees required to conduct the study.

(1) At the option of the licensed facility, rather than initiating another background study on an individual required to be studied who has indicated to the licensed facility that a background study by the commissioner was previously completed, the facility may make a request to the commissioner for documentation of the individual's background study status, provided that:

(i) the facility makes this request using a form provided by the commissioner;

(ii) in making the request the facility informs the commissioner that either:

(A) the individual has been continuously affiliated with a licensed facility since the individual's previous background study was completed, or since October 1, 1995, whichever is shorter; or

(B) the individual is affiliated only with a personnel pool agency, a temporary personnel agency, an educational program that trains persons by providing direct contact services in licensed programs, or a professional services agency that is not licensed and which contracts with licensed programs to provide direct contact services or individuals who provide direct contact services; and

(iii) the facility provides notices to the individual as required in paragraphs (a) to ~~(d)~~ (i), and that the facility is requesting written notification of the individual's background study status from the commissioner.

(2) The commissioner shall respond to each request under paragraph (1) with a written or electronic notice to the facility and the study subject. If the commissioner determines that a background study is necessary, the study shall be completed without further request from a licensed agency or notifications to the study subject.

(3) When a background study is being initiated by a licensed facility or a foster care provider that is also registered under chapter 144D, a study subject affiliated with multiple licensed facilities may attach to the background study form a cover letter indicating the additional facilities' names, addresses, and background study identification

numbers. When the commissioner receives such notices, each facility identified by the background study subject shall be notified of the study results. The background study notice sent to the subsequent agencies shall satisfy those facilities' responsibilities for initiating a background study on that individual.

~~(d)~~ (i) If an individual who is affiliated with a program or facility regulated by the department of human services or department of health or who is affiliated with a ~~nonlicensed personal care provider organization~~ any type of home care agency or provider of personal care assistance services, is convicted of a crime constituting a disqualification under subdivision 3d, the probation officer or corrections agent shall notify the commissioner of the conviction. For the purpose of this paragraph, "conviction" has the meaning given it in section 609.02, subdivision 5. The commissioner, in consultation with the commissioner of corrections, shall develop forms and information necessary to implement this paragraph and shall provide the forms and information to the commissioner of corrections for distribution to local probation officers and corrections agents. The commissioner shall inform individuals subject to a background study that criminal convictions for disqualifying crimes will be reported to the commissioner by the corrections system. A probation officer, corrections agent, or corrections agency is not civilly or criminally liable for disclosing or failing to disclose the information required by this paragraph. Upon receipt of disqualifying information, the commissioner shall provide the notifications required in subdivision 3a, as appropriate to agencies on record as having initiated a background study or making a request for documentation of the background study status of the individual. This paragraph does not apply to family day care and child foster care programs.

~~(e)~~ (j) The individual who is the subject of the study must provide the applicant or license holder with sufficient information to ensure an accurate study including the individual's first, middle, and last name and all other names by which the individual has been known; home address, city, county, and state of residence for the past five years; zip code; sex; date of birth; and driver's license number or state identification number. The applicant or license holder shall provide this information about an individual in paragraph (c), clauses (1) to ~~(5)~~ (7), on forms prescribed by the commissioner. By January 1, 2000, for background studies conducted by the department of human services, the commissioner shall implement a system for the electronic transmission of: (1) background study information to the commissioner; and (2) background study results to the license holder. The commissioner may request additional information of the individual, which shall be optional for the individual to provide, such as the individual's social security number or race.

~~(f) Except for child foster care, adult foster care, and family day care homes~~ (k) For programs directly licensed by the commissioner, a study must include information related to names of substantiated perpetrators of maltreatment of vulnerable adults that has been received by the commissioner as required under section 626.557, subdivision 9c, paragraph (i), and the commissioner's records relating to the maltreatment of minors in licensed programs, information from juvenile courts as required in paragraph (c) for persons listed in paragraph (c), ~~clause clauses~~ (2), (6), and (7), and information from the bureau of criminal apprehension. For child foster care, adult foster care, and family day care homes, the study must include information from the county agency's record of substantiated maltreatment of adults, and the maltreatment of minors, information from juvenile courts as required in paragraph (c) for persons listed in paragraph (c), ~~clause clauses~~ (2), (6), and (7), and information from the bureau of criminal apprehension. The commissioner may also review arrest and investigative information from the bureau of criminal apprehension, the commissioner of health, a county attorney, county sheriff, county agency, local chief of police, other states, the courts, or the Federal Bureau of Investigation if the commissioner has reasonable cause to believe the information is pertinent to the disqualification of an individual listed in paragraph (c), clauses (1) to ~~(5)~~ (7). The commissioner is not required to conduct more than one review of a subject's records from the Federal Bureau of Investigation if a review of the subject's criminal history with the Federal Bureau of Investigation has already been completed by the commissioner and there has been no break in the subject's affiliation with the license holder who initiated the background ~~studies~~ study.

(l) When the commissioner has reasonable cause to believe that further pertinent information may exist on the subject, the subject shall provide a set of classifiable fingerprints obtained from an authorized law enforcement agency. For purposes of requiring fingerprints, the commissioner shall be considered to have reasonable cause under, but not limited to, the following circumstances:

- (1) information from the bureau of criminal apprehension indicates that the subject is a multistate offender;

(2) information from the bureau of criminal apprehension indicates that multistate offender status is undetermined; or

(3) the commissioner has received a report from the subject or a third party indicating that the subject has a criminal history in a jurisdiction other than Minnesota.

~~(g)~~ (m) An applicant's or license holder's failure or refusal to cooperate with the commissioner is reasonable cause to disqualify a subject, deny a license application or immediately suspend, suspend, or revoke a license. Failure or refusal of an individual to cooperate with the study is just cause for denying or terminating employment of the individual if the individual's failure or refusal to cooperate could cause the applicant's application to be denied or the license holder's license to be immediately suspended, suspended, or revoked.

~~(h)~~ (n) The commissioner shall not consider an application to be complete until all of the information required to be provided under this subdivision has been received.

~~(i)~~ (o) No person in paragraph (c), ~~clause clauses (1), (2), (3), (4), or (5) to (7)~~ who is disqualified as a result of this section may be retained by the agency in a position involving direct contact with persons served by the program: or in a position allowing access to persons served by the program as provided for in statutes, unless the commissioner has provided written notice to the agency stating that:

(1) the individual may remain in direct contact during the period in which the individual may request reconsideration as provided in subdivision 3a, paragraph (b), clause (2) or (3);

(2) the individual's disqualification has been set aside for that agency as provided in subdivision 3b, paragraph (b); or

(3) the license holder has been granted a variance for the disqualified individual under subdivision 3e.

~~(j)~~ (p) Termination of persons in paragraph (c), ~~clause clauses (1), (2), (3), (4), or (5) to (7)~~, made in good faith reliance on a notice of disqualification provided by the commissioner shall not subject the applicant or license holder to civil liability.

~~(k)~~ (q) The commissioner may establish records to fulfill the requirements of this section.

~~(l)~~ (r) The commissioner may not disqualify an individual subject to a study under this section because that person has, or has had, a mental illness as defined in section 245.462, subdivision 20.

~~(m)~~ (s) An individual subject to disqualification under this subdivision has the applicable rights in subdivision 3a, 3b, or 3c.

~~(n)~~ (t) For the purposes of background studies completed by tribal organizations performing licensing activities otherwise required of the commissioner under this chapter, after obtaining consent from the background study subject, tribal licensing agencies shall have access to criminal history data in the same manner as county licensing agencies and private licensing agencies under this chapter.

Sec. 10. Minnesota Statutes 2000, section 245A.04, subdivision 3a, is amended to read:

Subd. 3a. [NOTIFICATION TO SUBJECT AND LICENSE HOLDER OF STUDY RESULTS; DETERMINATION OF RISK OF HARM.] (a) Within 15 working days, the commissioner shall notify the applicant or license holder and the individual who is the subject of the study, in writing or by electronic transmission, of the results of the study or that more time is needed to complete the study. When the study is completed, a notice that the study was undertaken and completed shall be maintained in the personnel files of the program. For studies on individuals pertaining to a license to provide family day care or group family day care, foster care for children in the

provider's own home, or foster care or day care services for adults in the provider's own home, the commissioner is not required to provide a separate notice of the background study results to the individual who is the subject of the study unless the study results in a disqualification of the individual.

The commissioner shall notify the individual studied if the information in the study indicates the individual is disqualified from direct contact with persons served by the program. The commissioner shall disclose the information causing disqualification and instructions on how to request a reconsideration of the disqualification to the individual studied. An applicant or license holder who is not the subject of the study shall be informed that the commissioner has found information that disqualifies the subject from direct contact with persons served by the program. However, only the individual studied must be informed of the information contained in the subject's background study unless the only basis for the disqualification is failure to cooperate, the Data Practices Act provides for release of the information, or the individual studied authorizes the release of the information.

(b) If the commissioner determines that the individual studied has a disqualifying characteristic, the commissioner shall review the information immediately available and make a determination as to the subject's immediate risk of harm to persons served by the program where the individual studied will have direct contact. The commissioner shall consider all relevant information available, including the following factors in determining the immediate risk of harm: the recency of the disqualifying characteristic; the recency of discharge from probation for the crimes; the number of disqualifying characteristics; the intrusiveness or violence of the disqualifying characteristic; the vulnerability of the victim involved in the disqualifying characteristic; and the similarity of the victim to the persons served by the program where the individual studied will have direct contact. The commissioner may determine that the evaluation of the information immediately available gives the commissioner reason to believe one of the following:

(1) The individual poses an imminent risk of harm to persons served by the program where the individual studied will have direct contact. If the commissioner determines that an individual studied poses an imminent risk of harm to persons served by the program where the individual studied will have direct contact, the individual and the license holder must be sent a notice of disqualification. The commissioner shall order the license holder to immediately remove the individual studied from direct contact. The notice to the individual studied must include an explanation of the basis of this determination.

(2) The individual poses a risk of harm requiring continuous, direct supervision while providing direct contact services during the period in which the subject may request a reconsideration. If the commissioner determines that an individual studied poses a risk of harm that requires continuous, direct supervision, the individual and the license holder must be sent a notice of disqualification. The commissioner shall order the license holder to immediately remove the individual studied from direct contact services or assure that the individual studied is within sight or hearing of another staff person when providing direct contact services during the period in which the individual may request a reconsideration of the disqualification. If the individual studied does not submit a timely request for reconsideration, or the individual submits a timely request for reconsideration, but the disqualification is not set aside for that license holder, the license holder will be notified of the disqualification and ordered to immediately remove the individual from any position allowing direct contact with persons receiving services from the license holder.

(3) The individual does not pose an imminent risk of harm or a risk of harm requiring continuous, direct supervision while providing direct contact services during the period in which the subject may request a reconsideration. If the commissioner determines that an individual studied does not pose a risk of harm that requires continuous, direct supervision, only the individual must be sent a notice of disqualification. The license holder must be sent a notice that more time is needed to complete the individual's background study. If the individual studied submits a timely request for reconsideration, and if the disqualification is set aside for that license holder, the license holder will receive the same notification received by license holders in cases where the individual studied has no disqualifying characteristic. If the individual studied does not submit a timely request for reconsideration, or the individual submits a timely request for reconsideration, but the disqualification is not set aside for that license holder, the license holder will be notified of the disqualification and ordered to immediately remove the individual from any position allowing direct contact with persons receiving services from the license holder.

(c) County licensing agencies performing duties under this subdivision may develop an alternative system for determining the subject's immediate risk of harm to persons served by the program, providing the notices under paragraph (b), and documenting the action taken by the county licensing agency. Each county licensing agency's implementation of the alternative system is subject to approval by the commissioner. Notwithstanding this alternative system, county licensing agencies shall complete the requirements of paragraph (a).

Sec. 11. Minnesota Statutes 2000, section 245A.04, subdivision 3b, is amended to read:

Subd. 3b. [RECONSIDERATION OF DISQUALIFICATION.] (a) The individual who is the subject of the disqualification may request a reconsideration of the disqualification.

The individual must submit the request for reconsideration to the commissioner in writing. A request for reconsideration for an individual who has been sent a notice of disqualification under subdivision 3a, paragraph (b), clause (1) or (2), must be submitted within 30 calendar days of the disqualified individual's receipt of the notice of disqualification. Upon showing that the information in clause (1) or (2) cannot be obtained within 30 days, the disqualified individual may request additional time, not to exceed 30 days, to obtain that information. A request for reconsideration for an individual who has been sent a notice of disqualification under subdivision 3a, paragraph (b), clause (3), must be submitted within 15 calendar days of the disqualified individual's receipt of the notice of disqualification. Removal of a disqualified individual from direct contact shall be ordered if the individual does not request reconsideration within the prescribed time, and for an individual who submits a timely request for reconsideration, if the disqualification is not set aside. The individual must present information showing that:

(1) the information the commissioner relied upon is incorrect or inaccurate. If the basis of a reconsideration request is that a maltreatment determination or disposition under section 626.556 or 626.557 is incorrect, and the commissioner has issued a final order in an appeal of that determination or disposition under section 256.045, the commissioner's order is conclusive on the issue of maltreatment; or

(2) the subject of the study does not pose a risk of harm to any person served by the applicant or license holder.

(b) The commissioner shall rescind the disqualification if the commissioner finds that the information relied on to disqualify the subject is incorrect. The commissioner may set aside the disqualification under this section if the commissioner finds that the ~~information the commissioner relied upon is incorrect~~ or the individual does not pose a risk of harm to any person served by the applicant or license holder. In determining that an individual does not pose a risk of harm, the commissioner shall consider the nature, severity, and consequences of the event or events that lead to disqualification, whether there is more than one disqualifying event, the age and vulnerability of the victim at the time of the event, the harm suffered by the victim, the similarity between the victim and persons served by the program, the time elapsed without a repeat of the same or similar event, documentation of successful completion by the individual studied of training or rehabilitation pertinent to the event, and any other information relevant to reconsideration. In reviewing a disqualification under this section, the commissioner shall give preeminent weight to the safety of each person to be served by the license holder or applicant over the interests of the license holder or applicant.

(c) Unless the information the commissioner relied on in disqualifying an individual is incorrect, the commissioner may not set aside the disqualification of an individual in connection with a license to provide family day care for children, foster care for children in the provider's own home, or foster care or day care services for adults in the provider's own home if:

(1) less than ten years have passed since the discharge of the sentence imposed for the offense; and the individual has been convicted of a violation of any offense listed in sections 609.20 (manslaughter in the first degree), 609.205 (manslaughter in the second degree), criminal vehicular homicide under 609.21 (criminal vehicular homicide and injury), 609.215 (aiding suicide or aiding attempted suicide), felony violations under 609.221 to 609.2231 (assault in the first, second, third, or fourth degree), 609.713 (terroristic threats), 609.235 (use of drugs to injure or to facilitate crime), 609.24 (simple robbery), 609.245 (aggravated robbery), 609.25 (kidnapping), 609.255 (false imprisonment), 609.561 or 609.562 (arson in the first or second degree), 609.71 (riot), burglary in the first or second

degree under 609.582 (burglary), 609.66 (dangerous weapon), 609.665 (spring guns), 609.67 (machine guns and short-barreled shotguns), 609.749 (harassment; stalking), 152.021 or 152.022 (controlled substance crime in the first or second degree), 152.023, subdivision 1, clause (3) or (4), or subdivision 2, clause (4) (controlled substance crime in the third degree), 152.024, subdivision 1, clause (2), (3), or (4) (controlled substance crime in the fourth degree), 609.224, subdivision 2, paragraph (c) (fifth-degree assault by a caregiver against a vulnerable adult), 609.228 (great bodily harm caused by distribution of drugs), 609.23 (mistreatment of persons confined), 609.231 (mistreatment of residents or patients), 609.2325 (criminal abuse of a vulnerable adult), 609.233 (criminal neglect of a vulnerable adult), 609.2335 (financial exploitation of a vulnerable adult), 609.234 (failure to report), 609.265 (abduction), 609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree), 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree), 609.268 (injury or death of an unborn child in the commission of a crime), 617.293 (disseminating or displaying harmful material to minors), a felony level conviction involving alcohol, a gross misdemeanor offense under 609.324, subdivision 1 (other prohibited acts), a gross misdemeanor offense under 609.378 (neglect or endangerment of a child), a gross misdemeanor offense under 609.377 (malicious punishment of a child), 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state, the elements of which are substantially similar to the elements of any of the foregoing offenses;

(2) regardless of how much time has passed since the involuntary termination of parental rights under section 260C.301 or the discharge of the sentence imposed for the offense, the individual was convicted of a violation of any offense listed in sections 609.185 to 609.195 (murder in the first, second, or third degree), 609.2661 to 609.2663 (murder of an unborn child in the first, second, or third degree), a felony offense under 609.377 (malicious punishment of a child), a felony offense under 609.324, subdivision 1 (other prohibited acts), a felony offense under 609.378 (neglect or endangerment of a child), 609.322 (solicitation, inducement, and promotion of prostitution), 609.342 to 609.345 (criminal sexual conduct in the first, second, third, or fourth degree), 609.352 (solicitation of children to engage in sexual conduct), 617.246 (use of minors in a sexual performance), 617.247 (possession of pictorial representations of a minor), 609.365 (incest), a felony offense under sections 609.2242 and 609.2243 (domestic assault), a felony offense of spousal abuse, a felony offense of child abuse or neglect, a felony offense of a crime against children, or an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes, or an offense in any other state, the elements of which are substantially similar to any of the foregoing offenses;

(3) within the seven years preceding the study, the individual committed an act that constitutes maltreatment of a child under section 626.556, subdivision 10e, and that resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence; or

(4) within the seven years preceding the study, the individual was determined under section 626.557 to be the perpetrator of a substantiated incident of maltreatment of a vulnerable adult that resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence.

In the case of any ground for disqualification under clauses (1) to (4), if the act was committed by an individual other than the applicant or license holder residing in the applicant's or license holder's home, the applicant or license holder may seek reconsideration when the individual who committed the act no longer resides in the home.

The disqualification periods provided under clauses (1), (3), and (4) are the minimum applicable disqualification periods. The commissioner may determine that an individual should continue to be disqualified from licensure because the license holder or applicant poses a risk of harm to a person served by that individual after the minimum disqualification period has passed.

(d) The commissioner shall respond in writing or by electronic transmission to all reconsideration requests for which the basis for the request is that the information relied upon by the commissioner to disqualify is incorrect or inaccurate within 30 working days of receipt of a request and all relevant information. If the basis for the request

is that the individual does not pose a risk of harm, the commissioner shall respond to the request within 15 working days after receiving the request for reconsideration and all relevant information. If the disqualification is set aside, the commissioner shall notify the applicant or license holder in writing or by electronic transmission of the decision.

(e) Except as provided in subdivision 3c, the commissioner's decision to ~~disqualify an individual, including the decision to grant or deny a rescission or set aside a disqualification under this section,~~ is the final administrative agency action and shall not be subject to further review in a contested case under chapter 14 involving a negative licensing appeal taken in response to the disqualification or involving an accuracy and completeness appeal under section 13.04.

Sec. 12. Minnesota Statutes 2000, section 245A.04, subdivision 3d, is amended to read:

Subd. 3d. [DISQUALIFICATION.] ~~(a)~~ Except as provided in paragraph (b), upon receipt of information showing, or when a background study completed under subdivision 3 shows any of the following: a conviction of one or more crimes listed in clauses (1) to (4); the individual has admitted to or a preponderance of the evidence indicates the individual has committed an act or acts that meet the definition of any of the crimes listed in clauses (1) to (4); or an administrative determination listed under clause (4), the individual shall be disqualified from any position allowing direct contact with persons receiving services from the license holder or entity identified in subdivision 3, paragraph (a):

(1) regardless of how much time has passed since the involuntary termination of parental rights under section 260C.301 or the discharge of the sentence imposed for the offense, and unless otherwise specified, regardless of the level of the conviction, the individual was convicted of any of the following offenses: sections 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third degree); 609.322 (solicitation, inducement, and promotion of prostitution); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.352 (solicitation of children to engage in sexual conduct); 609.365 (incest); felony offense under 609.377 (malicious punishment of a child); a felony offense under 609.378 (neglect or endangerment of a child); a felony offense under 609.324, subdivision 1 (other prohibited acts); 617.246 (use of minors in sexual performance prohibited); 617.247 (possession of pictorial representations of minors); a felony offense under sections 609.2242 and 609.2243 (domestic assault), a felony offense of spousal abuse, a felony offense of child abuse or neglect, a felony offense of a crime against children; or attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes, or an offense in any other state or country, where the elements are substantially similar to any of the offenses listed in this clause;

(2) if less than 15 years have passed since the discharge of the sentence imposed for the offense; and the individual has received a felony conviction for a violation of any of these offenses: sections 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.21 (criminal vehicular homicide and injury); 609.215 (suicide); 609.221 to 609.2231 (assault in the first, second, third, or fourth degree); repeat offenses under 609.224 (assault in the fifth degree); repeat offenses under 609.3451 (criminal sexual conduct in the fifth degree); 609.713 (terroristic threats); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.255 (false imprisonment); 609.561 (arson in the first degree); 609.562 (arson in the second degree); 609.563 (arson in the third degree); repeat offenses under 617.23 (indecent exposure; penalties); repeat offenses under 617.241 (obscene materials and performances; distribution and exhibition prohibited; penalty); 609.71 (riot); 609.66 (dangerous weapons); 609.67 (machine guns and short-barreled shotguns); 609.749 (harassment; stalking; penalties); 609.228 (great bodily harm caused by distribution of drugs); 609.2325 (criminal abuse of a vulnerable adult); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.268 (injury or death of an unborn child in the commission of a crime); 609.52 (theft); 609.2335 (financial exploitation of a vulnerable adult); 609.521 (possession of shoplifting gear); 609.582 (burglary); 609.625 (aggravated forgery); 609.63 (forgery); 609.631 (check forgery; offering a forged check); 609.635 (obtaining signature by false pretense); 609.27 (coercion); 609.275 (attempt to

coerce); 609.687 (adulteration); 260C.301 (grounds for termination of parental rights); ~~and~~ chapter 152 (drugs; controlled substance); and a felony level conviction involving alcohol. An attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state or country, the elements of which are substantially similar to the elements of the offenses in this clause. If the individual studied is convicted of one of the felonies listed in this clause, but the sentence is a gross misdemeanor or misdemeanor disposition, the lookback period for the conviction is the period applicable to the disposition, that is the period for gross misdemeanors or misdemeanors;

(3) if less than ten years have passed since the discharge of the sentence imposed for the offense; and the individual has received a gross misdemeanor conviction for a violation of any of the following offenses: sections 609.224 (assault in the fifth degree); 609.2242 and 609.2243 (domestic assault); violation of an order for protection under 518B.01, subdivision 14; 609.3451 (criminal sexual conduct in the fifth degree); repeat offenses under 609.746 (interference with privacy); repeat offenses under 617.23 (indecent exposure); 617.241 (obscene materials and performances); 617.243 (indecent literature, distribution); 617.293 (harmful materials; dissemination and display to minors prohibited); 609.71 (riot); 609.66 (dangerous weapons); 609.749 (harassment; stalking; penalties); 609.224, subdivision 2, paragraph (c) (assault in the fifth degree by a caregiver against a vulnerable adult); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); 609.265 (abduction); 609.378 (neglect or endangerment of a child); 609.377 (malicious punishment of a child); 609.324, subdivision 1a (other prohibited acts; minor engaged in prostitution); 609.33 (disorderly house); 609.52 (theft); 609.582 (burglary); 609.631 (check forgery; offering a forged check); 609.275 (attempt to coerce); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in this clause. If the defendant is convicted of one of the gross misdemeanors listed in this clause, but the sentence is a misdemeanor disposition, the lookback period for the conviction is the period applicable to misdemeanors; or

(4) if less than seven years have passed since the discharge of the sentence imposed for the offense; and the individual has received a misdemeanor conviction for a violation of any of the following offenses: sections 609.224 (assault in the fifth degree); 609.2242 (domestic assault); violation of an order for protection under 518B.01 (Domestic Abuse Act); violation of an order for protection under 609.3232 (protective order authorized; procedures; penalties); 609.746 (interference with privacy); 609.79 (obscene or harassing phone calls); 609.795 (letter, telegram, or package; opening; harassment); 617.23 (indecent exposure; penalties); 609.2672 (assault of an unborn child in the third degree); 617.293 (harmful materials; dissemination and display to minors prohibited); 609.66 (dangerous weapons); 609.665 (spring guns); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.52 (theft); 609.27 (coercion); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in this clause; a determination or disposition of failure to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, for incidents in which: (i) the final disposition under section 626.556 or 626.557 was substantiated maltreatment, and (ii) the maltreatment was recurring or serious; or a determination or disposition of substantiated serious or recurring maltreatment of a minor under section 626.556 or of a vulnerable adult under section 626.557 for which there is a preponderance of evidence that the maltreatment occurred, and that the subject was responsible for the maltreatment.

For the purposes of this section, "serious maltreatment" means sexual abuse; maltreatment resulting in death; or maltreatment resulting in serious injury which reasonably requires the care of a physician whether or not the care of a physician was sought; or abuse resulting in serious injury. For purposes of this section, "abuse resulting in serious injury" means: bruises, bites, skin laceration or tissue damage; fractures; dislocations; evidence of internal injuries; head injuries with loss of consciousness; extensive second-degree or third-degree burns and other burns for which complications are present; extensive second-degree or third-degree frostbite, and others for which complications are present; irreversible mobility or avulsion of teeth; injuries to the eyeball; ingestion of foreign substances and objects that are harmful; near drowning; and heat exhaustion or sunstroke. For purposes of this

section, "care of a physician" is treatment received or ordered by a physician, but does not include diagnostic testing, assessment, or observation. For the purposes of this section, "recurring maltreatment" means more than one incident of maltreatment for which there is a preponderance of evidence that the maltreatment occurred, and that the subject was responsible for the maltreatment.

~~(b) If the subject of a background study is licensed by a health-related licensing board, the board shall make the determination regarding a disqualification under this subdivision based on a finding of substantiated maltreatment under section 626.556 or 626.557. The commissioner shall notify the health-related licensing board if a background study shows that a licensee would be disqualified because of substantiated maltreatment and the board shall make a determination under section 214.104.~~

Sec. 13. Minnesota Statutes 2000, section 245A.04, is amended by adding a subdivision to read:

Subd. 3e. [VARIANCE FOR A DISQUALIFIED PERSON.] (a) When a background study subject's disqualification has not been set aside by the commissioner, and there are conditions under which the disqualified individual may provide direct contact services or have access to people receiving services that minimize the risk of harm to people receiving services, the commissioner may grant a time limited variance to a license holder that states the reason for the disqualification, the services that may be provided by the disqualified individual, and the conditions with which the license holder or applicant must comply for the variance to be effective.

(b) Except for programs licensed to provide family day care for children, foster care for children in the provider's own home, or foster care or day care services for adults in the provider's own home, the commissioner may not grant a variance for a disqualified person unless the applicant or license holder has requested the variance and the disqualified individual has provided written consent for the commissioner to disclose to the applicant or license holder the reason for the disqualification.

(c) When a license holder permits a disqualified individual to provide any services for which the subject is disqualified without complying with the conditions of the variance, termination of the variance is immediate and the license holder may be subject to fines or sanctions under sections 245A.06 and 245A.07.

(d) The commissioner may terminate a variance for a disqualified person at any time for cause.

(e) The commissioner's decision to grant or deny a variance request is final and not subject to appeal under the provisions of chapter 14.

Sec. 14. Minnesota Statutes 2000, section 245A.04, subdivision 6, is amended to read:

Subd. 6. [COMMISSIONER'S EVALUATION.] Before ~~granting~~ issuing, denying, suspending, revoking, or making conditional a license, the commissioner shall evaluate information gathered under this section. The commissioner's evaluation shall consider facts, conditions, or circumstances concerning the program's operation, the well-being of persons served by the program, available consumer evaluations of the program, and information about the qualifications of the personnel employed by the applicant or license holder.

The commissioner shall evaluate the results of the study required in subdivision 3 and determine whether a risk of harm to the persons served by the program exists. In conducting this evaluation, the commissioner shall apply the disqualification standards set forth in rules adopted under this chapter.

Sec. 15. Minnesota Statutes 2000, section 245A.04, subdivision 11, is amended to read:

Subd. 11. [EDUCATION PROGRAM; ADDITIONAL REQUIREMENT.] (a) The education program offered in a residential or nonresidential program, except for child care, foster care, or services for adults, must be approved by the commissioner of children, families, and learning before the commissioner of human services may grant a license to the program.

(b) A residential program licensed under Minnesota Rules, parts 9545.0905 to 9545.1125 or 9545.1400 to 9545.1480, may serve persons through the age of 19 when:

(1) the admission is necessary for a person to complete a secondary school program or its equivalent, or it is necessary to facilitate a transition period after completing the secondary school program or its equivalent for up to four months in order for the resident to obtain other living arrangements;

(2) the facility develops policies, procedures, and plans required under section 245A.65;

(3) the facility documents an assessment of the 18 or 19 year old person's risk of victimizing children residing in the facility, and develops necessary risk reduction measures, including sleeping arrangements, to minimize any risk of harm to children; and

(4) notwithstanding the license holder's target population age range, whenever persons age 18 or 19 years old are receiving residential services, the age difference among residents may not exceed five years.

(c) Nothing in this paragraph precludes the license holder from seeking other variances under section 245A.04, subdivision 9.

Sec. 16. Minnesota Statutes 2000, section 245A.06, subdivision 6, is amended to read:

Subd. 6. [AMOUNT OF FINES.] Fines shall be assessed as follows:

(1) the license holder shall forfeit \$1,000 for each occurrence of substantiated maltreatment or violation of law or rule prohibiting the maltreatment of children or the maltreatment of vulnerable adults, including but not limited to corporal punishment, illegal or unauthorized use of physical, mechanical, or chemical restraints, and illegal or unauthorized use of aversive or deprivation procedures;

(2) the license holder shall forfeit \$200 for each occurrence of a violation of law or rule governing matters of health, safety, or supervision, including but not limited to the provision of adequate staff to child or adult ratios, failure to submit a background form to the commissioner; and

(3) the license holder shall forfeit \$100 for each occurrence of a violation of law or rule other than those included in clauses (1) and (2).

For the purposes of this section, "occurrence" means each violation identified in the commissioner's forfeiture order.

Sec. 17. [245A.144] [REDUCTION OF RISK OF SUDDEN INFANT DEATH SYNDROME IN CHILD CARE PROGRAMS.]

License holders must ensure that before staff persons, caregivers, and helpers assist in the care of infants, they receive training on reducing the risk of sudden infant death syndrome. The training on reducing the risk of sudden infant death syndrome may be provided as orientation training under Minnesota Rules, part 9503.0035, subpart 1, as initial training under Minnesota Rules, part 9502.0385, subpart 2; as in-service training under Minnesota Rules, part 9503.0035, subpart 4, or as ongoing training under Minnesota Rules, part 9502.0385, subpart 3. Training required under this section must be completed at least once every five years.

Sec. 18. Minnesota Statutes 2000, section 245A.16, subdivision 1, is amended to read:

Subdivision 1. [DELEGATION OF AUTHORITY TO AGENCIES.] (a) County agencies and private agencies that have been designated or licensed by the commissioner to perform licensing functions and activities under section 245A.04, to recommend denial of applicants under section 245A.05, to issue correction orders, to issue variances, and recommend fines under section 245A.06, or to recommend suspending, revoking, and making licenses

probationary under section 245A.07, shall comply with rules and directives of the commissioner governing those functions and with this section. The following variances are excluded from the delegation of variance authority and may be issued only by the commissioner:

(1) dual licensure of family child care and child foster care, dual licensure of child and adult foster care, and adult foster care and family child care;

(2) adult foster care maximum capacity;

(3) adult foster care minimum age requirement;

(4) child foster care maximum age requirement;

(5) variances regarding disqualified individuals; and

(6) the required presence of a caregiver in the adult foster care residence during normal sleeping hours.

(b) For family day care programs, the commissioner may authorize licensing reviews every two years after a licensee has had at least one annual review.

Sec. 19. [INSTRUCTION TO REVISOR.]

(a) The revisor of statutes shall replace any references to "sections 245A.01 to 245A.16" in Minnesota Statutes, chapter 245A, with "this chapter."

(b) The revisor of statutes shall replace references in Minnesota Rules and Minnesota Statutes to "parts 9543.3000 to 9543.3090" with "section 245A.04."

(c) The revisor of statutes shall replace references in Minnesota Rules and Minnesota Statutes to "part 9543.3070" with "section 245A.04, subdivision 3d."

(d) The revisor of statutes shall replace references in Minnesota Rules and Minnesota Statutes to "part 9543.3080" with "section 245A.04, subdivision 3b."

Sec. 20. [REPEALER.]

Minnesota Rules, parts 9543.3000; 9543.3010; 9543.3020; 9543.3030; 9543.3040; 9543.3050; 9543.3060; 9543.3080; and 9543.3090, are repealed."

Delete the title and insert:

"A bill for an act relating to human services; changing requirements to background studies for licensed programs; amending Minnesota Statutes 2000, sections 13.46, subdivision 4; 144.057; 245A.02, subdivisions 1, 9, by adding a subdivision; 245A.03, subdivision 2, by adding a subdivision; 245A.035, subdivision 1; 245A.04, subdivisions 3, 3a, 3b, 3d, 6, 11, by adding a subdivision; 245A.06, subdivision 6; 245A.16, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 245A; repealing Minnesota Rules, parts 9543.3000; 9543.3010; 9543.3020; 9543.3030; 9543.3040; 9543.3050; 9543.3060; 9543.3080; and 9543.3090."

With the recommendation that when so amended 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. 1397, A bill for an act relating to human services; changing child placement provisions; amending Minnesota Statutes 2000, sections 256.01, subdivision 2; 260C.007, subdivisions 4, 14, and by adding subdivisions; 260C.141, subdivision 2; 260C.151, subdivision 6; 260C.178, subdivisions 1 and 7; 260C.193, subdivision 3; 260C.201, subdivisions 1, 2, 5, 6, 7, 10, 11, and by adding a subdivision; 260C.205; 260C.212, subdivisions 1, 2, 4, 5, 7, 8, and 9; 260C.215, subdivision 6; 260C.301, subdivisions 1, 4, and 8; 260C.312; 260C.317, subdivision 3; and 260C.325, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 256F; repealing Minnesota Statutes 2000, sections 260C.325, subdivision 2; and 626.5565.

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

The report was adopted.

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

H. F. No. 1406, A bill for an act relating to health; establishing maternal death reviews; amending Minnesota Statutes 2000, section 13.3806, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 145; repealing Minnesota Statutes 2000, sections 13.3806, subdivision 19; and 145.90.

Reported the same back with the following amendments:

Page 1, line 25, after "(b)" insert ", or traditional midwives licensed under chapter 147D"

Page 2, delete lines 32 to 36 and insert:

"Subd. 4. [CLASSIFICATION OF DATA.] (a) Data provided to the commissioner from source records under subdivision 2, including identifying information on individual providers, data subjects, or their children, and data derived by the commissioner under subdivision 3 for the purpose of carrying out maternal death studies, are classified as confidential data on individuals or confidential data on decedents, as defined in sections 13.02, subdivision 3, and 13.10, subdivision 1, paragraph (a).

(b) Information classified under paragraph (a) shall not be subject to discovery or introduction into evidence in any administrative, civil, or criminal proceeding. Such information otherwise available from an original source shall not be immune from discovery or barred from introduction into evidence merely because it was utilized by the commissioner in carrying out maternal death studies.

(c) Summary data on maternal death studies created by the commissioner, which does not identify individual data subjects or individual providers, shall be public in accordance with section 13.05, subdivision 7."

Page 3, delete lines 1 to 6

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

The report was adopted.

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

H. F. No. 1407, A bill for an act relating to health; modifying the terms of certain health-related advisory councils, committees, and task forces; transferring certain enforcement authority related to the provision of funeral goods and services; modifying provisions for public health collaboration plans; modifying rural hospital programs eligibility;

repealing professional boxing regulation; amending Minnesota Statutes 2000, sections 15.059, subdivision 5a; 62J.692, subdivision 2; 62Q.03, subdivision 5a; 62Q.075; 115.741, subdivision 3; 144.147, subdivision 1; 144.148, subdivision 1; 144.1481, subdivision 1; 144.1483; 144.6905, subdivision 1; 145.881, subdivision 1; 145A.10, subdivision 10; 149A.01, by adding a subdivision; 149A.02, subdivision 14, and by adding a subdivision; 149A.11; 149A.62; 149A.71, subdivision 4; and 149A.97, subdivision 8; repealing Minnesota Statutes 2000, section 144.994.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 62Q.075, is amended to read:

62Q.075 [LOCAL PUBLIC ACCOUNTABILITY AND COLLABORATION PLAN.]

~~Subdivision 1. [DEFINITION.] For purposes of this section, "managed care organization" means a health maintenance organization or community integrated service network.~~

Subd. 2. [REQUIREMENT.] Beginning October 31, ~~1997~~ 2004, all ~~managed care~~ health maintenance organizations shall file ~~biennially with the action plans required under section 62Q.07~~ a plan every four years with the commissioner of health describing the actions the managed care health maintenance organization has taken and those it intends to take to contribute to achieving one or more high priority public health goals for each service area in which an enrollee of the managed care organization resides. This plan must be jointly developed in collaboration with the local public health units, and other community organizations providing health services within the same service area as the ~~managed care~~ health maintenance organization. Local government units with responsibilities and authority defined under chapters 145A and 256E may designate individuals to participate in the collaborative planning with the ~~managed care~~ health maintenance organization to provide expertise and represent community needs and goals as identified under chapters 145A and 256E. Every other year, beginning October 31, 2002, all health maintenance organizations shall file reports updating progress on the four-year collaboration plan.

Subd. 3. [CONTENTS.] The plan must address the following:

~~(a)~~ (1) specific measurement strategies and a description of any activities which contribute to one or more high priority public health goals ~~and needs of high risk and special needs populations as defined and developed under chapters 145A and 256E;~~

~~(b)~~ (2) description of the process by which the ~~managed care~~ health maintenance organization will coordinate its activities with the community health boards, and other relevant community organizations servicing the same area;

~~(c)~~ (3) documentation indicating that local public health units and local government unit designees were involved in the development of the plan; and

~~(d)~~ (4) documentation of compliance with the plan filed ~~the previous year~~ previously, including data on the previously identified progress measures.

Subd. 4. [REVIEW.] Upon receipt of the plan, the ~~appropriate~~ commissioner of health shall provide a copy to the local community health boards, and other relevant community organizations within the ~~managed care~~ health maintenance organization's service area. After reviewing the plan, these community groups may submit written comments on the plan to ~~either the commissioner of health or commerce, as applicable;~~ and may advise the commissioner of the ~~managed care~~ health maintenance organization's effectiveness in assisting to achieve ~~regional~~ high priority public health goals. The plan may be reviewed by the county boards, or city councils acting as a local board of health in accordance with chapter 145A, within the ~~managed care~~ health maintenance organization's service area to determine whether the plan is consistent with the goals and objectives of the plans required under chapters 145A and 256E and whether the plan meets the needs of the community. The county board, or applicable city council, may also review and make recommendations on the availability and accessibility of services provided by

the ~~managed care health maintenance~~ organization. The county board, or applicable city council, may submit written comments to the ~~appropriate~~ commissioner of health, and may advise the commissioner of the ~~managed care health maintenance~~ organization's effectiveness in assisting to meet the needs and goals as defined under the responsibilities of chapters 145A and 256E. ~~The commissioner of health shall develop recommendations to utilize the written comments submitted as part of the licensure process to ensure local public accountability. These recommendations shall be reported to the legislative commission on health care access by January 15, 1996.~~ Copies of these written comments must be provided to the ~~managed care health maintenance~~ organization. The plan and any comments submitted must be filed with the information clearinghouse to be distributed to the public.

Sec. 2. Minnesota Statutes 2000, section 144.147, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] "Eligible rural hospital" means any nonfederal, general acute care hospital that:

(1) is either located in a rural area, as defined in the federal Medicare regulations, Code of Federal Regulations, title 42, section 405.1041, or located in a community with a population of less than ~~5,000~~ 10,000, according to United States Census Bureau statistics, outside the seven-county metropolitan area;

(2) has 50 or fewer beds; and

(3) is not for profit.

Sec. 3. Minnesota Statutes 2000, section 144.148, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] (a) For purposes of this section, the following definitions apply.

(b) "Eligible rural hospital" means any nonfederal, general acute care hospital that:

(1) is either located in a rural area, as defined in the federal Medicare regulations, Code of Federal Regulations, title 42, section 405.1041, or located in a community with a population of less than ~~5,000~~ 10,000, according to United States Census Bureau Statistics, outside the seven-county metropolitan area;

(2) has 50 or fewer beds; and

(3) is not for profit.

(c) "Eligible project" means a modernization project to update, remodel, or replace aging hospital facilities and equipment necessary to maintain the operations of a hospital.

Sec. 4. Minnesota Statutes 2000, section 144.1483, is amended to read:

144.1483 [RURAL HEALTH INITIATIVES.]

The commissioner of health, through the office of rural health, and consulting as necessary with the commissioner of human services, the commissioner of commerce, the higher education services office, and other state agencies, shall:

(1) develop a detailed plan regarding the feasibility of coordinating rural health care services by organizing individual medical providers and smaller hospitals and clinics into referral networks with larger rural hospitals and clinics that provide a broader array of services;

(2) develop and implement a program to assist rural communities in establishing community health centers, as required by section 144.1486;

(3) administer the program of financial assistance established under section 144.1484 for rural hospitals in isolated areas of the state that are in danger of closing without financial assistance, and that have exhausted local sources of support;

(4) develop recommendations regarding health education and training programs in rural areas, including but not limited to a physician assistants' training program, continuing education programs for rural health care providers, and rural outreach programs for nurse practitioners within existing training programs;

(5) develop a statewide, coordinated recruitment strategy for health care personnel and maintain a database on health care personnel as required under section 144.1485;

(6) develop and administer technical assistance programs to assist rural communities in: (i) planning and coordinating the delivery of local health care services; and (ii) hiring physicians, nurse practitioners, public health nurses, physician assistants, and other health personnel;

(7) study and recommend changes in the regulation of health care personnel, such as nurse practitioners and physician assistants, related to scope of practice, the amount of on-site physician supervision, and dispensing of medication, to address rural health personnel shortages;

(8) support efforts to ensure continued funding for medical and nursing education programs that will increase the number of health professionals serving in rural areas;

(9) support efforts to secure higher reimbursement for rural health care providers from the Medicare and medical assistance programs;

(10) coordinate the development of a statewide plan for emergency medical services, in cooperation with the emergency medical services advisory council;

(11) establish a Medicare rural hospital flexibility program pursuant to section 1820 of the federal Social Security Act, United States Code, title 42, section 1395i-4, by developing a state rural health plan and designating, consistent with the rural health plan, rural nonprofit or public hospitals in the state as critical access hospitals. Critical access hospitals shall include facilities that are certified by the state as necessary providers of health care services to residents in the area. Necessary providers of health care services are designated as critical access hospitals on the basis of being more than 20 miles, defined as official mileage as reported by the Minnesota department of transportation, from the next nearest hospital ~~or~~ being the sole hospital in the county ~~or~~ being a hospital located in a county with a designated ~~medical~~ medically underserved area or health professional shortage area, ~~or being a hospital located in a county contiguous to a county with a medically underserved area or health professional shortage area.~~ A critical access hospital located in a county with a designated ~~medical~~ medically underserved area or a health professional shortage area ~~or in a county contiguous to a county with a medically underserved area or health professional shortage area~~ shall continue to be recognized as a critical access hospital in the event the ~~medical~~ medically underserved area or health professional shortage area designation is subsequently withdrawn; and

(12) carry out other activities necessary to address rural health problems.

Sec. 5. Minnesota Statutes 2000, section 149A.01, is amended by adding a subdivision to read:

Subd. 4. [NONLIMITING.] Nothing in this chapter shall be construed to limit the powers granted to the commissioner of health, commissioner of commerce, state attorney general, or a county attorney in any other statute, law, or rule.

Sec. 6. Minnesota Statutes 2000, section 149A.02, subdivision 14, is amended to read:

Subd. 14. [DISCIPLINARY ACTION.] "Disciplinary action" means any action taken by the commissioner regulatory agency against any person subject to regulation under this chapter for the violation of or the threatened violation of any law, rule, order, stipulation agreement, settlement, compliance agreement, license, or permit adopted, issued, or enforced by the commissioner regulatory agency.

Sec. 7. Minnesota Statutes 2000, section 149A.02, is amended by adding a subdivision to read:

Subd. 37a. [REGULATORY AGENCY.] "Regulatory agency" means:

(1) the commissioner of health for provisions related to a funeral provider who is required to be licensed, registered, or issued a permit under this chapter; and

(2) the commissioner of commerce for provisions related to insurance policies purchased by a preneed consumer to arrange for funeral goods, funeral services, burial site goods, or burial services.

Sec. 8. Minnesota Statutes 2000, section 149A.11, is amended to read:

149A.11 [PUBLICATION OF DISCIPLINARY ACTIONS.]

The regulatory agencies shall report all disciplinary measures or actions taken to the commissioner. At least annually, the commissioner shall publish and make available to the public a description of all disciplinary measures or actions taken by the ~~commissioner~~ regulatory agencies. The publication shall include, for each disciplinary measure or action taken, the name and business address of the licensee or intern, the nature of the misconduct, and the measure or action taken by the ~~commissioner~~ regulatory agency.

Sec. 9. Minnesota Statutes 2000, section 149A.62, is amended to read:

149A.62 [IMMUNITY; REPORTING.]

Any person, private agency, organization, society, association, licensee, or intern who, in good faith, submits information to ~~the commissioner~~ a regulatory agency under section 149A.61 or otherwise reports violations or alleged violations of this chapter, is immune from civil liability or criminal prosecution. This section does not prohibit disciplinary action taken by the commissioner against any licensee or intern pursuant to a self report of a violation.

Sec. 10. Minnesota Statutes 2000, section 149A.71, subdivision 4, is amended to read:

Subd. 4. [CASKET, ALTERNATE CONTAINER, AND CREMATION CONTAINER SALES; RECORDS; REQUIRED DISCLOSURES.] Any funeral provider who sells or offers to sell a casket, alternate container, or cremation container to the public must maintain a record of each sale that includes the name of the purchaser, the purchaser's mailing address, the name of the decedent, the date of the decedent's death, and the place of death. These records shall be open to inspection by the ~~commissioner~~ regulatory agency and reported to the commissioner. Any funeral provider selling a casket, alternate container, or cremation container to the public, and not having charge of the final disposition of the dead human body, shall enclose within the casket, alternate container, or cremation container information provided by the commissioner that includes a blank certificate of death, and a copy of the statutes and rules controlling the removal, preparation, transportation, arrangements for disposition, and final disposition of a dead human body. This subdivision does not apply to morticians, funeral directors, funeral establishments, crematories, or wholesale distributors of caskets, alternate containers, or cremation containers.

Sec. 11. Minnesota Statutes 2000, section 149A.97, subdivision 8, is amended to read:

Subd. 8. [INVESTIGATIONS BY STATE AUDITOR.] Upon notification from the county auditor or ~~the commissioner of health~~ a regulatory agency of indications of violations of this chapter, or upon reliable written verification by any person, the state auditor shall make an independent determination of whether a violation of the provisions in this chapter is occurring or is about to occur. If the state auditor finds such evidence, the state auditor shall conduct any examinations of accounts and records of the entity that the state auditor considers the public interest to demand and shall inform the appropriate agency of any finding of misconduct. The state auditor may require the entity being examined to send all books, accounts, and vouchers pertaining to the receipt, disbursement, and custody of funds to the office of the state auditor for examination. The person, firm, partnership, association,

or corporation examined under this section by the state auditor shall reimburse the state auditor for expenses incurred in conducting the examination within 30 days after the state auditor submits its expenses. Interest at the rate established in section 549.09 shall accrue on the outstanding balance starting on the 31st day after the state auditor's office submits its request for expenses.

Sec. 12. [TRANSFER OF ENFORCEMENT AUTHORITY.]

(a) The terms used in this section have the meanings given in Minnesota Statutes, section 149A.02.

(b) Except as otherwise provided in statute, enforcement authority for provisions related to insurance policies purchased by a preneed consumer to arrange for funeral goods, funeral services, burial site goods, or burial services in Minnesota Statutes, sections 149A.70, 149A.71, 149A.72, 149A.73, 149A.74, 149A.745, 149A.75, and 149A.97, may be exercised by the commissioner of commerce.

(c) The commissioner of health retains enforcement authority for provisions of Minnesota Statutes, chapter 149A, related to funeral providers that are required to be licensed, registered, or issued a permit under that chapter.

Sec. 13. [REVISOR'S INSTRUCTION.]

The revisor of statutes shall change the term "commissioner" or "commissioner of health" to "regulatory agency" wherever it appears in Minnesota Statutes, sections 149A.04; 149A.05; 149A.06; 149A.07; 149A.08; 149A.09; 149A.10; 149A.60; and 149A.61, subdivisions 1, 2, 3, 6, 7, and 8.

Sec. 14. [REPEALER.]

Minnesota Statutes 2000, section 144.994, is repealed.

Laws 2000, chapter 488, article 2, section 26, is repealed."

Delete the title and insert:

"A bill for an act relating to health; modifying provisions for public health collaboration plans; modifying rural hospital programs eligibility; transferring certain enforcement authority related to the provision of funeral goods and services; repealing professional boxing regulation; amending Minnesota Statutes 2000, sections 62Q.075; 144.147, subdivision 1; 144.148, subdivision 1; 144.1483; 149A.01, by adding a subdivision; 149A.02, subdivision 14, by adding a subdivision; 149A.11; 149A.62; 149A.71, subdivision 4; 149A.97, subdivision 8; repealing Minnesota Statutes 2000, section 144.994; Laws 2000, chapter 488, article 2, section 26."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Commerce, Jobs and Economic Development.

The report was adopted.

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

H. F. No. 1424, A bill for an act relating to the metropolitan airports commission; requiring legislation to implement its capital improvement program; requiring legislative approval of individual capital projects over a certain amount; amending Minnesota Statutes 2000, section 473.621, subdivision 1a, by adding a subdivision.

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

The report was adopted.

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

H. F. No. 1427, A bill for an act relating to impaired driving; creating a reporting requirement for health professionals who have any evidence of injuries stemming from a traffic crash that was alcohol related, and providing civil and criminal immunity for failure to comply; providing courts with greater flexibility in using electronic alcohol monitoring to ensure compliance with alcohol abstinence during probation; extending the list of crimes for which consecutive sentencing is allowed to include a violation of the "no-alcohol" condition of a limited license; extending the list of permitted uses of an alcohol screening test to include a prosecution for a violation of the crime of refusing to submit to the chemical test; extending the list of DWI offenders who are ineligible for a shortened license revocation period to include any person whose alcohol concentration at the time of the violation exceeds 0.20; clarifying that a person who violates implied consent law with an alcohol concentration of 0.20 or more or during child endangerment is eligible for license plate impoundment; preventing vehicle forfeiture for first-time DWI offenders who might otherwise qualify; increasing the legal penalty to the level of a gross misdemeanor for a violation of the "no-alcohol" condition on a restricted driver's license, if the violation occurs while the person is driving a motor vehicle; raising the license reinstatement fee for a person convicted of criminal vehicular homicide or injury; providing penalties; amending Minnesota Statutes 2000, sections 169A.277, subdivision 2; 169A.28, subdivision 2; 169A.41, subdivision 2; 169A.51, subdivision 7; 169A.54, subdivision 6; 169A.60, subdivision 1; 171.09; 171.29, subdivision 2; 609.035, subdivision 2; 626.52; 626.55, subdivision 1; repealing Minnesota Statutes 2000, sections 626.55, subdivision 2.

Reported the same back with the following amendments:

Page 1, after line 38, insert:

"Section 1. Minnesota Statutes 2000, section 169A.03, is amended by adding a subdivision to read:

Subd. 1a. [ALCOHOL BY VOLUME.] For purposes of this chapter only, "alcohol by volume" means milliliters of alcohol per 100 milliliters of beverage.

Sec. 2. Minnesota Statutes 2000, section 169A.03, is amended by adding a subdivision to read:

Subd. 1b. [ALCOHOL BY WEIGHT.] For purposes of this chapter only, "alcohol by weight" means grams of alcohol per 100 grams of beverage."

Page 3, after line 23, insert:

"Sec. 5. Minnesota Statutes 2000, section 169A.37, subdivision 1, is amended to read:

Subdivision 1. [CRIME DESCRIBED.] It is a crime for a person to:

- (1) to fail to comply with an impoundment order under section 169A.60 (administrative plate impoundment);
- (2) to file a false statement under section 169A.60, subdivision 7 ~~or~~, 8, ~~or~~ 14;
- (3) to operate a self-propelled motor vehicle on a street or highway when the vehicle is subject to an impoundment order issued under section 169A.60, unless specially coded plates have been issued for the vehicle pursuant to section 169A.60, subdivision 13; ~~or~~
- (4) to fail to notify the commissioner of the impoundment order when requesting new plates;
- (5) who is subject to a plate impoundment order under section 169A.60, to drive, operate, or be in control of any motor vehicle during the impoundment period, unless the vehicle has specially coded plates issued pursuant to section 169A.60, subdivision 13, and the person is validly licensed to drive; or

(6) who is the transferee of a motor vehicle and who has signed a sworn statement under section 169A.60, subdivision 14, to allow the previously registered owner to drive, operate, or be in control of the vehicle during the impoundment period."

Page 6, line 11, strike the second "a" and insert "an off-road"

Page 6, line 34, after "(d)" insert "\"Significant relationship\" has the same meaning as given in section 609.341, subdivision 15, and includes any person with whom the actor regularly associates and communicates outside of a workplace setting.

(e)"

Page 6, after line 36, insert:

"Sec. 10. Minnesota Statutes 2000, section 169A.60, subdivision 13, is amended to read:

Subd. 13. [SPECIAL REGISTRATION PLATES.] (a) At any time during the effective period of an impoundment order, a violator or registered owner may apply to the commissioner for new registration plates, which must bear a special series of numbers or letters so as to be readily identified by traffic law enforcement officers. The commissioner may authorize the issuance of special plates if:

- (1) the violator has a qualified licensed driver whom the violator must identify;
- (2) the violator or registered owner has a limited license issued under section 171.30;
- (3) the registered owner is not the violator and the registered owner has a valid or limited driver's license; ~~or~~
- (4) a member of the registered owner's household has a valid driver's license; ~~or~~
- (5) the violator has been reissued a valid driver's license.

(b) The commissioner may not issue new registration plates for that vehicle subject to plate impoundment for a period of at least one year from the date of the impoundment order and until the next regularly scheduled registration date following the impoundment period. In addition, if the owner is the violator, new registration plates may not be issued for the vehicle unless the person has been reissued a valid driver's license in accordance with chapter 171.

(c) A violator may not apply for new registration plates for a vehicle at any time before the person's driver's license is reinstated.

(d) The commissioner may issue the special plates on payment of a \$50 fee for each vehicle for which special plates are requested.

(e) Paragraphs (a) to (d) notwithstanding, the commissioner must issue upon request new registration plates for a vehicle for which the registration plates have been impounded if:

- (1) the impoundment order is rescinded;
- (2) the vehicle is transferred in compliance with subdivision 14; or
- (3) the vehicle is transferred to a Minnesota automobile dealer licensed under section 168.27, a financial institution that has submitted a repossession affidavit, or a government agency.

Sec. 11. Minnesota Statutes 2000, section 169A.60, subdivision 14, is amended to read:

Subd. 14. [SALE OF VEHICLE SUBJECT TO IMPOUNDMENT ORDER.] (a) A registered owner may not sell or transfer a motor vehicle during the time its registration plates have been ordered impounded or during the time its registration plates bear a special series number, unless:

(1) the sale is for a valid consideration;

(2) the transferee ~~does~~ and the registered owner:

(i) are not, and have not been, related by blood, adoption, or marriage;

(ii) do not reside in the same household as the registered owner; and

(iii) do not have, and have not had at any time, a significant relationship with one another;

(3) the transferee signs an acceptable sworn statement with the commissioner attesting that:

(i) the transferee and the violator do not have, and have not had at any time, a significant relationship with one another;

(ii) the transferee understands that the vehicle is subject to an impoundment order; and

(iii) it is a crime under section 169A.37 to file a false statement under this section or to allow the previously registered owner to drive, operate, or be in control of the vehicle during the impoundment period; and

(4) all elements of section 168A.10 (transfer of interest by owner) are satisfied.

(b) If the conditions of paragraph (a) are satisfied, the registrar may then transfer the title to the new owner upon proper application and issue new registration plates for the vehicle."

Page 11, delete lines 21 to 31 and insert:

"(c) When asked by a peace officer during the course of treatment of a person, a health care professional must report to the officer the following information about the person who is being treated by the professional for an injury resulting from a motor vehicle, off-road recreational vehicle, motorboat, or airplane crash when there is any indication that the person has consumed alcohol or a controlled substance:

(1) the person's name;

(2) any observed indicia of alcohol or controlled substance consumption or impairment;

(3) any statements made by the person indicating any consumption of alcohol or a controlled substance; and

(4) the results of any laboratory tests performed on the person that indicate a blood alcohol level or the presence of a controlled substance in the person's body.

This paragraph must not be construed to require the health care professional to perform any additional laboratory or other diagnostic tests that would otherwise not be performed during the course of treatment, or to document any observations or conditions that would not otherwise be documented for examination and treatment purposes."

Page 12, after line 5, insert:

"Subd. 4. [IMMUNITY; CIVIL AND CRIMINAL.] Any person reporting in good faith and exercising due care has immunity from any liability, civil or criminal, that otherwise might result by reason of the person's actions pursuant to this section. No cause of action, civil or criminal, may be brought against any person for not making a report pursuant to this section."

Page 12, line 16, delete "1 to 7 and 9 to 12" and insert "3 to 12 and 14 to 17"

Page 12, line 17, delete "8" and insert "13"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "adding definitions;"

Page 1, line 19, after the semicolon, insert "modifying registration plate impoundment provisions;"

Page 1, line 31, after "sections" insert "169A.03, by adding subdivisions;"

Page 1, line 32, after the second semicolon, insert "169A.37, subdivision 1;"

Page 1, line 34, delete "subdivision 1" and insert "subdivisions 1, 13, 14"

Page 1, line 37, delete "sections" and insert "section"

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

The report was adopted.

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

H. F. No. 1446, A bill for an act relating to family law; reforming and recodifying the law relating to marriage dissolution, child custody, child support, maintenance, and property division; making style and form changes; amending Minnesota Statutes 2000, sections 518.002; 518.003, subdivisions 1 and 3; 518.005; 518.01; 518.02; 518.03; 518.04; 518.05; 518.055; 518.06; 518.07; 518.09; 518.10; 518.11; 518.12; 518.13; 518.131; 518.14, subdivision 1; 518.148; 518.155; 518.156; 518.157, subdivisions 1, 2, 3, 5, and 6; 518.158, subdivisions 2 and 4; 518.165; 518.166; 518.167, subdivisions 3, 4, and 5; 518.168; 518.1705, subdivision 6; 518.175, subdivisions 1, 1a, 2, 3, 5, 6, 7, and 8; 518.1751, subdivisions 1b, 2, 2a, 2b, 2c, and 3; 518.176; 518.177; 518.178; 518.179, subdivision 1; 518.18; 518.24; 518.25; 518.54, subdivisions 1, 5, 6, 7, and 8; 518.55; 518.552; 518.58; 518.581; 518.582; 518.612; 518.619; 518.62; 518.64, subdivisions 1 and 2; 518.641; 518.642; 518.646; and 518.65; proposing coding for new law in Minnesota Statutes, chapters 517A; and 518; proposing coding for new law as Minnesota Statutes, chapters 517B; and 517C; repealing Minnesota Statutes 2000, sections 518.111; 518.17; 518.171; 518.185; 518.255; 518.54, subdivisions 2, 4a, 13, and 14; 518.551; 518.5513; 518.553; 518.57; 518.575; 518.585; 518.5851; 518.5852; 518.5853; 518.61; 518.6111; 518.614; 518.615; 518.616; 518.617; 518.618; 518.6195; 518.64, subdivisions 4, 4a, and 5; and 518.66.

Reported the same back with the following amendments:

Page 14, lines 5 and 6, strike "noncustodial"

Page 21, line 7, strike "custodial"

Page 21, line 8, after "parent" insert "with whom the child resides"

Page 21, line 9, strike "noncustodial" and insert "other"

Page 22, line 12, strike "is the custodian of" and insert "if" and strike "whose" and insert "resides with the spouse and the child's"

Page 22, line 13, strike "custodian" and insert "spouse"

Page 22, line 25, strike "custodian" and insert "caretaker"

Page 40, line 27, delete "custodial"

Page 40, line 30, delete "proposed custodian" and insert "parent"

Page 41, line 21, delete "proposed custodian" and insert "parent"

Page 41, line 22, delete "custodian's" and insert "parent's"

Page 44, line 11, strike "noncustodial"

Page 50, line 18, strike "custodian" and insert "with which parent the child would reside"

Page 53, line 20, strike "noncustodial" and insert "the"

Page 53, lines 21, 26, and 30, strike "noncustodial"

Page 54, line 17, strike "custodial"

Page 54, line 20, strike "noncustodial" and insert "other" and strike "custodial" and after the second "parent" insert "with whom the child resides"

Page 54, line 24, strike "custodial and noncustodial"

Page 54, line 31, strike "NONCUSTODIAL"

Page 54, line 35, strike "the noncustodial" and insert "each"

Page 54, line 36, strike "custodial"

Page 55, line 1, after the stricken "shall" insert "with whom the child resides"

Page 55, line 2, strike "noncustodial" and insert "other"

Page 55, line 5, strike "custodial"

Page 55, line 6, after the stricken "shall" insert "with whom the child resides"

Page 55, line 8, strike the first "noncustodial" and insert "other" and after "the" strike "noncustodial" and insert "other"

Page 55, line 10, strike "noncustodial" and insert "other"

Page 55, line 25, strike "noncustodial"

Page 55, line 27, strike "the custodial" and insert "a"

Page 55, line 28, strike "custodial"

Page 55, line 34, strike "custodial" and insert "other"

Page 56, lines 10 and 24, strike "person" and insert "parent"

Page 56, line 12, strike "custodial" and after "parent" insert "who has caused the deprivation" and strike everything after the first "to"

Page 56, line 13, strike "compensate for the" and insert "allow compensatory" and strike everything after "time"

Page 56, line 14, strike "deprived" and insert "to the other parent"

Page 57, line 28, before "CARE" insert "ADDITIONAL PARENTING TIME FOR" and strike "BY NONCUSTODIAL PARENT"

Page 58, line 19, strike "custodial" and strike "a noncustodial" and insert "the other"

Page 58, line 20, strike "noncustodial"

Page 58, line 21, strike "a custodial" and insert "the other"

Page 62, line 32, strike "custodian" and insert "parent with whom the child resides"

Page 63, line 1, delete "noncustodial" and insert "other"

Page 63, line 3, strike "custodian's"

Page 63, line 4, after "authority" insert "of the parent with whom the child resides"

Page 66, line 21, reinstate the stricken "the" and delete "a" and strike "noncustodial parent's" and insert "obligor's"

Page 66, line 23, delete "a custodial parent" and insert "the obligee"

Page 66, lines 25 and 26, delete "noncustodial parent" and insert "obligor"

Page 67, line 30, delete "noncustodial" and insert "other"

Page 71, after line 17, insert:

"Section 1. Minnesota Statutes 2000, section 256.9791, is amended to read:

256.9791 [MEDICAL SUPPORT BONUS INCENTIVES.]

Subdivision 1. [BONUS INCENTIVE.] (a) A bonus incentive program is created to increase the identification and enforcement by county agencies of dependent health insurance coverage for ~~persons who are receiving medical assistance under section 256B.055 and~~ children and family units for whom the county agency is providing child support enforcement services.

(b) The bonus shall be awarded to a county child support agency for each person child for whom coverage is identified and enforced by the child support enforcement program when ~~the obligor is under~~ a court order to provide dependent health ~~insurance~~ coverage is in effect.

(c) Bonus incentive funds under this section must be reinvested in the county child support enforcement program and a county may not reduce funding of the child support enforcement program by the amount of the bonus earned.

Subd. 2. [DEFINITIONS.] For the purpose of this section, the following definitions apply.

(a) "Case" means a family unit ~~that is receiving medical assistance under section 256B.055 and~~ for whom the county agency is providing child support enforcement services.

(b) "Commissioner" means the commissioner of the department of human services.

(c) "County agency" means the county child support enforcement agency.

(d) "Coverage" means initial dependent health insurance benefits for a case or ~~individual member~~ child of a case, or medical assistance under section 256B.055 and MinnesotaCare under section 256L.07.

(e) "Enforce" or "enforcement" means obtaining proof of current or future dependent health ~~insurance~~ coverage through an overt act by the county agency.

(f) "Enforceable order" means a child support court order containing the statutory language in section ~~518.171~~ 517C.15 or other language ordering ~~an obligor~~ a parent to provide dependent health ~~insurance~~ coverage.

(g) "Identify" or "identification" means obtaining proof of dependent health ~~insurance~~ coverage through an overt act by the county agency.

Subd. 3. [ELIGIBILITY; REPORTING REQUIREMENTS.] (a) In order for a county to be eligible to claim a bonus incentive payment, the county agency must provide the required information for each ~~public assistance~~ case no later than June 30 of each year to determine eligibility. The public authority shall use the information to establish for each county the number of cases in which (1) the court has established an obligation for coverage ~~by the obligor~~, and (2) coverage was in effect as of June 30.

(b) A county that fails to provide the required information by June 30 of each fiscal year is not eligible for any bonus payments under this section for that fiscal year.

Subd. 4. [RATE OF BONUS INCENTIVE.] The rate of the bonus incentive shall be determined according to paragraph (a).

(a) When a county agency has identified or enforced coverage, the county shall receive \$50 for each ~~additional~~ person child for whom coverage is identified or enforced.

(b) Bonus payments according to paragraph (a) are limited to one bonus for each ~~covered person child~~ each time the county agency identifies or enforces previously unidentified health ~~insurance~~ coverage and apply only to coverage identified or enforced after July 1, 1990.

Subd. 5. [CLAIMS FOR BONUS INCENTIVE.] (a) Beginning July 1, 1990, county agencies shall file a claim for a medical support bonus payment by reporting to the commissioner the following information for each case where dependent health ~~insurance~~ coverage is identified or enforced as a result of an overt act of the county agency:

(1) child support enforcement system case number or county specific case number;

(2) names and dates of birth for each person child covered; and

(3) the effective date of coverage.

(b) The report must be made upon enrollment in coverage but no later than September 30 for coverage identified or established during the preceding fiscal year.

(c) The county agency making the initial contact resulting in the establishment of coverage is the county agency entitled to claim the bonus incentive even if the case is transferred to another county agency prior to the time coverage is established.

(d) Disputed claims must be submitted to the commissioner and the commissioner's decision is final.

Subd. 6. [DISTRIBUTION.] (a) Bonus incentives must be issued to the county agency quarterly, within 45 days after the last day of each quarter for which a bonus incentive is being claimed, and must be paid up to the limit of the appropriation in the order in which claims are received.

(b) Total bonus incentives must be computed by multiplying the number of ~~persons~~ children included in claims submitted in accordance with this section by the applicable bonus payment as determined in subdivision 4.

(c) The county agency must repay any bonus erroneously issued.

(d) A county agency must maintain a record of bonus incentives claimed and received for each quarter."

Page 75, line 35, delete "custodial" and after "parent" insert "with whom the child resides"

Page 76, line 1, delete "noncustodial" and insert "other"

Page 85, line 3, delete "noncustodial" and after "parent" insert "with whom the child does not reside"

Page 85, line 4, delete "custodial" and after "parent" insert "with whom the child resides"

Page 85, line 5, delete "noncustodial"

Page 85, line 6, after "parent" insert "with whom the child does not reside"

Page 85, delete lines 27 to 30

Page 88, line 20, delete "custodial"

Page 88, line 21, after "parent" insert "with whom the child resides"

Page 89, after line 17, insert:

"(b) If both parties have health care coverage available for a child, and the court determines under paragraph (a), clauses (1) and (2), that the available coverage is comparable with regard to accessibility and comprehensiveness, the least costly health care coverage is the appropriate health care coverage for the child."

Page 89, line 34, delete "custodial" and after "parent" insert "with whom the child resides"

Page 90, lines 1, 2, 5, 13, and 18, delete "noncustodial" and after "parent" insert "with whom the child does not reside"

Page 90, line 4, delete "custodial" and insert "other"

Page 90, line 10, delete "based on the best interests of the child"

Page 90, line 11, after the period, insert "If the court determines under subdivision 3, paragraph (a), clauses (1) and (2), that the parties' health care coverage for the child is comparable with regard to accessibility and comprehensiveness, the court must order the party with the least costly health care coverage to carry coverage for the child."

Page 90, line 23, delete "custodial party" and insert "parent with whom the child resides"

Page 96, line 14, delete "a noncustodial parent" and insert "the parent with whom the child does not reside"

Page 96, line 15, delete "a custodial parent" and insert "the parent with whom the child resides"

Page 96, line 16, delete "noncustodial" and after "parent" insert "with whom the child does not reside"

Page 96, line 17, delete "custodial" and insert "other"

Page 96, line 19, delete "noncustodial" and after "parent" insert "with whom the child does not reside"

Page 98, line 36, delete "custodial"

Page 104, delete lines 30 to 32 and insert:

"(7) the child spends between 33 and 45 percent of overnights with the obligor pursuant to a court order or with the consent of the obligee, which results in an increased financial burden on the obligor."

Page 108, lines 14 and 15, delete "a custodial parent" and insert "an obligee"

Page 108, lines 16 and 17, delete "noncustodial parent" and insert "obligor"

Page 108, line 19, delete "noncustodial parent's" and insert "obligor's"

Page 108, line 34, delete "noncustodial parent" and insert "obligor"

Page 141, line 9, delete "leave"

Page 141, line 11, delete "the noncustodial" and insert "of a" and after "parent" insert "who has been given parenting time"

Page 141, lines 13 and 14, delete "the noncustodial" and insert "of a" and after "parent" insert "who has been given parenting time"

Page 141, line 17, delete "the noncustodial" and insert "of a" and after "parent" insert "who has been given parenting time"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "clarifying certain medical support bonus incentive provisions;"

Page 1, line 6, after "sections" insert "256.9791;"

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

The report was adopted.

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

H. F. No. 1483, A bill for an act relating to human services; requiring the commissioner of human services to establish and administer a direct support professional incentive program; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 252.

Reported the same back with the following amendments:

Page 3, delete lines 11 to 18

Page 3, line 19, delete "(c)" and insert "(b)"

Page 3, line 32, delete "(d)" and insert "(c)"

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.

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

H. F. No. 1502, A bill for an act relating to agriculture; extending certain advisory committees and a review board; changing a name; amending Minnesota Statutes 2000, sections 15.059, subdivision 5a; 17.136; 18B.305, subdivision 3; and 28A.20.

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

The report was adopted.

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

H. F. No. 1517, A bill for an act relating to human services; establishing requirements for swimming pools at family day care or group family day care homes; making municipalities immune from liability for claims based upon a provider's failure to comply with requirements for swimming pools at family day care or group family day care homes; amending Minnesota Statutes 2000, sections 144.1222, by adding a subdivision; 245A.14, by adding a subdivision; 466.03, subdivision 6d.

Reported the same back with the following amendments:

Page 2, line 23, before "guardian" insert "legal"

Page 2, line 36, after "supervise" insert "and be present at the pool with"

Page 4, delete section 3

Amend the title as follows:

Page 1, line 4, delete everything after the semicolon

Page 1, delete lines 5 to 7

Page 1, line 10, delete "; 466.03, subdivision 6d"

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1524, A bill for an act relating to agriculture; regulating the use on turf of certain fertilizers containing phosphorus; limiting a penalty; limiting amounts of certain plant nutrients; amending Minnesota Statutes 2000, section 18C.211, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 18C.

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. 1526, A bill for an act relating to certain cities in metropolitan counties; authorizing restrictions on the operation of recreational motor vehicles; proposing coding for new law in Minnesota Statutes, chapter 465.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [EDINA; REGULATION OF RECREATIONAL MOTOR VEHICLES.]

Subdivision 1. [DEFINITION.] As used in this section, the term "recreational motor vehicle" means an off-highway motorcycle as defined in Minnesota Statutes, section 84.787, subdivision 7, and off-road vehicle as defined in Minnesota Statutes, section 84.797, subdivision 7, or an all-terrain vehicle as defined in Minnesota Statutes, section 84.92, subdivision 8.

Subd. 2. [CITY AUTHORITY TO REGULATE.] The city of Edina may impose restrictions on the operation of recreational motor vehicles on property owned by the operator if the property is three or fewer acres in area.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following its final enactment without local approval."

Delete the title and insert:

"A bill for an act relating to local government; authorizing the city of Edina to regulate the operation of recreational motor vehicles."

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. 1531, A bill for an act relating to human services; providing services to young adults for transitional services; increasing community-based mental health services; amending Minnesota Statutes 2000, sections 245.4886, subdivision 1; 245.99, subdivision 4; 253.28, by adding a subdivision; and 256B.0625, subdivision 20, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 245; and 256B.

Reported the same back with the following amendments:

Page 2, delete section 2

Page 3, line 7, delete "other" and insert "mental health"

Page 3, line 10, before the period, insert "including reducing the income eligibility level, limiting reimbursement to a percentage of each recipient's costs, limiting housing assistance to 60 days per recipient, or closing the program for the remainder of the fiscal year"

Page 3, delete section 4

Page 3, line 34, before the period, insert "according to section 62Q.53"

Page 4, line 7, after "are" insert "also"

Page 4, line 14, delete "and mental" and insert ", relapse prevention skills,"

Page 4, line 33, delete "operationalize the discharge of the recipient" and insert "maintain continuity of contact between the rehabilitation services provider and the recipient and which facilitate discharge"

Page 5, line 2, delete everything after "services" and insert a period

Page 5, delete lines 3 and 4

Page 5, line 5, after "recipient" insert "is an individual"

Page 5, delete line 11 and insert "three or more of the areas listed in section 245.462, subdivision 11a, so that"

Page 6, line 1, delete "with cause"

Page 6, line 2, before the period, insert "for cause"

Page 7, after line 19, insert:

"(g) The commissioner shall develop statewide procedures for provider certification, including timelines for counties to certify qualified providers."

Page 10, line 11, after "mental" insert "health"

Page 13, lines 27, 30, and 31, delete "should" and insert "must"

Page 14, line 31, before "section" insert "the requirements relating to referrals for case management in"

Page 15, line 3, delete "Rule 36" and after "facility" insert "licensed under Minnesota Rules, parts 9520.0500 to 9520.0670 (Rule 36)"

Page 15, line 4, delete "board and lodging."

Page 15, delete lines 16 to 19

Page 15, line 20, delete "14" and insert "13"

Page 16, line 6, delete "and"

Page 16, line 8, before the period, insert "; and

(11) any services provided by a hospital, board and lodging, or residential facility to an individual who is a patient in or resident of that facility"

Page 16, delete lines 9 to 24

Page 16, line 25, delete "16" and insert "14"

Page 17, line 10, delete "subdivisions 10 and 13" and insert "subdivision 10"

Page 17, line 22, delete "poses" and insert "causes"

Page 17, delete lines 23 and 24 and insert "need for mental health services and is consistent with section 62Q.55."

Page 18, lines 9 and 12, delete "should" and insert "must"

Page 18, line 15, delete "an" and insert "a mental health crisis"

Page 18, delete lines 20 to 23

Page 18, line 24, delete "functional level" and insert "individualized mental health services provided to a recipient following crisis intervention services which are designed to restore the recipient to the recipient's prior functional level. Mental health crisis stabilization services may be provided in the recipient's home, the home of a family member or friend of the recipient, another community setting, or a short-term supervised, licensed residential program"

Page 18, line 35, delete everything after "necessary" and insert a period

Page 18, delete line 36

Page 20, line 27, before the period, insert "including safety of staff and recipients in high risk situations"

Page 21, line 9, delete "corrections department, and" and after "services" insert ", and local law enforcement"

Page 21, after line 10, insert:

"Subd. 6. [INITIAL SCREENING, CRISIS ASSESSMENT, AND MOBILE INTERVENTION TREATMENT PLANNING.] (a) Prior to initiating mobile crisis intervention services, a screening of the potential crisis situation must be conducted. The screening may use the resources of crisis assistance and emergency services as defined in sections 245.462, subdivision 6, and 245.469, subdivisions 1 and 2. The screening must gather information, determine whether a crisis situation exists, identify parties involved, and determine an appropriate response.

(b) If a crisis exists, a crisis assessment must be completed. A crisis assessment evaluates any immediate needs for which emergency services are needed and, as time permits, the recipient's current life situation, sources of stress, mental health problems and symptoms, strengths, cultural considerations, support network, vulnerabilities, and current functioning.

(c) If the crisis assessment determines mobile crisis intervention services are needed, the intervention services must be provided promptly. As opportunity presents during the intervention, at least two members of the mobile crisis intervention team must confer directly or by telephone about the assessment, treatment plan, and actions taken and needed. At least one of the team members must be on-site providing crisis intervention services. If providing on-site crisis intervention services, a mental health practitioner must seek clinical supervision as required in subdivision 8.

(d) The mobile crisis intervention team must develop an initial, brief crisis treatment plan as soon as appropriate but no later than 24 hours after the initial face-to-face intervention. The plan must address the needs and problems noted in the crisis assessment and include measurable short-term goals, cultural considerations, and frequency and type of services to be provided to achieve the goals and reduce or eliminate the crisis. The treatment plan must be updated as needed to reflect current goals and services.

(e) The team must document which short-term goals have been met, and when no further crisis intervention services are required.

(f) If the recipient's crisis is stabilized, but the recipient needs a referral to other services, the team must provide referrals to these services. If the recipient has a case manager, planning for other services must be coordinated with the case manager.

Subd. 7. [CRISIS STABILIZATION SERVICES.] (a) Crisis stabilization services must be provided by qualified staff of a crisis stabilization services provider entity and must meet the following standards:

(1) a crisis stabilization treatment plan must be developed which meets the criteria in subdivision 11;

(2) staff must be qualified as defined in subdivision 8; and

(3) services must be delivered according to the treatment plan and include face-to-face contact with the recipient by qualified staff for further assessment, help with referrals, updating of the crisis stabilization treatment plan, supportive counseling, skills training, and collaboration with other service providers in the community.

(b) If crisis stabilization services are provided in a supervised, licensed residential setting, the recipient must be contacted face-to-face daily by a qualified mental health practitioner or mental health professional. The program must have 24-hour-a-day residential staffing which may include staff who do not meet the qualifications in subdivision 8. The residential staff must have 24-hour-a-day immediate direct or telephone access to a qualified mental health professional or practitioner.

(c) If crisis stabilization services are provided in a supervised, licensed residential setting that serves no more than four adult residents, and no more than two are recipients of crisis stabilization services, the residential staff must include, for at least eight hours per day, at least one individual who meets the qualifications in subdivision 8.

(d) If crisis stabilization services are provided in a supervised, licensed residential setting that serves more than four adult residents, and one or more are recipients of crisis stabilization services, the residential staff must include, for 24 hours a day, at least one individual who meets the qualifications in subdivision 8. During the first 48 hours that a recipient is in the residential program, the residential program must have at least two staff working 24 hours a day. Staffing levels may be adjusted thereafter according to the needs of the recipient as specified in the crisis stabilization treatment plan."

Page 21, line 11, delete "6" and insert "8" and delete "NONRESIDENTIAL"

Page 21, line 12, after the headnote, insert "(a)" and delete "nonresidential"

Page 21, line 21, delete "with the required mental health crisis training"

Page 21, line 22, delete "is a staff" and after "who" insert "meets the criteria in section 256B.0623, subdivision 5, clause (3); works under the direction of a mental health practitioner as defined in section 245.462, subdivision 17, or under direction of a mental health professional; and works under the clinical supervision of a mental health professional."

Page 21, delete lines 23 to 28 and insert:

"(b) Mental health practitioners and mental health rehabilitation workers must have completed at least 30 hours of training in crisis intervention and stabilization during the past two years."

Page 21, delete lines 29 to 36

Page 22, delete lines 1 to 13

Page 22, line 14, delete "8" and insert "9"

Page 22, line 34, after "second" insert "calendar"

Page 23, delete lines 3 to 36

Page 24, delete lines 1 to 4

Page 24, delete lines 29 to 36

Page 25, delete lines 1 to 36

Page 26, delete lines 1 to 36

Page 27, delete lines 1 and 2

Page 27, line 3, delete "12" and insert "11"

Page 27, delete lines 24 to 30 and insert:

"(10) a treatment plan must be developed by a mental health professional or mental health practitioner under the clinical supervision of a mental health professional. The mental health professional must approve and sign all treatment plans."

Page 27, line 31, delete "14" and insert "12"

Page 28, delete lines 16 to 36

Page 29, delete line 1

Page 33, line 24, delete "45" and insert "43"

Page 33, line 28, after the period, insert "A recipient may initiate an appeal on behalf of a provider who has been denied certification."

Page 33, line 34, after the period, insert "The commissioner shall develop procedures for providers and recipients to appeal a county decision to refuse to enroll a provider. After the commissioner makes a decision regarding an appeal, the county, provider, or recipient may request that the commissioner reconsider the commissioner's initial decision. The commissioner's reconsideration decision is final and not subject to further appeal."

Sec. 7. Minnesota Statutes 2000, section 256B.0625, is amended by adding a subdivision to read:

Subd. 44. [MENTAL HEALTH PROVIDER TRAVEL TIME.] Medical assistance covers provider travel time if a recipient's individual treatment plan requires the provision of mental health services outside of the provider's normal place of business. This does not include any travel time which is included in other billable services, and is only covered when the mental health service being provided to a recipient is covered under medical assistance."

Renumber the sections in sequence

Correct internal references

Amend the title as follows:

Page 1, line 4, before the semicolon, insert "for adults; setting adult rehabilitative and crisis stabilization provider qualifications and standards"

Page 1, line 6, delete "253.28, by"

Page 1, line 7, delete everything before "and"

Page 1, line 8, delete "a subdivision" and insert "subdivisions"

Page 1, line 9, delete "chapters 245; and" and insert "chapter"

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.

Finseth from the Committee on Agriculture Policy to which was referred:

H. F. No. 1547, A bill for an act relating to agriculture; eliminating the late fee for renewal of a license to use the Minnesota grown logo or labeling; clarifying a term related to the Minnesota grown matching account; amending Minnesota Statutes 2000, sections 17.102, subdivision 3; and 17.109, subdivision 3.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 15.059, subdivision 5a, is amended to read:

Subd. 5a. [LATER EXPIRATION.] Notwithstanding subdivision 5, the advisory councils and committees listed in this subdivision do not expire June 30, 1997. These groups expire June 30, 2001, unless the law creating the group or this subdivision specifies an earlier expiration date.

Investment advisory council, created in section 11A.08;

Intergovernmental information systems advisory council, created in section 16B.42, expires June 30, 1999;

~~Feedlot and manure management advisory committee, created in section 17.136;~~

Aquaculture advisory committee, created in section 17.49;

Dairy producers board, created in section 17.76;

~~Pesticide applicator education and examination review board, created in section 18B.305;~~

Advisory seed potato certification task force, created in section 21.112;

~~Food safety advisory committee, created in section 28A.20;~~

Minnesota organic advisory task force, created in section 31.95;

Public programs risk adjustment work group, created in section 62Q.03;

Workers' compensation self-insurers' advisory committee, created in section 79A.02;

Youth corps advisory committee, created in section 84.0887;

Iron range off-highway vehicle advisory committee, created in section 85.013;

Mineral coordinating committee, created in section 93.002;

Game and fish fund citizen advisory committees, created in section 97A.055;

Wetland heritage advisory committee, created in section 103G.2242;

Wastewater treatment technical advisory committee, created in section 115.54;

Solid waste management advisory council, created in section 115A.12;

Nuclear waste council, created in section 116C.711;

Genetically engineered organism advisory committee, created in section 116C.93;

Environment and natural resources trust fund advisory committee, created in section 116P.06;

Child abuse prevention advisory council, created in section 119A.13;

Chemical abuse and violence prevention council, created in section 119A.293;

Youth neighborhood centers advisory board, created in section 119A.295;

Interagency coordinating council, created in section 125A.28, expires June 30, 1999;

Desegregation/integration advisory board, created in section 124D.892;

Nonpublic education council, created in section 123B.445;

Permanent school fund advisory committee, created in section 127A.30;

Indian scholarship committee, created in section 124D.84, subdivision 2;

American Indian education committees, created in section 124D.80;

Summer scholarship advisory committee, created in section 124D.95;

Multicultural education advisory committee, created in section 124D.894;

Male responsibility and fathering grants review committee, created in section 124D.33;

Library for the blind and physically handicapped advisory committee, created in section 134.31;

Higher education advisory council, created in section 136A.031;

Student advisory council, created in section 136A.031;

Cancer surveillance advisory committee, created in section 144.672;

Maternal and child health task force, created in section 145.881;

State community health advisory committee, created in section 145A.10;

Mississippi River Parkway commission, created in section 161.1419;

School bus safety advisory committee, created in section 169.435;

Advisory council on workers' compensation, created in section 175.007;

Code enforcement advisory council, created in section 175.008;

Medical services review board, created in section 176.103;

Apprenticeship advisory council, created in section 178.02;

OSHA advisory council, created in section 182.656;

Health professionals services program advisory committee, created in section 214.32;

Rehabilitation advisory council for the blind, created in section 248.10;

American Indian advisory council, created in section 254A.035;

Alcohol and other drug abuse advisory council, created in section 254A.04;

Medical assistance drug formulary committee, created in section 256B.0625;

Home care advisory committee, created in section 256B.071;

Preadmission screening, alternative care, and home and community-based services advisory committee, created in section 256B.0911;

Traumatic brain injury advisory committee, created in section 256B.093;

Minnesota commission serving deaf and hard-of-hearing people, created in section 256C.28;

American Indian child welfare advisory council, created in section 260.835;

Juvenile justice advisory committee, created in section 268.29;

Northeast Minnesota economic development fund technical advisory committees, created in section 298.2213;

Iron range higher education committee, created in section 298.2214;

Northeast Minnesota economic protection trust fund technical advisory committee, created in section 298.297;

Advisory council on battered women and domestic abuse, created in section 611A.34.

Sec. 2. Minnesota Statutes 2000, section 17.101, subdivision 5, is amended to read:

Subd. 5. [VALUE-ADDED AGRICULTURAL PRODUCT PROCESSING AND MARKETING GRANT PROGRAM.] (a) For purposes of this section:

(1) "agricultural commodity" means a material produced for use in or as food, feed, seed, or fiber and includes crops for fiber, food, oilseeds, seeds, livestock, livestock products, dairy, dairy products, poultry, poultry products, and other products or by-products of the farm produced for the same or similar use, except ethanol; and

(2) "agricultural product processing facility" means land, buildings, structures, fixtures, and improvements located or to be located in Minnesota and used or operated primarily for the processing or production of marketable products from agricultural commodities produced in Minnesota.

(b) The commissioner shall establish and implement a value-added agricultural product processing and marketing grant program to help farmers finance new cooperatives that organize for the purposes of operating agricultural product processing facilities, forming marketing cooperatives, and for marketing activities related to the sale and distribution of processed agricultural products.

(c) To be eligible for this program a grantee must:

(1) be a cooperative organized under chapter 308A;

(2) certify that all of the control and equity in the cooperative is from farmers or family farm corporations as defined in section 500.24, subdivision 2, who are actively engaged in agricultural commodity production;

(3) be operated primarily for the processing of agricultural commodities produced in Minnesota;

(4) receive agricultural commodities produced primarily by shareholders or members of the cooperative; and

(5) have no direct or indirect involvement in the production of agricultural commodities.

(d) The commissioner may receive applications from and make grants up to \$50,000 for feasibility, marketing analysis, assistance with organizational development, financing and managing new cooperatives, product development, development of business and marketing plans, and predesign of facilities including site analysis, development of bid specifications, preliminary blueprints and schematics, and completion of purchase agreements and other necessary legal documents to eligible cooperatives. The commissioner shall give priority to applicants who use the grants for planning costs related to an application for financial assistance from the United States Department of Agriculture, Rural Business - Cooperative Service.

Sec. 3. Minnesota Statutes 2000, section 17.102, subdivision 3, is amended to read:

Subd. 3. [LICENSE.] A person may not use the Minnesota grown logo or labeling without an annual license from the commissioner. The commissioner shall issue licenses for a fee of \$5. ~~The commissioner shall charge a late fee of \$10 for renewal of a license that has expired.~~

Sec. 4. Minnesota Statutes 2000, section 17.109, subdivision 3, is amended to read:

Subd. 3. [APPROPRIATIONS MUST BE MATCHED BY PRIVATE FUNDS.] Appropriations to the Minnesota grown matching account may be expended only to the extent that they are matched with contributions to the account from private sources on a basis of \$4 of the appropriation to each \$1 of private contributions. Matching funds are not available after the appropriation is encumbered. For the purposes of this subdivision, "private contributions" includes, but is not limited to, advertising revenue, listing fees, and revenues from the development and sale of promotional materials.

Sec. 5. Minnesota Statutes 2000, section 17.115, is amended to read:

17.115 [SHARED SAVINGS LOAN PROGRAM.]

Subdivision 1. [ESTABLISHMENT.] The commissioner shall establish a shared savings loan program to provide loans that enable farmers to adopt best management practices that emphasize sufficiency and self-sufficiency in agricultural inputs, including energy efficiency, reduction or improved management of petroleum and chemical inputs, and increasing the energy self-sufficiency of production by agricultural producers, and environmental improvements.

Subd. 2. [LOAN CRITERIA.] (a) The shared savings loan program must provide loans for purchase of new or used machinery; ~~and installation of equipment, and for projects that reduce or make more efficient farm energy use~~ make environmental improvements or enhance farm profitability. Eligible loan uses do not include seed, fertilizer, or fuel.

(b) Loans may not exceed ~~\$15,000~~ \$25,000 per individual applying for a loan and may not exceed ~~\$75,000~~ \$100,000 for loans to ~~five~~ four or more individuals on joint projects. The loan repayment period may be up to seven years as determined by project cost and energy savings. The interest on the loans is six percent.

(c) Loans may only be made to residents of this state engaged in farming.

Subd. 3. [AWARDING OF LOANS.] (a) Applications for loans must be made to the commissioner on forms prescribed by the commissioner.

(b) The applications must be reviewed, ranked, and recommended by a loan review panel appointed by the commissioner. The loan review panel shall consist of two lenders with agricultural experience, two resident farmers of the state using sustainable agriculture methods, two resident farmers of the state using organic agriculture methods, a farm management specialist, a representative from a post-secondary education institution, and a chair from the department.

(c) The loan review panel shall rank applications according to the following criteria:

(1) realize savings to the cost of agricultural production ~~and project savings to repay the cost of the loan;~~

(2) reduce or make more efficient use of energy or inputs; ~~and~~

(3) ~~reduce production costs~~ increase overall farm profitability; ~~and~~

(4) result in environmental benefits.

(d) A loan application must show that the loan can be repaid by the applicant.

(e) The commissioner must consider the recommendations of the loan review panel and may make loans for eligible projects. ~~Priority must be given based on the amount of savings realized by adopting the practice implemented by the loan.~~

Subd. 4. [ADMINISTRATION; INFORMATION DISSEMINATION.] The amount in the revolving loan account is appropriated to the commissioner to make loans under this section and administer the loan program. The interest on the money in the revolving loan account and the interest on loans repaid to the state may be spent by the commissioner for administrative expenses. The commissioner shall collect and disseminate information relating to projects for which loans are given under this section.

Subd. 5. [FARM MANURE DIGESTER TECHNOLOGY.] Appropriations in Laws 1998, chapter 401, section 6, must be used for revolving loans for demonstration projects of farm manure digester technology. Notwithstanding the limitations of subdivision 2, paragraphs (b) and (c), loans under this subdivision are no-interest loans in principal amounts not to exceed \$200,000 and may be made to any resident of this state. Loans for one or more projects must be made only after the commissioner seeks applications. Loans under this program may be used as a match for federal loans or grants. Money repaid from loans must be returned to the revolving fund for future projects.

Sec. 6. Minnesota Statutes 2000, section 17.116, is amended to read:

17.116 [SUSTAINABLE AGRICULTURE DEMONSTRATION GRANTS.]

Subdivision 1. [ESTABLISHMENT.] The commissioner ~~of agriculture~~ shall establish a grant program for sustainable agriculture methods that demonstrates best management practices, including farm input reduction or management, enterprise diversification including new crops and livestock, farm energy efficiency; or usable on-farm energy production, or the transfer of technologies that enhance the environment and farm profitability. The commissioner shall use the program to demonstrate and publicize the energy efficiency, environmental benefit, and profitability of sustainable agriculture techniques or systems from production through marketing. The grants must fund research or demonstrations on farms of external input reduction techniques or farm scale energy production methods consistent with the program objectives.

Subd. 2. [ELIGIBILITY.] (a) Grants may only be made to farmers, educational institutions, individuals at educational institutions, or nonprofit organizations residing or located in the state for research or demonstrations on farms in the state.

(b) Grants may only be made for projects that show:

- (1) the ability to maximize direct or indirect energy savings or production;
- (2) a positive effect or reduced adverse effect on the environment; and
- (3) increased profitability for the individual farm by reducing costs or improving marketing opportunities.

Subd. 3. [AWARDING OF GRANTS.] (a) Applications for grants must be made to the commissioner on forms prescribed by the commissioner.

(b) The applications must be reviewed, ranked, and recommended by a technical review panel appointed by the commissioner. The technical review panel shall consist of a soil scientist, an agronomist, a representative from a post-secondary educational institution, an agricultural marketing specialist, two resident farmers of the state using sustainable agriculture methods, two resident farmers of the state using organic agriculture methods, and a chair from the department.

(c) The technical review panel shall rank applications according to the following criteria:

- (1) direct or indirect energy savings or production;
- (2) environmental benefit;
- (3) farm profitability;

- (4) the number of farms able to apply the techniques or the technology proposed;
- (5) the effectiveness of the project as a demonstration;
- (6) the immediate transferability of the project to farms; and
- (7) the ability of the project to accomplish its goals.

(d) The commissioner shall consider the recommendations of the technical review panel and may award grants for eligible projects. Priority must be given to applicants who are farmers or groups of farmers.

(e) Grants for eligible projects may not exceed \$25,000 unless the portion above \$25,000 is matched on an equal basis by the applicant's cash or in-kind land use contribution. Grant funding of projects may not exceed \$50,000 under this section, but applicants may utilize other funding sources. A portion of each grant must be targeted for public information activities of the project.

(f) A project may continue for up to three years. Multiyear projects must be reevaluated by the technical review panel and the commissioner before second or third year funding is approved. A project is limited to one grant for its funding.

Sec. 7. Minnesota Statutes 2000, section 17.136, is amended to read:

17.136 [ANIMAL FEEDLOTS; POLLUTION CONTROL; FEEDLOT AND MANURE MANAGEMENT ADVISORY COMMITTEE.]

(a) The commissioner of agriculture and the commissioner of the pollution control agency shall establish a feedlot and manure management advisory committee to identify needs, goals, and suggest policies for research, monitoring, and regulatory activities regarding feedlot and manure management. In establishing the committee, the commissioner shall give first consideration to members of the existing feedlot advisory group.

(b) The committee must include representation from beef, dairy, pork, chicken, and turkey producer organizations. The committee shall not exceed 21 members, but, ~~after June 30, 1999~~, must include representatives from at least four environmental organizations, eight livestock producers, four experts in soil and water science, nutrient management, and animal husbandry, one commercial solid manure applicator who is not a producer, one commercial liquid manure applicator who is not a producer, and one member from an organization representing local units of government, and chairs of the senate and the house of representatives committees that deal with agricultural policy or the designees of the chairs. In addition, the departments of agriculture, health, and natural resources, the pollution control agency, board of water and soil resources, soil and water conservation districts, the federal Natural Resource Conservation Service, the association of Minnesota counties, and the Farm Service Agency shall serve on the committee as ex officio nonvoting members.

(c) The advisory committee shall elect a chair and a vice-chair from its members. The department and the agency shall provide staff support to the committee.

(d) The commissioner of agriculture and the commissioner of the pollution control agency shall consult with the advisory committee during the development of any policies, rules, or funding proposals or recommendations relating to feedlots or feedlot-related manure management.

(e) The commissioner of agriculture shall consult with the advisory committee on establishing a list of manure management research needs and priorities.

(f) The advisory committee shall advise the commissioners on other appropriate matters.

(g) Nongovernment members of the advisory committee shall receive expenses, in accordance with section 15.059, subdivision 6. The advisory committee expires on June 30, ~~2001~~ 2004.

Sec. 8. Minnesota Statutes 2000, section 18B.305, subdivision 3, is amended to read:

Subd. 3. [PESTICIDE APPLICATOR EDUCATION AND EXAMINATION REVIEW BOARD.] (a) The commissioner shall establish and chair a pesticide applicator education and examination review board. This board, consisting of 15 members, must meet at least once a year before the initiation of pesticide educational planning programs. The purpose of the board is to discuss topics of current concern that can be incorporated into pesticide applicator training sessions and appropriate examinations. This board shall review and evaluate the various educational programs recently conducted and recommend options to increase overall effectiveness.

(b) Membership on this board must include applicators representing various licensing categories, such as agriculture, turf and ornamental, aerial, aquatic, and structural pest control and private pesticide applicators, and other governmental agencies, including the University of Minnesota, the pollution control agency, department of health, department of natural resources, and department of transportation.

(c) Membership on the board must include representatives from environmental protection organizations.

(d) This board shall review licensing and certification requirements for private, commercial, and noncommercial applicators and provide a report to the commissioner with recommendations by January 15, 1998. This board shall review category requirements and provide recommendations to the commissioner. This board expires on June 30, ~~2001~~ 2004.

Sec. 9. Minnesota Statutes 2000, section 28A.20, is amended to read:

28A.20 [FOOD SAFETY ~~ADVISORY COMMITTEE~~ TASK FORCE.]

Subdivision 1. [ESTABLISHMENT.] A food safety ~~advisory committee~~ task force is established to advise the commissioner and the legislature on food issues and food safety.

Subd. 2. [MEMBERSHIP.] (a) The food safety ~~advisory committee~~ task force consists of:

- (1) the commissioner of agriculture;
 - (2) the commissioner of health;
 - (3) a representative of the United States Food and Drug Administration;
 - (4) a representative of the United States Department of Agriculture;
 - (5) a representative of the agricultural utilization research institute;
 - (6) one person from the University of Minnesota knowledgeable in food and food safety issues; and
 - (7) nine members appointed by the governor who are interested in food and food safety, of whom:
 - (i) two persons are health or food professionals;
 - (ii) one person represents a statewide general farm organization;
 - (iii) one person represents a local food inspection agency; and
 - (iv) one person represents a food-oriented consumer group.
- (b) Members shall serve without compensation. Members appointed by the governor shall serve four-year terms.

Subd. 3. [ORGANIZATION.] (a) The ~~committee~~ task force shall meet monthly or as determined by the chair.

(b) The members of the ~~committee~~ task force shall annually elect a chair and other officers as they determine necessary.

Subd. 4. [STAFF.] The commissioner of agriculture shall provide support staff, office space, and administrative services for the ~~committee~~ task force.

Subd. 5. [DUTIES.] The ~~committee~~ task force shall:

(1) coordinate educational efforts about various aspects of food safety;

(2) provide advice and coordination to state agencies as requested by the agencies;

(3) serve as a source of information and referral for the public, news media, and others concerned with food safety; and

(4) make recommendations to Congress, the legislature, and others about appropriate action to improve food safety in the state.

Subd. 6. [EXPIRATION.] This section expires on June 30, ~~2001~~ 2004.

Sec. 10. Minnesota Statutes 2000, section 29.23, subdivision 2, is amended to read:

Subd. 2. [EQUIPMENT.] The commissioner shall also by rule provide for minimum plant and equipment requirements for candling, grading, handling and storing eggs, and shall define candling. Equipment in use before July 1, 1991, that does not meet the design and fabrication requirements of this chapter may remain in use if it is in good repair, capable of being maintained in a sanitary condition, and capable of maintaining a temperature of ~~50~~ 45 degrees Fahrenheit (~~10~~ 7 degrees Celsius) or less.

Sec. 11. Minnesota Statutes 2000, section 29.23, subdivision 3, is amended to read:

Subd. 3. [EGG TEMPERATURE.] Eggs must be held at a temperature not to exceed ~~50~~ 45 degrees Fahrenheit (~~10~~ 7 degrees Celsius) after being received by the egg handler except for cleaning, sanitizing, grading, and further processing when they must immediately be placed under refrigeration that is maintained at 45 degrees Fahrenheit (7 degrees Celsius) or below. Eggs offered for retail sale must be held at a temperature not to exceed 45 degrees Fahrenheit (7 degrees Celsius). ~~After August 1, 1992, eggs offered for retail sale must be held at a temperature not to exceed 45 degrees Fahrenheit (7 degrees Celsius).~~ Equipment in use prior to August 1, 1991, is not subject to this requirement.

Sec. 12. Minnesota Statutes 2000, section 29.23, subdivision 4, is amended to read:

Subd. 4. [VEHICLE TEMPERATURE.] A vehicle used for the transportation of shell eggs from a warehouse, retail store, candling and grading facility, or egg holding facility must have an ambient air temperature of ~~50~~ 45 degrees Fahrenheit (~~10~~ 7 degrees Celsius) or below.

Sec. 13. Minnesota Statutes 2000, section 29.237, is amended to read:

29.237 [UNIFORMITY WITH FEDERAL LAW.]

Subdivision 1. [SHELL EGGS.] Federal regulations governing the grading of shell eggs and United States standards, grades, and weight classes for shell eggs, in effect on July 1, ~~1990~~ 2000, as provided by Code of Federal Regulations, title 7, part 56, are the grading and candling rules in this state, subject to amendment by the commissioner under chapter 14, the Administrative Procedure Act.

Subd. 2. [INSPECTION.] Federal regulations governing the inspection of eggs and egg products, in effect on May 1, ~~1990~~ 2000, as provided by Code of Federal Regulations, title 7, part 59, are the inspection of egg and egg products rules in this state, subject to amendment by the commissioner under chapter 14, the Administrative Procedure Act.

Sec. 14. Minnesota Statutes 2000, section 31.101, is amended by adding a subdivision to read:

Subd. 12. [DAIRY GRADE RULES; MANUFACTURING PLANT STANDARDS.] Federal grading and inspection standards for manufacturing dairy plants and products and amendments thereto in effect on January 1, 2001, as provided by Code of Federal Regulations, title 7, part 58, subparts B-W, are adopted as the dairy grade rules and manufacturing plant standards in this state.

Sec. 15. Minnesota Statutes 2000, section 31A.21, subdivision 2, is amended to read:

Subd. 2. [FEDERAL ASSISTANCE.] In its cooperative efforts, the Minnesota department of agriculture may accept from the United States Secretary of Agriculture (1) advisory assistance in planning and otherwise developing the state program, (2) technical and laboratory assistance and training, including necessary curricular and instructional materials and equipment, and (3) financial and other aid for the administration of the program. ~~The Minnesota department of agriculture may spend a sum for administration of this chapter equal to 50 percent of the estimated total cost of the cooperative program.~~

Sec. 16. Minnesota Statutes 2000, section 32.21, subdivision 4, is amended to read:

Subd. 4. [PENALTIES.] (a) A person, other than a milk producer, who violates this section is guilty of a misdemeanor or subject to a civil penalty up to \$1,000.

(b) A milk producer may not change milk plants within 30 days, without permission of the commissioner, after receiving notification from the commissioner under paragraph (c) or (d) that the milk producer has violated this section.

(c) A milk producer who violates subdivision 3, clause (1), (2), (3), (4), or (5), is subject to clauses (1) to (3) of this paragraph.

(1) Upon notification of the first violation in a 12-month period, the producer must meet with the dairy plant field service representative to initiate corrective action within 30 days.

(2) Upon the second violation within a 12-month period, the producer is subject to a civil penalty of \$300. The commissioner shall notify the producer by certified mail stating the penalty is payable in 30 days, the consequences of failure to pay the penalty, and the consequences of future violations.

(3) Upon the third violation within a 12-month period, the producer is subject to an additional civil penalty of \$300 and possible revocation of the producer's permit or certification. The commissioner shall notify the producer by certified mail that all civil penalties owed must be paid within 30 days and that the commissioner is initiating administrative procedures to revoke the producer's permit or certification to sell milk for at least 30 days.

(d) The producer's shipment of milk must be immediately suspended if the producer is identified as an individual source of milk containing residues causing a bulk load of milk to test positive in violation of subdivision 3, clause (6) or (7). The Grade A or manufacturing grade permit must be converted to temporary status for not more than 30 days and shipment may resume only after subsequent milk has been sampled by the commissioner or the commissioner's agent and found to contain no residues above established tolerances or safe levels.

The Grade A or manufacturing grade permit may be restored if the producer completes the "Milk and Dairy Beef Residue Prevention Protocol" with a licensed veterinarian, displays the signed certificate in the milkhouse, and sends verification to the commissioner within the 30-day temporary permit status period. If the producer does not comply

within the temporary permit status period, the Grade A or manufacturing grade permit must be suspended. A milk producer whose milk supply is in violation of subdivision 3, clause (6) or (7), and has caused a bulk load to test positive is subject to clauses (1) to (3) of this paragraph.

(1) For the first violation in a 12-month period, the penalty is the value of all milk on the contaminated load plus any costs associated with the disposition of the contaminated load. Future pick-ups are prohibited until subsequent testing reveals the milk is free of drug residue. A farm inspection must be completed by the plant representative and the producer to determine the cause of the residue and actions required to prevent future violations.

(2) For the second violation in a 12-month period, the penalty is the value of all milk on the contaminated load plus any costs associated with the disposition of the contaminated load. Future pick-ups are prohibited until subsequent testing reveals the milk is free of drug residue. A farm inspection must be completed by the regulatory agency or its agent to determine the cause of the residue and actions required to prevent future violations.

(3) For the third violation in a 12-month period, the penalty is the value of all milk on the contaminated load plus any costs associated with the disposition of the contaminated load. Future pick-ups are prohibited until subsequent testing reveals the milk is free of drug residue. The commissioner or the commissioner's agent shall also notify the producer by certified mail that the commissioner is initiating administrative procedures to revoke the producer's right to sell milk for a minimum of 30 days.

(4) If a bulk load of milk tests negative for residues and there is a positive producer sample on the load, no civil penalties may be assessed to the producer. The plant must report the positive result within 24 hours and reject further milk shipments from that producer until the producer's milk tests negative. A farm inspection must be completed by the plant representative and the producer to determine the cause of the residue and actions required to prevent future violations. The department shall suspend the producer's permit and count the violation on the producer's record. The Grade A or manufacturing grade permit must be converted to temporary status for not more than 30 days during which time the producer must review the "Milk and Dairy Beef Residue Prevention Protocol" with a licensed veterinarian, display the signed certificate in the milkhouse, and send verification to the commissioner. If these conditions are met, the Grade A or manufacturing grade permit must be reinstated. If the producer does not comply within the temporary permit status period, the Grade A or manufacturing grade permit must be suspended.

(e) A milk producer that has been certified as completing the "Milk and Dairy Beef Residue Prevention Protocol" within 12 months of the first violation of subdivision 3, clause (7), need only review the cause of the violation with a field service representative within three days to maintain Grade A or manufacturing grade permit and shipping status if all other requirements of this section are met.

(f) Civil penalties collected under this section must be deposited in the milk inspection services account established in this chapter.

Sec. 17. Minnesota Statutes 2000, section 32.394, subdivision 4, is amended to read:

Subd. 4. [RULES.] The commissioner shall by rule promulgate identity, production and processing standards for milk, milk products and goat milk which are intended to bear the Grade A label.

In the exercise of the authority to establish requirements for Grade A milk, milk products and goat milk, the commissioner ~~may adopt~~ adopts definitions, standards of identity, and requirements for production and processing contained in the "1999 Grade A Pasteurized Milk Ordinance" and the "1995 Grade A Condensed and Dry Milk Ordinance" of the United States Department of Health and Human Services, in a manner provided for and not in conflict with law.

Sec. 18. Minnesota Statutes 2000, section 32.415, is amended to read:

32.415 [MILK FOR MANUFACTURING; QUALITY STANDARDS.]

(a) The commissioner may adopt rules to provide uniform quality standards, and producers of milk used for manufacturing purposes shall conform to the standards contained in Subparts B, C, D, E, and F of the United States Department of Agriculture Consumer and Marketing Service Recommended Requirements for Milk for Manufacturing Purposes and its Production and Processing, ~~Vol. 37 Federal Register, No. 68, Part II, April 7, 1972,~~ as revised through ~~March 1, 1997~~ November 12, 1996, except that the commissioner shall develop methods by which producers can comply with the standards without violation of religious beliefs.

(b) The commissioner shall perform or contract for the performance of the inspections necessary to implement this section or shall certify dairy industry personnel to perform the inspections.

(c) The commissioner and other employees of the department shall make every reasonable effort to assist producers in achieving the milk quality standards at minimum cost and to use the experience and expertise of the University of Minnesota and the agricultural extension service to assist producers in achieving the milk quality standards in the most cost-effective manner.

(d) The commissioner shall consult with producers, processors, and others involved in the dairy industry in order to prepare for the implementation of this section including development of informational and educational materials, meetings, and other methods of informing producers about the implementation of standards under this section.

Sec. 19. Minnesota Statutes 2000, section 32.475, subdivision 2, is amended to read:

Subd. 2. [MINNESOTA GRADES.] It is unlawful to sell, offer or expose for sale, or have in possession with intent to sell any butter at retail unless it has been graded and labeled with such grades as follows:

(a) Grade, Minnesota, AA -- ~~93 score~~ U.S. Grade AA

(b) Grade, Minnesota, A -- ~~92 score~~ U.S. Grade A

(c) Grade, Minnesota, B -- ~~90 score~~ U.S. Grade B

(d) Grade, Minnesota, undergrade -- all butter below Minnesota B.

For the purposes of this section "sale at retail" shall include all sales to a restaurant or eating establishment that serves butter to its patrons or that uses butter in the preparation of any food which is served to its patrons.

Sec. 20. Minnesota Statutes 2000, section 32.70, subdivision 7, is amended to read:

Subd. 7. [SELECTED CLASS I DAIRY PRODUCTS.] "Selected class I dairy products" means milk for human consumption in fluid form and all other class I dairy products as defined by the Upper Midwest Milk Marketing Order, Code of Federal Regulations, title 7, part ~~1068.40~~ 1030.40, or successor orders.

Sec. 21. Minnesota Statutes 2000, section 32.70, subdivision 8, is amended to read:

Subd. 8. [SELECTED CLASS II DAIRY PRODUCTS.] "Selected class II dairy products" means milk for human consumption processed into fluid cream, eggnog, yogurt, and all other class II dairy products as defined by the Upper Midwest Milk Marketing Order, Code of Federal Regulations, title 7, part ~~1068.40~~ 1030.40, or successor orders.

Sec. 22. Minnesota Statutes 2000, section 41B.025, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT.] There is created a public body corporate and politic to be known as the "Minnesota rural finance authority," which shall perform the governmental functions and exercise the sovereign powers delegated to it in sections 41B.01 to 41B.23 and chapter 41C in furtherance of the public policies and purposes declared in section 41B.01. The board of the authority consists of the commissioners of agriculture, commerce, trade and economic development, and finance, the state auditor, and six public members appointed by the governor with the advice and consent of the senate. The state auditor may designate one staff member to serve in the auditor's place. No public member may reside within the metropolitan area, as defined in section 473.121, subdivision 2. Each member shall hold office until a successor has been appointed and has qualified. A certificate of appointment or reappointment of any member is conclusive evidence of the proper appointment of the member.

Sec. 23. Minnesota Statutes 2000, section 41B.03, subdivision 2, is amended to read:

Subd. 2. [ELIGIBILITY FOR RESTRUCTURED LOAN.] In addition to the eligibility requirements of subdivision 1, a prospective borrower for a restructured loan must:

(1) have received at least 50 percent of average annual gross income from farming for the past three years or, for homesteaded property, received at least 40 percent of average gross income from farming in the past three years, and farming must be the principal occupation of the borrower;

~~(2) have a debt-to-asset ratio equal to or greater than 50 percent and in determining this ratio, the assets must be valued at their current market value;~~

~~(3) have projected annual expenses, including operating expenses, family living, and interest expenses after the restructuring, that do not exceed 95 percent of the borrower's projected annual income considering prior production history and projected prices for farm production, except that the authority may reduce the 95 percent requirement if it finds that other significant factors in the loan application support the making of the loan;~~

~~(4) demonstrate substantial difficulty in meeting projected annual expenses without restructuring the loan; and~~

~~(5) must have a total net worth, including assets and liabilities of the borrower's spouse and dependents, of less than \$400,000 in 1999 and an amount in subsequent years which is adjusted for inflation by multiplying \$400,000 by the cumulative inflation rate as determined by the United States All-Items Consumer Price Index.~~

Sec. 24. Minnesota Statutes 2000, section 41B.036, is amended to read:

41B.036 [GENERAL POWERS OF THE AUTHORITY.]

For the purpose of exercising the specific powers granted in section 41B.04 and effectuating the other purposes of sections 41B.01 to 41B.23 the authority has the general powers granted in this section.

(a) It may sue and be sued.

(b) It may have a seal and alter the seal.

(c) It may make, and from time to time, amend and repeal rules consistent with sections 41B.01 to 41B.23.

(d) It may acquire, hold, and dispose of real or personal property for its corporate purposes.

(e) It may enter into agreements, contracts, or other transactions with any federal or state agency, any person and any domestic or foreign partnership, corporation, association, or organization, including contracts or agreements for administration and implementation of all or part of sections 41B.01 to 41B.23.

(f) It may acquire real property, or an interest therein, in its own name, by purchase or foreclosure, where such acquisition is necessary or appropriate.

(g) It may provide general technical services related to rural finance.

(h) It may provide general consultative assistance services related to rural finance.

(i) It may promote research and development in matters related to rural finance.

(j) It may enter into agreements with lenders, borrowers, or the issuers of securities for the purpose of regulating the development and management of farms financed in whole or in part by the proceeds of qualified agricultural loans.

(k) It may enter into agreements with other appropriate federal, state, or local governmental units to foster rural finance. It may give advance reservations of loan financing as part of the agreements, with the understanding that the authority will only approve the loans pursuant to normal procedures, and may adopt special procedures designed to meet problems inherent in such programs.

(l) It may undertake and carry out studies and analyses of rural financing needs within the state and ways of meeting such needs including: data with respect to geographical distribution; farm size; the distribution of farm credit needs according to debt ratios and similar factors; the amount and quality of available financing and its distribution according to factors affecting rural financing needs and the meeting thereof; and may make the results of such studies and analyses available to the public and may engage in research and disseminate information on rural finance.

(m) It may survey and investigate the rural financing needs throughout the state and make recommendations to the governor and the legislature as to legislation and other measures necessary or advisable to alleviate any existing shortage in the state.

(n) It may establish cooperative relationships with such county and multicounty authorities as may be established and may develop priorities for the utilization of authority resources and assistance within a region in cooperation with county and multicounty authorities.

(o) It may contract with, use, or employ any federal, state, regional, or local public or private agency or organization, legal counsel, financial advisors, investment bankers or others, upon terms it deems necessary or desirable, to assist in the exercise of any of the powers granted in sections 41B.01 to 41B.23 and to carry out the objectives of sections 41B.01 to 41B.23 and may pay for the services from authority funds.

(p) It may establish cooperative relationships with counties to develop priorities for the use of authority resources and assistance within counties and to consider county plans and programs in the process of setting the priorities.

(q) It may delegate any of its powers to its officers or staff.

(r) It may enter into agreements with qualified agricultural lenders or others insuring or guaranteeing to the state the payment of all or a portion of qualified agricultural loans.

(s) It may enter into agreements with eligible agricultural lenders providing for advance reservations of purchases of participation interests in restructuring loans, if the agreements provide that the authority may only purchase participation interests in restructuring loans under the normal procedure. The authority may provide in an agreement for special procedures or requirements designed to meet specific conditions or requirements.

(t) It may allow farmers who are natural persons to combine programs of the federal Agriculture Credit Act of 1987 with programs of the rural finance authority.

(u) From within available funds generated by program fees, it may provide partial or full tuition assistance for farm management programs required under section 41B.03, subdivision 3, clause (7).

(v) It may provide technical information and other services and assistance to state or local government departments, agencies, and offices to maximize the utilization of Minnesota-produced agricultural products, including but not limited to ethanol and other liquid fuels.

Sec. 25. Minnesota Statutes 2000, section 41B.043, subdivision 1b, is amended to read:

Subd. 1b. [LOAN PARTICIPATION.] The authority may participate in an agricultural improvement loan with an eligible lender to a farmer who meets the requirements of section 41B.03, subdivision 1, clauses (1) and (2), and who are actively engaged in farming. Participation is limited to 45 percent of the principal amount of the loan or ~~\$100,000~~ \$125,000, whichever is less. The interest rates and repayment terms of the authority's participation interest may be different than the interest rates and repayment terms of the lender's retained portion of the loan.

Sec. 26. Minnesota Statutes 2000, section 41B.043, subdivision 2, is amended to read:

Subd. 2. [SPECIFICATIONS.] No direct loan may exceed \$35,000 or \$125,000 for a loan participation ~~or be made to refinance an existing debt~~. Each direct loan and participation must be secured by a mortgage on real property and such other security as the authority may require.

Sec. 27. Minnesota Statutes 2000, section 41B.046, subdivision 2, is amended to read:

Subd. 2. [ESTABLISHMENT.] The authority shall establish and implement a value-added agricultural product loan program to help farmers finance the purchase of stock in a cooperative that is proposing to build or purchase and operate an agricultural product processing facility or already owns and operates an agricultural product processing facility.

Sec. 28. Minnesota Statutes 2000, section 97B.001, subdivision 1, is amended to read:

Subdivision 1. [AGRICULTURAL LAND DEFINITION.] For purposes of this section, "agricultural land" means land:

- (1) that is plowed or tilled;
- (2) that has standing crops or crop residues; ~~or~~
- (3) within a maintained fence for enclosing domestic livestock;
- (4) that is planted native or introduced grassland or hay land; or
- (5) that is planted to short rotation woody crops as defined in section 41B.048, subdivision 4.

Sec. 29. [325E.165] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For the purposes of sections 325E.165 to 325E.167, the terms defined in this section have the meanings given them.

Subd. 2. [FARM TRACTOR.] "Farm tractor" means a self-propelled vehicle that is designed primarily for pulling or propelling agricultural machinery and implements and is used principally in the occupation or business of farming, including an implement of husbandry, as defined in section 169.01, subdivision 55, that is self-propelled.

Subd. 3. [PERSON.] "Person" means an individual, firm, partnership, incorporated and unincorporated association, or other legal or commercial entity.

Sec. 30. [325E.166] [CLOCK-HOUR METERS; PROHIBITED ACTS.]

Subdivision 1. [TAMPERING.] No person shall, with intent to defraud, knowingly tamper with, adjust, alter, change, set back, disconnect, or fail to connect the clock-hour meter of a farm tractor, or cause any of the foregoing to occur to a clock-hour meter of a farm tractor, so as to reflect fewer hours than the farm tractor has actually been in operation.

Subd. 2. [OPERATION WITH DISCONNECTED OR NONFUNCTIONAL METER.] No person shall, with intent to defraud, operate a farm tractor knowing that the clock-hour meter of the farm tractor is disconnected or nonfunctional.

Subd. 3. [TAMPERING DEVICE.] No person shall advertise for sale, sell, use, or install on any part of a farm tractor or on a clock-hour meter in a farm tractor a device that causes the clock-hour meter to register any hours of operation other than the true hours of operation that the clock-hour meter was designed to measure.

Subd. 4. [DISCLOSURE.] No person shall sell or offer for sale a farm tractor with knowledge that the hours registered on the clock-hour meter have been altered so as to reflect fewer hours than the farm tractor has actually been in operation, without disclosing the fact to prospective purchasers.

Subd. 5. [CONSPIRACY.] No person shall conspire with another person to violate this section.

Sec. 31. [325E.167] [PENALTIES; REMEDIES.]

Subdivision 1. [CRIMINAL PENALTY.] A person who is found to have violated sections 325E.165 to 325E.167 is guilty of a gross misdemeanor.

Subd. 2. [CIVIL PENALTY.] In addition to the penalties provided in subdivision 1, any person who is found to have violated sections 325E.165 to 325E.167 is subject to the penalties in section 8.31.

Subd. 3. [PRIVATE RIGHT OF ACTION.] A person injured by a violation of sections 325E.165 to 325E.167 may recover the actual damages sustained together with costs and disbursements, including reasonable attorney fees. The court in its discretion may increase the award of damages to an amount not to exceed three times the actual damages sustained or \$1,500, whichever is greater.

Sec. 32. [348.125] [COYOTE CONFLICT MANAGEMENT OPTION.]

A county board may, by resolution, offer a bounty for the destruction of coyotes (*Canis latrans*). The resolution may be made applicable to the whole or any part of the county. The bounty must apply during the months specified in the resolution and be in an amount determined by the board.

Sec. 33. [SUSPENSION OF RULE.]

The application of Minnesota Rules, part 1720.0620, is suspended from January 1, 2001, to June 1, 2002, for products used exclusively for poultry.

Sec. 34. [REPEALER.]

Minnesota Statutes 2000, sections 17.039; 17.042; 17.06; 17.07; 17.108; 17.139; 17.45; 17.4996; 17.76; 17.861; 17A.091, subdivision 1; 17B.21; 17B.23; 17B.24; 17B.25; 17B.26; 17B.27; 18.205; 24.001; 24.002; 24.12; 24.131; 24.135; 24.141; 24.145; 24.151; 24.155; 24.161; 24.171; 24.175; 24.18; 24.181; 25.47; 27.185; 29.025; 29.049; 30.50; 30.51; 31.185; 31.73; 31B.07; 32.11; 32.12; 32.18; 32.19; 32.20; 32.203; 32.204; 32.206; 32.208; 32.471, subdivision 1; 32.474; 32.481, subdivision 2; 32.529; 32.53; 32.531, subdivisions 1, 5, 6, and 7; 32.5311; 32.5312; 32.532; 32.533; 32.534; and 32.55, subdivisions 15, 16, and 17; 33.001; 33.002; 33.01; 33.011; 33.02; 33.03; 33.031; 33.032; 33.06; 33.07; 33.08; 33.09; 33.091; 33.111; 35.04; 35.14; and 35.84, are repealed.

Sec. 35. [EFFECTIVE DATE.]

Sections 1, 2, 8, 9, 22, 23, 25, 26, 27, 33, and 34 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to agriculture; extending certain advisory committees and a review board; changing provisions of the value-added agricultural product processing and marketing grant program; eliminating the late fee for renewal of a license to use the Minnesota grown logo or labeling; clarifying a term related to the Minnesota grown matching account; providing for uniformity with certain federal dairy regulations; changing provisions of the shared savings loan program and the sustainable agriculture demonstration grant program; changing certain shell egg regulations; changing financing provisions of a cooperative meat inspection program; clarifying the definition of agricultural land; modifying provisions relating to the rural finance authority; prohibiting tampering with clock-hour meters on farm tractors; prescribing criminal and civil penalties; providing a coyote conflict management option; suspending a rule; repealing obsolete or unnecessary provisions; amending Minnesota Statutes 2000, sections 15.059, subdivision 5a; 17.101, subdivision 5; 17.102, subdivision 3; 17.109, subdivision 3; 17.115; 17.116; 17.136; 18B.305, subdivision 3; 28A.20; 29.23, subdivisions 2, 3, 4; 29.237; 31.101, by adding a subdivision; 31A.21, subdivision 2; 32.21, subdivision 4; 32.394, subdivision 4; 32.415; 32.475, subdivision 2; 32.70, subdivisions 7, 8; 41B.025, subdivision 1; 41B.03, subdivision 2; 41B.036; 41B.043, subdivisions 1b, 2; 41B.046, subdivision 2; 97B.001, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 325E; 348; repealing Minnesota Statutes 2000, sections 17.039; 17.042; 17.06; 17.07; 17.108; 17.139; 17.45; 17.4996; 17.76; 17.861; 17A.091, subdivision 1; 17B.21; 17B.23; 17B.24; 17B.25; 17B.26; 17B.27; 18.205; 24.001; 24.002; 24.12; 24.131; 24.135; 24.141; 24.145; 24.151; 24.155; 24.161; 24.171; 24.175; 24.18; 24.181; 25.47; 27.185; 29.025; 29.049; 30.50; 30.51; 31.185; 31.73; 31B.07; 32.11; 32.12; 32.18; 32.19; 32.20; 32.203; 32.204; 32.206; 32.208; 32.471, subdivision 1; 32.474; 32.481, subdivision 2; 32.529; 32.53; 32.531, subdivisions 1, 5, 6, 7; 32.5311; 32.5312; 32.532; 32.533; 32.534; 32.55, subdivisions 15, 16, 17; 33.001; 33.002; 33.01; 33.011; 33.02; 33.03; 33.031; 33.032; 33.06; 33.07; 33.08; 33.09; 33.091; 33.111; 35.04; 35.14; 35.84."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1637, A bill for an act relating to counties; repealing provisions requiring licensing of hawkers and peddlers by counties; repealing Minnesota Statutes 2000, sections 329.02; 329.03; 329.04; 329.05; 329.06; 329.07; 329.08; 329.09.

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

The report was adopted.

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

H. F. No. 1669, A bill for an act relating to local government; providing for publication of public notices on Web sites of local public corporations and municipalities; amending Minnesota Statutes 2000, sections 331A.01, by adding a subdivision; and 331A.03, subdivision 1, 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 2000, section 331A.01, is amended by adding a subdivision to read:

Subd. 11. [WEB SITE.] "Web site" means a server connected to the Internet and hosting World Wide Web pages and other files that are generally accessible on the Internet all or most of the day.

Sec. 2. Minnesota Statutes 2000, section 331A.03, is amended by adding a subdivision to read:

Subd. 3. [PUBLICATION ON NEWSPAPER WEB SITES.] A qualified newspaper that accepts public notices for publication must also post the public notices on its Web site, if any, for the same period of time as is required for the printed notices.

Sec. 3. Minnesota Statutes 2000, section 331A.03, is amended by adding a subdivision to read:

Subd. 4. [PUBLICATION ON LOCAL GOVERNMENT WEB SITES.] A local public corporation required to publish a public notice in a qualified newspaper may also post the public notice on a Web site of the local public corporation, if any, for the same period of time as is required for the printed notice.

Sec. 4. [EFFECTIVE DATE.]

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

Delete the title and insert:

"A bill for an act relating to local government; providing for publication of public notices on Web sites of local public corporations and newspapers; amending Minnesota Statutes 2000, sections 331A.01, by adding a subdivision; and 331A.03, by adding subdivisions."

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. 1747, A bill for an act relating to the board of government innovation and cooperation; extending an exemption for an Itasca county chemical dependency demonstration project; amending Minnesota Statutes 2000, section 465.797, subdivision 5a.

Reported the same back with the following amendments:

Page 1, line 17, reinstate the stricken "until June 30," and delete "indefinitely" and insert "2004"

Page 1, line 26, strike "2003" and insert "2004"

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1790, A bill for an act relating to child protection; establishing provisions dealing with maltreatment of a child in a facility; clarifying access to medical records for purposes of maltreatment investigations; providing additional appeal rights for interested persons acting on behalf of a child; expanding duties of facility operators; providing additional criminal liability for knowingly permitting conditions that allow maltreatment of a child in a facility to occur; requiring training; imposing criminal penalties; amending Minnesota Statutes 2000, sections 13.461, subdivision 17; 626.556, subdivisions 2, 10, 10b, 10d, 10e, 10f, 10i, 11, and 12; and 626.559, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 256.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 13.461, subdivision 17, is amended to read:

Subd. 17. [~~VULNERABLE ADULT MALTREATMENT REVIEW PANEL PANELS.~~] Data of the vulnerable adult maltreatment review panel or the child maltreatment review panel are classified under section 256.021 or section 2.

Sec. 2. [256.022] [CHILD MALTREATMENT REVIEW PANEL.]

Subdivision 1. [CREATION.] The commissioner of human services shall establish a review panel for purposes of reviewing investigating agency determinations regarding maltreatment of a child in a facility in response to requests received under section 626.556, subdivision 10i, paragraph (b). The review panel consists of the commissioners of health; human services; children, families, and learning; the ombudsman for crime victims; and the ombudsman for mental health and mental retardation; or their designees.

Subd. 2. [REVIEW PROCEDURE.] (a) The panel shall hold quarterly meetings for purposes of conducting reviews under this section. If an interested person acting on behalf of a child requests a review under this section, the panel shall review the request at its next quarterly meeting. If the next quarterly meeting is within ten days of the panel's receipt of the request for review, the review may be delayed until the next subsequent meeting. The panel shall review the request and the final determination regarding maltreatment made by the investigating agency and may review any other data on the investigation maintained by the agency that are pertinent and necessary to its review of the determination. If more than one person requests a review under this section with respect to the same determination, the review panel shall combine the requests into one review. Upon receipt of a request for a review, the panel shall notify the alleged perpetrator of maltreatment that a review has been requested and provide an approximate timeline for conducting the review.

(b) Within 30 days of the review under this section, the panel shall notify the investigating agency and the interested person who requested the review as to whether the panel agrees with the determination or whether the investigating agency must reconsider the determination. If the panel determines that the agency must reconsider the determination, the panel must make specific investigative recommendations to the agency. Within 30 days the investigating agency shall conduct a review and report back to the panel with its reconsidered determination and the specific rationale for its determination.

Subd. 3. [REPORT.] By January 15 of each year, the panel shall submit a report to the committees of the legislature with jurisdiction over section 626.556 regarding the number of requests for review it receives under this section, the number of cases where the panel requires the investigating agency to reconsider its final determination, the number of cases where the final determination is changed, and any recommendations to improve the review or investigative process.

Subd. 4. [DATA.] Data of the review panel created as part of a review under this section are private data on individuals as defined in section 13.02.

Sec. 3. Minnesota Statutes 2000, 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 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under 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, health, medical, or other care required for the child's physical or mental health 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;

(3) failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors 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 ensure that the child is educated as defined in sections 120A.22 and 260C.163, subdivision 11;

(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;

(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;

(7) "medical neglect" as defined in section 260C.007, subdivision 4, clause (5);

(8) 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; or

(9) 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 injury, 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. 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, any of the following that are done in anger or without regard to the safety of the child:

- (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) unreasonable interference with a child's breathing;
- (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;
- (7) striking a child under age one 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, in order to control or punish the child; or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results 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 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; and 124D.10; 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 parenting time 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.

(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.

(n) "Maltreatment of a child in a facility" means physical abuse, sexual abuse, or neglect that occurs while a child is under the care of a facility, or the following acts committed by a person other than a child receiving services, with a child or in the presence of a child who is or should be under the supervision of the facility:

(1) an act against a child that constitutes a violation of, an attempt to violate, or aiding and abetting a violation of:

(i) sections 609.221 to 609.224 (assault in the first through fifth degrees); or

(ii) section 609.52 (theft);

(2) conduct that is not an accident or authorized conduct that produces or could reasonably be expected to produce physical pain or injury or emotional distress, including, but not limited to, the following:

(i) hitting, slapping, kicking, pinching, biting, or shaking;

(ii) use of repeated or malicious oral, written, or gestured language toward a child or the treatment of a child, that is disparaging, derogatory, humiliating, harassing, or threatening;

(iii) use of an aversive or deprivation procedure, unreasonable confinement, or involuntary seclusion, including an unreasonable, forced separation of the child from other persons, except aversive or deprivation procedures for developmentally disabled children authorized under section 245.825; or

(iv) use of an unreasonable restraint, including tying, caging, chaining, or any other unreasonable physical or manual method of restricting or prohibiting movement;

(3) in the absence of legal authority, willfully using, withholding, or disposing of funds or property of a child receiving services in a facility that is not considered to be contraband by the facility or school;

(4) sexual conduct with a child or in the presence of a child that a reasonable person would consider to be sexual behavior or exposing the child to sexual behavior or material that is inappropriate for the age and developmental level of the child; or

(5) sexual contact as defined in section 609.341 between a facility staff, or an associate of the facility staff, and a child receiving services.

For purposes of this paragraph, a child is not abused for the sole reason that a person is engaged in authorized conduct.

(o) "Authorized conduct" means the provision of program services, education for schools, health care, or other personal care services; or provision of services or education under a written program plan, individual education plan, or school discipline plan, done in the best interests of the child by an individual, facility, or employee or person providing services or education in a facility under the rights, privileges, and responsibilities conferred by state license, certification, or registration.

(p) "Accident" means a sudden, unforeseen, and unexpected occurrence or event that:

(1) was not likely to occur and could not have been prevented by the exercise of due care; and

(2) if occurring while a child is receiving services from a facility, occurs when the facility and the staff person providing the services in the facility are in compliance with applicable law relevant to the occurrence or event.

Sec. 4. Minnesota Statutes 2000, section 626.556, is amended by adding a subdivision to read:

Subd. 3d. [FACILITY PROCEDURES; INTERNAL REPORTING.] (a) Except for child foster care and family child care, a facility licensed under sections 245A.01 to 245A.16 and chapter 245B shall establish and enforce an ongoing written procedure in compliance with applicable licensing rules to ensure that all cases of suspected maltreatment are reported. The procedure must include the definitions of maltreatment and the phone numbers for the local welfare agency, police department, county sheriff, and agency responsible for assessing or investigating maltreatment under this section. Procedures must include a method for providing children or family members with written information on where to report suspected maltreatment. Mandated reporters in a facility must receive orientation on this procedure before having direct contact with children and annual training on reporting of maltreatment.

(b) If a facility has an internal reporting procedure, a mandated reporter may meet the reporting requirements of this section by reporting internally. The facility remains responsible for complying with the immediate reporting requirements of this section. A facility with an internal reporting procedure that receives an internal report from a mandated reporter shall give the mandated reporter a written notice if the facility has not reported the incident to the agency responsible for assessing or investigating maltreatment. The written notice must be provided within two working days of receipt of the internal report in a manner that protects the confidentiality of the reporter. The written notice to the mandated reporter must inform the reporter that if the reporter is not satisfied with the action taken by the facility, the reporter may report externally.

(c) A facility may not prohibit a mandated reporter from reporting externally and may not retaliate against a mandated reporter who, in good faith, reports an incident to the agency responsible for assessing or investigating maltreatment.

Sec. 5. Minnesota Statutes 2000, section 626.556, subdivision 10, is amended to read:

Subd. 10. [DUTIES OF LOCAL WELFARE AGENCY AND LOCAL LAW ENFORCEMENT AGENCY UPON RECEIPT OF A REPORT.] (a) If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or individual functioning within the family unit as a person responsible for the child's care, the local welfare agency shall immediately conduct an assessment including gathering information on the existence of substance abuse and offer protective social services for purposes of preventing further abuses, safeguarding and enhancing the welfare of the abused or neglected minor, and preserving family life whenever possible. If the report alleges a violation of a criminal statute involving sexual abuse, physical abuse, or neglect or endangerment, under section 609.378, the local law enforcement agency and local welfare agency shall coordinate the planning and execution of their respective investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of the results of its investigation. In cases of alleged child maltreatment resulting in death, the local agency may rely on the fact-finding efforts of a law enforcement investigation to make a determination of whether or not maltreatment occurred. When necessary the local welfare agency shall seek authority to remove the child from the custody of a parent, guardian, or adult with whom the child is living. In performing any of these duties, the local welfare agency shall maintain appropriate records.

If the assessment indicates there is a potential for abuse of alcohol or other drugs by the parent, guardian, or person responsible for the child's care, the local welfare agency shall conduct a chemical use assessment pursuant to Minnesota Rules, part 9530.6615. The local welfare agency shall report the determination of the chemical use assessment, and the recommendations and referrals for alcohol and other drug treatment services to the state authority on alcohol and drug abuse.

(b) When a local agency receives a report or otherwise has information indicating that a child who is a client, as defined in section 245.91, has been the subject of physical abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section 245.91, it shall, in addition to its other duties under this section, immediately inform the ombudsman established under sections 245.91 to 245.97.

(c) Authority of the local welfare agency responsible for assessing the child abuse or neglect report and of the local law enforcement agency for investigating the alleged abuse or neglect includes, but is not limited to, authority to interview, without parental consent, the alleged victim and any other minors who currently reside with or who have resided with the alleged offender. The interview may take place at school or at any facility or other place where the alleged victim or other minors might be found or the child may be transported to, and the interview conducted at, a place appropriate for the interview of a child designated by the local welfare agency or law enforcement agency. The interview may take place outside the presence of the alleged offender or parent, legal custodian, guardian, or school official. Except as provided in this paragraph, the parent, legal custodian, or guardian shall be notified by the responsible local welfare or law enforcement agency no later than the conclusion of the investigation or assessment that this interview has occurred. Notwithstanding rule 49.02 of the Minnesota rules of procedure for juvenile courts, the juvenile court may, after hearing on an ex parte motion by the local welfare agency, order that, where reasonable cause exists, the agency withhold notification of this interview from the parent, legal custodian, or guardian. If the interview took place or is to take place on school property, the order shall specify that school officials may not disclose to the parent, legal custodian, or guardian the contents of the notification of intent to interview the child on school property, as provided under this paragraph, and any other related information regarding the interview that may be a part of the child's school record. A copy of the order shall be sent by the local welfare or law enforcement agency to the appropriate school official.

(d) When the local welfare or local law enforcement agency determines that an interview should take place on school property, written notification of intent to interview the child on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property. For interviews conducted by the local welfare agency, the notification shall be signed by the chair of the local social services agency or the chair's designee. The notification shall be private data on individuals subject to the provisions of this paragraph. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notification or any other related information regarding the interview until notified in writing by the local welfare or law enforcement agency that the investigation or assessment has been concluded. Until that time, the local welfare or law enforcement agency shall be solely responsible for any disclosures regarding the nature of the assessment or investigation.

Except where the alleged offender is believed to be a school official or employee, the time and place, and manner of the interview on school premises shall be within the discretion of school officials, but the local welfare or law enforcement agency shall have the exclusive authority to determine who may attend the interview. The conditions as to time, place, and manner of the interview set by the school officials shall be reasonable and the interview shall be conducted not more than 24 hours after the receipt of the notification unless another time is considered necessary by agreement between the school officials and the local welfare or law enforcement agency. Where the school fails to comply with the provisions of this paragraph, the juvenile court may order the school to comply. Every effort must be made to reduce the disruption of the educational program of the child, other students, or school staff when an interview is conducted on school premises.

(e) Where the alleged offender or a person responsible for the care of the alleged victim or other minor prevents access to the victim or other minor by the local welfare agency, the juvenile court may order the parents, legal custodian, or guardian to produce the alleged victim or other minor for questioning by the local welfare agency or the local law enforcement agency outside the presence of the alleged offender or any person responsible for the child's care at reasonable places and times as specified by court order.

(f) Before making an order under paragraph (e), the court shall issue an order to show cause, either upon its own motion or upon a verified petition, specifying the basis for the requested interviews and fixing the time and place of the hearing. The order to show cause shall be served personally and shall be heard in the same manner as

provided in other cases in the juvenile court. The court shall consider the need for appointment of a guardian ad litem to protect the best interests of the child. If appointed, the guardian ad litem shall be present at the hearing on the order to show cause.

(g) The commissioner, the ombudsman for mental health and mental retardation, the local welfare agencies responsible for investigating reports, and the local law enforcement agencies have the right to enter facilities as defined in subdivision 2 and to inspect and copy the facility's records, including medical records, as part of the investigation. Notwithstanding the provisions of chapter 13, they also have the right to inform the facility under investigation that they are conducting an investigation, to disclose to the facility the names of the individuals under investigation for abusing or neglecting a child, and to provide the facility with a copy of the report and the investigative findings.

(h) The local welfare agency shall collect available and relevant information to ascertain whether maltreatment occurred and whether protective services are needed. Information collected includes, when relevant, information with regard to the person reporting the alleged maltreatment, including the nature of the reporter's relationship to the child and to the alleged offender, and the basis of the reporter's knowledge for the report; the child allegedly being maltreated; the alleged offender; the child's caretaker; and other collateral sources having relevant information related to the alleged maltreatment. The local welfare agency may make a determination of no maltreatment early in an assessment, and close the case and retain immunity, if the collected information shows no basis for a full assessment or investigation.

Information relevant to the assessment or investigation must be asked for, and may include:

(1) the child's sex and age, prior reports of maltreatment, information relating to developmental functioning, credibility of the child's statement, and whether the information provided under this clause is consistent with other information collected during the course of the assessment or investigation;

(2) the alleged offender's age, a record check for prior reports of maltreatment, and criminal charges and convictions. The local welfare agency must provide the alleged offender with an opportunity to make a statement. The alleged offender may submit supporting documentation relevant to the assessment or investigation;

(3) collateral source information regarding the alleged maltreatment and care of the child. Collateral information includes, when relevant: (i) a medical examination of the child; (ii) prior medical records relating to the alleged maltreatment or the care of the child maintained by any facility, clinic, or health care professional and an interview with the treating professionals; and (iii) interviews with the child's caretakers, including the child's parent, guardian, foster parent, child care provider, teachers, counselors, family members, relatives, and other persons who may have knowledge regarding the alleged maltreatment and the care of the child; and

(4) information on the existence of domestic abuse and violence in the home of the child, and substance abuse.

Nothing in this paragraph precludes the local welfare agency from collecting other relevant information necessary to conduct the assessment or investigation. Notwithstanding section 13.384 or 144.335, the local welfare agency has access to medical data and records for purposes of clause (3). Notwithstanding the data's classification in the possession of any other agency, data acquired by the local welfare agency during the course of the assessment or investigation are private data on individuals and must be maintained in accordance with subdivision 11.

(i) In the initial stages of an assessment or investigation, the local welfare agency shall conduct a face-to-face observation of the child reported to be maltreated and a face-to-face interview of the alleged offender. The interview with the alleged offender may be postponed if it would jeopardize an active law enforcement investigation.

(j) The local welfare agency shall use a question and answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. The following interviewing methods and procedures must be used whenever possible when collecting information:

- (1) audio recordings of all interviews with witnesses and collateral sources; and
- (2) in cases of alleged sexual abuse, audio-video recordings of each interview with the alleged victim and child witnesses.

Sec. 6. Minnesota Statutes 2000, section 626.556, subdivision 10b, is amended to read:

Subd. 10b. [DUTIES OF COMMISSIONER; NEGLECT OR ABUSE IN FACILITY.] (a) This section applies to the commissioners of human services, health, and children, families, and learning. The commissioner of the agency responsible for assessing or investigating the report 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, or is the victim of maltreatment in a facility by an individual in that facility, or has been so neglected or abused or been the victim of maltreatment in a facility by an individual in that facility within the three years preceding the report; or

(2) a child was neglected, physically abused, ~~or~~ sexually abused, or is the victim of maltreatment in a facility 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 assessing or investigating the report 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 assessing or investigating the report 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 assessing or investigating the report 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 assessing or investigating the report 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 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 may request assistance from the local social services agency.

Sec. 7. Minnesota Statutes 2000, 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, or maltreatment of a child while in the care of a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required

to be licensed according to 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; and 124D.10; or a nonlicensed personal care provider organization as defined in section 256B.04, subdivision 16, and 256B.0625, subdivision 19a, the commissioner of the agency responsible for assessing or investigating the report 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,~~ or the victim of maltreatment of a child in the facility: the name of the facility; the fact that a report alleging neglect, physical abuse, ~~or sexual abuse,~~ or maltreatment of a child in the facility has been received; the nature of the alleged neglect, physical abuse, ~~or sexual abuse,~~ or maltreatment of a child in the facility; 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 assessing or investigating the report 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,~~ or maltreatment of a child in the facility has occurred. In determining whether to exercise this authority, the commissioner of the agency responsible for assessing or investigating the report or local welfare agency shall consider the seriousness of the alleged neglect, physical abuse, ~~or sexual abuse,~~ or maltreatment of a child in the facility; the number of children allegedly neglected, physically abused, ~~or sexually abused,~~ or victims of maltreatment of a child in the facility; 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 assessing or investigating the report 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,~~ or maltreatment of a child in the facility; 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. If maltreatment is determined to exist, 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 who had contact with the individual responsible for the maltreatment.~~ When the facility is the responsible party for maltreatment, the commissioner or local welfare agency shall also provide the written memorandum to the parent, guardian, or legal custodian of each child who received services in the population of the facility where the maltreatment occurred. This notification must be provided to the parent, guardian, or legal custodian of each child receiving services from the time the maltreatment occurred until either the individual responsible for maltreatment is no longer in contact with a child or children in the facility or the conclusion of the investigation.

Sec. 8. Minnesota Statutes 2000, 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: 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); or
- (5) maltreatment of a child in a facility as defined in subdivision 2, paragraph (n).

(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) 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.

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. 9. Minnesota Statutes 2000, 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 assessing or investigating the report 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 or review rights under this section or section 2.

Sec. 10. Minnesota Statutes 2000, section 626.556, subdivision 10i, is amended to read:

Subd. 10i. [ADMINISTRATIVE RECONSIDERATION OF FINAL DETERMINATION OF MALTREATMENT; REVIEW PANEL.] (a) An individual or facility that the commissioner or a local social service agency determines has maltreated a child, or ~~the child's designee~~ an interested person acting on behalf of the child, regardless of the determination, who contests the investigating agency's final determination regarding maltreatment, may request the investigating agency to reconsider its final determination regarding maltreatment. The request for reconsideration must be submitted in writing to the investigating agency within 15 calendar days after receipt of notice of the final determination regarding maltreatment or, if the request is made by an interested person who is not entitled to notice, within 15 days after receipt of the notice by the parent or guardian of the child.

(b) If the investigating agency denies the request or fails to act upon the request within 15 calendar days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045 may submit to the commissioner of human services a written request for a hearing under that section. For reports involving maltreatment of a child in a facility, an interested person acting on behalf of the child may request a review by the child maltreatment review panel under section 2 if the investigating agency denies the request or fails to act upon the request or if the interested person contests a reconsidered determination. The investigating agency shall notify persons who request reconsideration of their rights under this paragraph. The request must be submitted in writing to the review panel and a copy sent to the investigating agency within 30 calendar days of receipt of notice of a denial of a request for reconsideration or of a reconsidered determination. The request must specifically identify the aspects of the agency determination with which the person is dissatisfied.

(c) If, as a result of ~~the a~~ a reconsideration or review, the investigating agency changes the final determination of maltreatment, that agency shall notify the parties specified in subdivisions 10b, 10d, and 10f.

(d) If an individual or facility contests the investigating agency's final determination regarding maltreatment by requesting a fair hearing under section 256.045, the commissioner of human services shall assure that the hearing is conducted and a decision is reached within 90 days of receipt of the request for a hearing. The time for action on the decision may be extended for as many days as the hearing is postponed or the record is held open for the benefit of either party.

(e) For purposes of this subdivision, "interested person acting on behalf of the child" means a parent or legal guardian; stepparent; grandparent; guardian ad litem; adult stepbrother, stepsister, or sibling; or adult aunt or uncle; unless the person has been determined to be the perpetrator of the maltreatment.

Sec. 11. Minnesota Statutes 2000, section 626.556, subdivision 11, is amended to read:

Subd. 11. [RECORDS.] (a) Except as provided in paragraph (b) or (c) and subdivisions 10b, 10d, 10g, and 11b, all records concerning individuals maintained by a local welfare agency or agency responsible for assessing or investigating the report 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 7, 5a, and 5b, apply to law enforcement data other than the reports. The local social services agency or agency responsible for assessing or investigating the report 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.

(c) The investigating agency shall exchange not public data with the child maltreatment review panel under section 2 if the data are pertinent and necessary for a review requested under section 2. Upon completion of the review, the not public data received by the review panel must be returned to the investigating agency.

Sec. 12. Minnesota Statutes 2000, section 626.556, subdivision 12, is amended to read:

Subd. 12. [DUTIES OF FACILITY OPERATORS.] Any operator, employee, or volunteer worker at any facility who intentionally neglects, physically abuses, or sexually abuses any child in the care of that facility may be charged with a violation of section 609.255, 609.377, or 609.378. Any operator of a facility who knowingly permits conditions to exist which result in neglect, physical abuse, ~~or sexual abuse,~~ or maltreatment of a child in a facility while in the care of that facility may be charged with a violation of section 609.378. The facility operator shall inform all mandated reporters employed by or otherwise associated with the facility of the duties required of mandated reporters and shall inform all mandatory reporters of the prohibition against retaliation for reports made in good faith under this section.

Sec. 13. Minnesota Statutes 2000, section 626.559, subdivision 2, is amended to read:

Subd. 2. [JOINT TRAINING.] The commissioners of human services and public safety shall cooperate in the development of a joint program for training child abuse services professionals in the appropriate techniques for child abuse assessment and investigation. The program shall include but need not be limited to the following areas:

(1) the public policy goals of the state as set forth in section 260C.001 and the role of the assessment or investigation in meeting these goals;

(2) the special duties of child protection workers and law enforcement officers under section 626.556;

(3) the appropriate methods for directing and managing affiliated professionals who may be utilized in providing protective services and strengthening family ties;

(4) the appropriate methods for interviewing alleged victims of child abuse and other minors in the course of performing an assessment or an investigation;

(5) the dynamics of child abuse and neglect within family systems and the appropriate methods for interviewing parents in the course of the assessment or investigation, including training in recognizing cases in which one of the parents is a victim of domestic abuse and in need of special legal or medical services;

(6) the legal, evidentiary considerations that may be relevant to the conduct of an assessment or an investigation;

(7) the circumstances under which it is appropriate to remove the alleged abuser or the alleged victim from the home;

(8) the protective social services that are available to protect alleged victims from further abuse, to prevent child abuse and domestic abuse, and to preserve the family unit, and training in the preparation of case plans to coordinate services for the alleged child abuse victim with services for any parents who are victims of domestic abuse; ~~and~~

(9) the methods by which child protection workers and law enforcement workers cooperate in conducting assessments and investigations in order to avoid duplication of efforts; and

(10) appropriate methods for interviewing alleged victims of child abuse and conducting investigations in cases where the alleged victim is developmentally, physically, or mentally disabled."

Delete the title and insert:

"A bill for an act relating to child protection; establishing provisions dealing with maltreatment of a child in a facility; clarifying access to medical records for purposes of maltreatment investigations; providing additional appeal rights for interested persons acting on behalf of a child; expanding duties of facility operators; providing additional criminal liability for knowingly permitting conditions that allow maltreatment of a child in a facility to occur; requiring training; imposing criminal penalties; amending Minnesota Statutes 2000, sections 13.461, subdivision 17; 626.556, subdivisions 2, 10, 10b, 10d, 10e, 10f, 10i, 11, 12, by adding a subdivision; 626.559, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 256."

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

The report was adopted.

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

H. F. No. 1819, A bill for an act relating to health; eliminating commissioner's reporting requirement for alcohol and drug counselors; providing for exchange of information for investigations of alcohol and drug counselors; amending Minnesota Statutes 2000, sections 148C.03, subdivision 1; and 148C.099.

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. 1830, A bill for an act relating to government data; authorizing certain accident data to be made public; amending Minnesota Statutes 2000, section 169.09, subdivision 13.

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

The report was adopted.

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

H. F. No. 1833, A bill for an act relating to human services; authorizing a pilot project to increase nursing facility reimbursement to provide services to persons with multiple sclerosis; appropriating money.

Reported the same back with the following amendments:

Page 1, line 12, after "that" insert ", at the time of enrollment in the pilot project,"

Page 1, line 16, after "the" insert "person's"

Page 1, line 17, delete "K" and after the period, insert "The commissioner may contract with up to six nursing facilities."

Page 1, line 24, delete "and psychological" and insert ", physiological, and case management" and before the period insert ", without incurring financial losses"

Page 1, line 25, before the comma, insert "of human services" and delete "human" and insert "health"

Page 2, line 1, delete "services"

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.

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

H. F. No. 1876, A bill for an act relating to metropolitan government; requiring the metropolitan council to report on contracts for professional services; amending Minnesota Statutes 2000, section 473.13, by adding a subdivision.

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

The report was adopted.

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

H. F. No. 1921, A bill for an act relating to transit; authorizing a study of bus transit ways; prohibiting a bus transit way in part of the southwest light rail transit corridor; amending Laws 2000, chapter 479, article 1, section 3, subdivision 3.

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

The report was adopted.

Knoblach from the Committee on Capital Investment to which was referred:

H. F. No. 1949, A bill for an act relating to highways; modifying provisions governing trunk highway bond proceeds and highway bond-financed property; amending Minnesota Statutes 2000, section 16A.641, subdivision 8; proposing coding for new law in Minnesota Statutes, chapter 167.

Reported the same back with the following amendments:

Page 4, line 8, delete "new" and insert "net"

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

The report was adopted.

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

H. F. No. 1954, A bill for an act relating to local government; allowing specified municipal contributions to the general fund of a volunteer firefighters relief association; amending Minnesota Statutes 2000, section 424A.06, subdivision 2.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 424A.06, is amended by adding a subdivision to read:

Subd. 1a. [DESIGNATED ACCOUNT.] A volunteer firefighters' relief association may establish a designated account within its general fund to receive municipal contributions for purchase of firefighting equipment or supplies."

Amend the title as follows:

Page 1, lines 5 and 6, delete "subdivision 2" and insert "by adding a subdivision"

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. 1957, A bill for an act relating to human services; establishing the Medicare payment rate as the rate for all nursing facility residents for the first 100 days following admission; appropriating money; amending Minnesota Statutes 2000, section 256B.431, by adding a subdivision; repealing Minnesota Statutes 2000, section 256B.434, subdivision 5.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 256B.431, is amended by adding a subdivision to read:

Subd. 31. [PAYMENT DURING FIRST 90 DAYS.] (a) For rate years beginning on or after July 1, 2001, the total payment rate for a facility reimbursed under this section, section 256B.434, or any other section for the first 90 days after admission shall be:

(1) for days one to 30, the rate shall be 120 percent of the facility's medical assistance rate for each case mix class; and

(2) for days 31 to 90, the rate shall be 110 percent of the facility's medical assistance rate for each case mix class.

(b) Beginning with day 91 after admission, the payment rate shall be the rate otherwise determined under this section, section 256B.434, or any other section.

(c) This subdivision applies to admissions occurring on or after July 1, 2001.

Sec. 2. [APPROPRIATION.]

\$...... is appropriated from the general fund to the commissioner of human services for the biennium beginning July 1, 2001, for the purposes of section 1.

Sec. 3. [REPEALER.]

Minnesota Statutes 2000, section 256B.434, subdivision 5, is repealed."

Amend the title as follows:

Page 1, line 4, delete "100" and insert "90"

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.

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

H. F. No. 1973, A bill for an act relating to transportation; regulating state highways in municipalities; making conforming changes; amending Minnesota Statutes 2000, sections 160.85, subdivision 3; and 161.1245, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 161; repealing Minnesota Statutes 2000, sections 161.17; 161.171; 161.172; 161.173; 161.174; 161.175; 161.176; 161.177; and 473.181, subdivision 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"HIGHWAY CONSTRUCTION THROUGH MUNICIPALITIES

Section 1. Minnesota Statutes 2000, section 160.85, subdivision 3, is amended to read:

Subd. 3. [APPROVAL.] No road authority and private operator may execute a development agreement without the approval of the final agreement by the commissioner. A road authority and private operator in the metropolitan area must obtain the approvals required in sections ~~161.171 to 161.177~~ 161.162 to 161.167 and 473.167, subdivision 1. Except as otherwise provided in sections 161.162 to 161.167, the governing body of a county or municipality through which a facility passes may veto the project within 30 days of approval by the commissioner.

Sec. 2. Minnesota Statutes 2000, section 161.1245, subdivision 4, is amended to read:

Subd. 4. [ROUTE NO. 396.] Notwithstanding ~~section 161.17 or other~~ any state law to the contrary, the commissioner of transportation shall extend, without undue delay, the interstate route commonly known as I-35 by construction of Route No. 396 described in section 161.12 in accordance with federal regulations for receiving federal aid made available by the United States to the state of Minnesota for highway purposes.

Sec. 3. [161.162] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] The terms in sections 161.162 to 161.167 have the meanings given them in this section and section 160.02.

Subd. 2. [FINAL LAYOUT.] (a) "Final layout" means geometric layouts and supplemental drawings that show the location, character, dimensions, access, and explanatory information about the highway construction or improvement work being proposed. "Final layout" includes, as applicable, traffic lanes, shoulders, trails, intersections, signals, bridges, approximate right-of-way limits, existing ground line and proposed grade line of the highway, turn lanes, access points and closures, sidewalks, speed zones, noise walls, transit considerations, auxiliary lanes, interchange locations, interchange types, sensitive areas, existing right-of-way, traffic volume and turning movements, location of stormwater drainage, location of municipal utilities, project schedule and estimated cost, and the name of the project manager.

(b) "Final layout" does not include a cost participation agreement. For purposes of this subdivision, "cost participation agreement" means a document signed by the commissioner and the governing body of a municipality that states the costs of a highway construction project that will be paid by the municipality.

Subd. 3. [FINAL CONSTRUCTION PLAN.] "Final construction plan" means the set of technical drawings for the construction or improvement of a trunk highway provided to contractors for bids.

Subd. 4. [GOVERNING BODY.] "Governing body" means the elected council of a municipality.

Subd. 5. [MUNICIPALITY.] "Municipality" means a statutory or home rule charter city.

Sec. 4. [161.163] [HIGHWAY PROJECT REVIEW.]

Subdivision 1. [PROJECTS REQUIRING REVIEW.] Sections 161.162 to 161.167 apply only to projects that alter access, increase or reduce highway traffic capacity, or require acquisition of permanent rights-of-way.

Subd. 2. [TRAFFIC SAFETY MEASURES.] Nothing contained in sections 161.162 to 161.167 limits the power of the commissioner to regulate traffic or install traffic control devices or other safety measures on trunk highways located within municipalities regardless of their impact on access or traffic capacity or on the need for additional right-of-way.

Subd. 3. [CONSTRUCTION PROGRAM.] Nothing contained in sections 161.162 to 161.167 limits the commissioner's discretion to determine priority and programming of trunk highway projects.

Sec. 5. [161.164] [FINAL LAYOUT APPROVAL PROCESS.]

Subdivision 1. [SUBMISSION OF FINAL LAYOUT.] Before proceeding with the construction, reconstruction, or improvement of any route on the trunk highway system lying within any municipality, the commissioner shall submit to its governing body a final layout and project report covering the purpose, route location, and proposed design of the highway. The final layout must be submitted as part of a report containing any supporting data that the commissioner deems helpful to the governing body in reviewing the final layout submitted. The supporting data must include a good faith cost estimate of all the costs in which the governing body is expected to participate. The final layout must be submitted before final decisions are reached so that meaningful early input can be obtained from the municipality.

Subd. 2. [GOVERNING BODY ACTION.] (a) Within 15 days of receiving a final layout from the commissioner, the governing body shall schedule a public hearing on the final layout. The governing body shall conduct a public hearing at which the department of transportation shall present the final layout for the project. The governing body shall give at least 30 days' notice of the public hearing.

(b) Within 90 days from the date of the public hearing, the governing body shall approve or disapprove the final layout in writing, as follows:

(1) If the governing body approves the final layout or does not disapprove the final layout in writing within 90 days, in which case the final layout is deemed to be approved, the commissioner may continue the project development.

(2) If the final construction plans contain significant changes in access, traffic capacity, or acquisition of permanent right-of-way from the final layout approved by the governing body, the commissioner shall resubmit the portion of the final construction plans where changes were made to the governing body. The governing body must approve or disapprove the changes, in writing, within 60 days from the date the commissioner submits them.

(3) If the governing body disapproves the final layout, the commissioner may make modifications requested by the municipality, decide not to proceed with the project, or refer the final layout to an appeal board. The appeal board must consist of one member appointed by the commissioner, one member appointed by the governing body, and a third member agreed upon by both the commissioner and the governing body. If the commissioner and the governing body cannot agree upon the third member, the chief justice of the supreme court shall appoint a third member within 14 days of the request of the commissioner to appoint the third member.

Subd. 3. [APPEAL BOARD.] Within 30 days after referral of the final layout, the appeal board shall hold a hearing at which the commissioner and the governing body may present the case for or against approval of the final layout referred. Not later than 60 days after the hearing, the appeal board shall recommend approval, recommend approval with modifications, or recommend disapproval of the final layout, making additional recommendations consistent with state and federal requirements as it deems appropriate. It shall submit a written report containing its findings and recommendations to the commissioner and the governing body.

Sec. 6. [161.165] [COMMISSIONER ACTION; INTERSTATE HIGHWAYS.]

Subdivision 1. [APPLICABILITY.] This section applies to interstate highways.

Subd. 2. [ACTION ON APPROVED FINAL LAYOUT.] (a) If the appeal board recommends approval of the final layout or does not submit its findings and recommendations within 60 days of the hearing, in which case the final layout is deemed approved, the commissioner may prepare substantially similar final construction plans and proceed with the project.

(b) If the final construction plans change access, traffic capacity, or acquisition of permanent right-of-way from the final layout approved by the appeal board, the commissioner shall submit the portion of the final construction plans that shows the changes, to the governing body for its approval or disapproval under section 161.164, subdivision 2.

Subd. 3. [ACTION ON FINAL LAYOUT APPROVED WITH CHANGES.] (a) If, within 60 days, the appeal board recommends approval of the final layout with modifications, the commissioner may:

(1) prepare final construction plans with the recommended modifications, notify the governing body, and proceed with the project;

(2) decide not to proceed with the project; or

(3) prepare final construction plans substantially similar to the final layout referred to the appeal board, and proceed with the project. The commissioner shall, before proceeding with the project, file a written report with the governing body and the appeal board stating fully the reasons for doing so.

(b) If the final construction plans contain significant changes in access or traffic capacity or require additional acquisition of permanent right-of-way from the final layout reviewed by the appeal board or the governing body, the commissioner shall resubmit the portion of the final construction plans that shows the changes, to the governing body for its approval or disapproval under section 161.164, subdivision 2.

Subd. 4. [ACTION ON DISAPPROVED FINAL LAYOUT.] (a) If, within 60 days, the appeal board recommends disapproval of the final layout, the commissioner may either:

(1) decide not to proceed with the project; or

(2) prepare final construction plans substantially similar to the final layout referred to the appeal board, notify the governing body and the appeal board, and proceed with the project. Before proceeding with the project, the commissioner shall file a written report with the governing body and the appeal board stating fully the reasons for doing so.

(b) If the final construction plans contain significant changes in access or traffic capacity or require additional acquisition of permanent right-of-way from the final layout reviewed by the appeal board or the governing body, the commissioner shall resubmit the portion of the final construction plans that shows the changes, to the governing body for its approval or disapproval under section 161.164, subdivision 2.

Subd. 5. [FINAL CONSTRUCTION PLANS ISSUED.] The commissioner shall send a complete set of final construction plans to the municipality at least 45 days before the bid opening for informational purposes.

Sec. 7. [161.166] [COMMISSIONER ACTION; OTHER HIGHWAYS.]

Subdivision 1. [APPLICABILITY.] This section applies to trunk highways that are not interstate highways.

Subd. 2. [ACTION ON APPROVED FINAL LAYOUT.] If the appeal board recommends approval of the final layout or does not submit its findings or recommendations within 60 days of the hearing, in which case the final layout is deemed approved, the commissioner may prepare substantially similar final construction plans and proceed with the project. If the final construction plans change access or traffic capacity or require additional acquisition of right-of-way from the final layout approved by the appeal board, the commissioner shall submit the portion of the final construction plan that shows the changes, to the governing body for its approval or disapproval under section 161.164, subdivision 2.

Subd. 3. [ACTION ON FINAL LAYOUT APPROVED WITH CHANGES.] (a) If the appeal board approves the final layout with modifications, the commissioner may:

(1) prepare final construction plans including the modifications, notify the governing body, and proceed with the project;

(2) decide not to proceed with the project; or

(3) prepare a new final layout and resubmit it to the governing body for approval or disapproval under section 161.164, subdivision 2.

(b) If the final construction plans contain significant changes in access or traffic capacity or require additional acquisition of permanent right-of-way from the final layout reviewed by the appeal board or the governing body, the commissioner shall resubmit the portion of the final construction plans that shows the changes, to the governing body for its approval or disapproval under section 161.164, subdivision 2.

Subd. 4. [ACTION ON DISAPPROVED FINAL LAYOUT.] (a) If the appeal board disapproves the final layout, the commissioner may:

(1) decide not to proceed with the project; or

(2) prepare a new final layout and submit it to the governing body for approval or disapproval under section 161.164, subdivision 2.

(b) If the final construction plans contain significant changes in access or traffic capacity or require additional acquisition of permanent right-of-way from the final layout reviewed by the appeal board or the governing body, the commissioner shall resubmit the portion of the final construction plans that shows the changes, to the governing body for its approval or disapproval under section 161.164, subdivision 2.

Subd. 5. [FINAL CONSTRUCTION PLANS ISSUED.] The commissioner shall send a complete set of final construction plans to the municipality at least 45 days before the bid opening for informational purposes.

Sec. 8. [161.167] [REIMBURSEMENT OF EXPENSES.]

Members of the appeal board shall submit to the commissioner an itemized list of the expenses incurred in disposing of matters presented to them. The appeal board members shall be reimbursed for all reasonable expenses incurred by them in the performance of their duties. The commissioner shall pay these costs out of the trunk highway fund.

Sec. 9. [REPEALER.]

Minnesota Statutes 2000, sections 161.17; 161.171; 161.172; 161.173; 161.174; 161.175; 161.176; 161.177; and 473.181, subdivision 1, are repealed.

Sec. 10. [EFFECTIVE DATE.]

This act is effective the day following final enactment and applies to highway construction projects for which municipal approval is first sought after that date."

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. 1984, A bill for an act relating to local government; appropriating money for aeration of Indian lake in Wright county.

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.

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

H. F. No. 1990, A bill for an act relating to water; modifying restrictions on watershed district borrowing; amending Minnesota Statutes 2000, section 103D.335, subdivision 17.

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

The report was adopted.

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

H. F. No. 2057, A bill for an act relating to education; repealing the profile of learning; establishing local academic achievement testing; establishing local testing revenue; appropriating money; amending Minnesota Statutes 2000, sections 120B.02; 120B.30, subdivision 1; 120B.31, subdivision 3; 120B.35; proposing coding for new law in Minnesota Statutes, chapter 120B; repealing Minnesota Statutes 2000, sections 120B.031; 120B.31, subdivisions 1, 2, 4; Minnesota Rules, parts 3501.0300; 3501.0310; 3501.0320; 3501.0330; 3501.0340; 3501.0350; 3501.0370; 3501.0380; 3501.0390; 3501.0400; 3501.0410; 3501.0420; 3501.0440; 3501.0441; 3501.0442; 3501.0443; 3501.0444; 3501.0445; 3501.0446; 3501.0447; 3501.0448; 3501.0449; 3501.0450; 3501.0460; 3501.0461; 3501.0462; 3501.0463; 3501.0464; 3501.0465; 3501.0466; 3501.0467; 3501.0468; 3501.0469.

Reported the same back with the following amendments:

Page 1, lines 25 and 26, reinstate the stricken language

Page 1, line 27, reinstate the stricken "to adopt a" and reinstate the stricken "graduation rule"

Page 1, line 29, reinstate the stricken period

Page 4, line 13, delete "title" and insert "Title"

Page 5, line 19, delete "be"

Page 5, line 20, delete "in" and insert "use a" and delete "question"

Page 5, line 23, after "(2)" insert "test" and after "objective" insert "knowledge" and delete "pertain to the"

Page 5, line 26, after "(3)" insert "be"

Page 5, line 27, before "be" insert "the aggregated results shall"

Page 5, line 29, delete the comma

Page 7, line 23, delete "is revealing" and insert "reflect"

Page 9, line 1, after "permitted" insert "under state or federal law"

Page 9, line 2, delete everything before the semicolon

Page 9, line 16, delete "input and advice" and insert "recommendations"

Page 9, line 21, delete "for" and insert "beginning in"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on K-12 Education Finance.

The report was adopted.

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

H. F. No. 2074, A bill for an act relating to contracts; regulating public works contracts; proposing coding for new law in Minnesota Statutes, chapter 15.

Reported the same back with the following amendments:

Page 1, line 20, delete "recover" and insert "seek recovery for" and delete "obtains" and insert "seek"

Page 1, line 24, after "entity" insert "and for which the public entity is liable"

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. 2088, A bill for an act relating to rural health; establishing a loan forgiveness program for health professionals practicing in rural hospitals or rural nursing homes; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 144.

Reported the same back with the following amendments:

Page 2, line 4, after "a" insert "physician assistant registered under chapter 147A; a"

Page 2, line 17, delete "100" and insert "75"

Page 2, line 29, after "a" insert "physician assistant,"

Page 3, line 13, after "a" insert "physician assistant,"

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.

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

H. F. No. 2107, A bill for an act relating to education; specifying student conduct as grounds for dismissal or removal from class; amending Minnesota Statutes 2000, sections 121A.45, subdivision 2; 121A.61, subdivision 2.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 121A.45, subdivision 2, is amended to read:

Subd. 2. [GROUNDS FOR DISMISSAL.] A pupil may be dismissed on any of the following grounds:

(a) willful violation of any reasonable school board regulation. Such regulation must be clear and definite to provide notice to pupils that they must conform their conduct to its requirements;

(b) willful conduct that ~~materially and substantially~~ significantly disrupts the rights of others to an education, or the ability of school personnel to perform their duties, or school sponsored extracurricular activities; or

(c) willful conduct that endangers the pupil or other pupils, or surrounding persons, including school district employees, or property of the school.

Sec. 2. Minnesota Statutes 2000, section 121A.61, subdivision 2, is amended to read:

Subd. 2. [GROUNDS FOR REMOVAL FROM CLASS.] The policy must establish the various grounds for which a student may be removed from a class in the district for a period of time ~~pursuant to~~ under the procedures specified in the policy. The grounds in the policy must include at least the following provisions as well as other grounds determined appropriate by the board:

(a) willful conduct ~~which materially and substantially~~ that significantly disrupts the rights of others to an education, including conduct that interferes with a teacher's ability to teach or communicate effectively with students in a class or with the ability of other students to learn;

(b) willful conduct ~~which~~ that endangers surrounding persons, including school district employees, the student or other students, or the property of the school; and

(c) willful violation of any rule of conduct specified in the discipline policy adopted by the board."

With the recommendation that when so amended the bill pass.

The report was adopted.

McElroy from the Committee on Jobs and Economic Development Finance to which was referred:

H. F. No. 2128, A bill for an act relating to appropriations; appropriating money to the commissioner of trade and economic development for a grant to the northern counties land use coordinating board.

Reported the same back with the following amendments:

Page 1, lines 9 and 10, delete "commissioner of trade and economic development" and insert "director of the office of strategic and long-range planning"

Page 1, line 11, delete "private" and insert "pilot"

Page 1, line 14, delete "commissioner" and insert "director"

Amend the title as follows:

Page 1, line 3, delete "commissioner of trade and economic development" and insert "director of the office of strategic and long-range planning"

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

The report was adopted.

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

H. F. No. 2157, A bill for an act relating to the city of Gaylord; extending the time for approval of a special law relating to a tax increment financing district in the city.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [GAYLORD; TIF DISTRICT EXTENSION.]

Notwithstanding the provisions of Minnesota Statutes, section 469.176, subdivision 1c, or any other law, the city of Gaylord may, by resolution, extend the duration of a tax increment financing district originally certified in 1978. If the city extends the district, the district is deemed to continue to be in effect, beginning for taxes payable in 2002, and notwithstanding the decertification of the district for taxes payable in 2001. The city may not extend the duration beyond December 31, 2009. Notwithstanding the provisions of Minnesota Statutes, section 469.176, subdivision 1c, the city may spend increments from the district on project costs other than bonds issued before April 1, 1990.

[EFFECTIVE DATE.] This section is effective upon completion with the requirements of Minnesota Statutes, sections 469.1782 and 645.021."

Amend the title as follows:

Page 1, line 2, before "extending" insert "authorizing" and delete "time" and insert "duration"

Page 1, line 3, delete "a special law relating to"

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

The report was adopted.

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

H. F. No. 2161, A bill for an act relating to highways; designating the State Trooper Theodore "Ted" Foss Memorial Highway; amending Minnesota Statutes 2000, section 161.14, by adding a subdivision.

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

The report was adopted.

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

H. F. No. 2181, A bill for an act relating to drivers' licenses; establishing pilot project to allow certain type A school bus to be operated by holder of Class D driver's license under limited conditions; making clarifying changes; providing misdemeanor penalty; amending Minnesota Statutes 2000, section 171.02, subdivisions 2 and 2a.

Reported the same back with the following amendments:

Page 3, line 25, delete "not including" and insert "and does not drive the school bus for"

Page 4, line 12, delete "shall" and insert "must"

Page 4, line 13, after "2" insert ", and meet the physical qualifications for school bus drivers prescribed under that subdivision"

Page 4, line 25, delete the first "the"

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 2203, A bill for an act relating to highways; allowing judicial review of public purpose and necessity for taking property for county highway or town road; amending Minnesota Statutes 2000, sections 163.12, subdivisions 7, 10; 164.07, subdivisions 7, 10.

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

The report was adopted.

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

H. F. No. 2252, A bill for an act relating to local government; providing for the appointment of supervisors for the Hennepin county soil and water conservation district; providing for the transition from an elected to an appointed board; amending Minnesota Statutes 2000, sections 103C.311, by adding a subdivision; 103C.315, subdivision 1.

Reported the same back with the following amendments:

Page 2, delete lines 18 to 34 and insert:

"The term of a supervisor in office on the effective date of this act ends upon expiration of the supervisor's term of office. The Hennepin county board shall appoint supervisors as provided in this act to take office upon completion of the elected supervisors' terms of office or to fill any vacancies occurring before that time. The first three supervisors appointed shall serve four-year terms and the last two supervisors appointed shall serve two-year terms. Thereafter, the term of a supervisor is four years and until a successor qualifies."

Page 2, line 36, delete "and 2" and insert "to 3"

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:

S. F. No. 359, A bill for an act relating to health occupations; modifying licensing requirements for the board of chiropractic examiners; modifying grounds for disciplinary action and penalties; allowing specified individuals to practice chiropractic in this state without being licensed in this state; amending Minnesota Statutes 2000, sections 148.06, subdivision 1; 148.10, subdivisions 1 and 3; 148.104; 148.105, subdivision 2; and 148.106, subdivision 10; repealing Minnesota Statutes 2000, section 148.106, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, and 9.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 148.06, subdivision 1, is amended to read:

Subdivision 1. [LICENSE REQUIRED; QUALIFICATIONS.] No person shall practice chiropractic in this state without first being licensed by the state board of chiropractic examiners. The applicant shall have earned at least one-half of all academic credits required for awarding of a baccalaureate degree from the University of Minnesota, or other university, college, or community college of equal standing, in subject matter determined by the board, and taken a four-year resident course of at least eight months each in a school or college of chiropractic or in a chiropractic program that is ~~fully~~ accredited by the council on chiropractic education or ~~fully~~ accredited by an agency approved by the United States Office of Education or their successors as of January 1, 1988. The board may issue licenses to practice chiropractic without compliance with prechiropractic or academic requirements listed above if in the opinion of the board the applicant has the qualifications equivalent to those required of other applicants, the applicant satisfactorily passes written and practical examinations as required by the board of chiropractic examiners, and the applicant is a graduate of a college of chiropractic with a reciprocal recognition agreement with the council on chiropractic education as of January 1, 1988. The board may recommend a two-year prechiropractic course of instruction to any university, college, or community college which in its judgment would satisfy the academic prerequisite for licensure as established by this section.

An examination for a license shall be in writing and shall include testing in:

- (a) The basic sciences including but not limited to anatomy, physiology, bacteriology, pathology, hygiene, and chemistry as related to the human body or mind;
- (b) The clinical sciences including but not limited to the science and art of chiropractic, chiropractic physiotherapy, diagnosis, roentgenology, and nutrition; and
- (c) Professional ethics and any other subjects that the board may deem advisable.

The board may consider a valid certificate of examination from the National Board of Chiropractic Examiners as evidence of compliance with the ~~written~~ examination requirements of this subdivision. The applicant shall be required to give practical demonstration in vertebral palpation, neurology, adjusting and any other subject that the board may deem advisable. A license, countersigned by the members of the board and authenticated by the seal thereof, shall be granted to each applicant who correctly answers 75 percent of the questions propounded in each of the subjects required by this subdivision and meets the standards of practical demonstration established by the board. Each application shall be accompanied by a fee set by the board. The fee shall not be returned but the applicant may, within one year, apply for examination without the payment of an additional fee. The board may grant a license to an applicant who holds a valid license to practice chiropractic issued by the appropriate licensing board of another state, provided the applicant meets the other requirements of this section and satisfactorily passes a practical examination approved by the board. The burden of proof is on the applicant to demonstrate these qualifications or satisfaction of these requirements.

Sec. 2. Minnesota Statutes 2000, section 148.10, subdivision 1, is amended to read:

Subdivision 1. [GROUNDS.] (a) The state board of chiropractic examiners may refuse to grant, or may revoke, suspend, condition, limit, restrict or qualify a license to practice chiropractic, or may cause the name of a person licensed to be removed from the records in the office of the court administrator of the district court for:

(1) Advertising that is false or misleading; that violates a rule of the board; or that claims the cure of any condition or disease.

(2) The employment of fraud or deception in applying for a license or in passing the examination provided for in section 148.06 or conduct which subverts or attempts to subvert the licensing examination process.

(3) The practice of chiropractic under a false or assumed name or the impersonation of another practitioner of like or different name.

(4) The conviction of a crime involving moral turpitude.

(5) The conviction, during the previous five years, of a felony reasonably related to the practice of chiropractic.

(6) Habitual intemperance in the use of alcohol or drugs.

(7) ~~Failure to pay the annual renewal license fee~~ Practicing under a license which has not been renewed.

(8) Advanced physical or mental disability.

(9) The revocation or suspension of a license to practice chiropractic; or other disciplinary action against the licensee; or the denial of an application for a license by the proper licensing authority of another state, territory or country; or failure to report to the board that charges regarding the person's license have been brought in another state or jurisdiction.

(10) The violation of, or failure to comply with, the provisions of sections 148.01 to 148.105, the rules of the state board of chiropractic examiners, or a lawful order of the board.

(11) Unprofessional conduct.

(12) Being unable to practice chiropractic with reasonable skill and safety to patients by reason of illness, professional incompetence, senility, drunkenness, use of drugs, narcotics, chemicals or any other type of material, or as a result of any mental or physical condition, including deterioration through the aging process or loss of motor skills. If the board has probable cause to believe that a person comes within this clause, it shall direct the person to submit to a mental or physical examination. For the purpose of this clause, every person licensed under this chapter shall be deemed to have given consent to submit to a mental or physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the examining physicians' testimony or examination reports on the ground that the same constitute a privileged communication. Failure of a person to submit to such examination when directed shall constitute an admission of the allegations, unless the failure was due to circumstances beyond the person's control, in which case a default and final order may be entered without the taking of testimony or presentation of evidence. A person affected under this clause shall at reasonable intervals be afforded an opportunity to demonstrate that the person can resume the competent practice of chiropractic with reasonable skill and safety to patients.

In addition to ordering a physical or mental examination, the board may, notwithstanding section 13.42, 144.651, or any other law limiting access to health data, obtain health data and health records relating to a licensee or applicant without the licensee's or applicant's consent if the board has probable cause to believe that a doctor of chiropractic comes under this clause. The health data may be requested from a provider, as defined in section 144.335, subdivision 1, paragraph (b), an insurance company, or a government agency, including the department

of human services. A provider, insurance company, or government agency shall comply with any written request of the board under this subdivision and is not liable in any action for damages for releasing the data requested by the board if the data are released pursuant to a written request under this subdivision, unless the information is false and the provider or entity giving the information knew, or had reason to believe, the information was false. Information obtained under this subdivision is classified as private under sections 13.01 to 13.87.

In any proceeding under this clause, neither the record of proceedings nor the orders entered by the board shall be used against a person in any other proceeding.

(13) Aiding or abetting an unlicensed person in the practice of chiropractic, except that it is not a violation of this clause for a doctor of chiropractic to employ, supervise, or delegate functions to a qualified person who may or may not be required to obtain a license or registration to provide health services if that person is practicing within the scope of the license or registration or delegated authority.

(14) Improper management of health records, including failure to maintain adequate health records as described in clause (18), to comply with a patient's request made under section 144.335 or to furnish a health record or report required by law.

(15) Failure to make reports required by section 148.102, subdivisions 2 and 5, or to cooperate with an investigation of the board as required by section 148.104, or the submission of a knowingly false report against another doctor of chiropractic under section 148.10, subdivision 3.

(16) Splitting fees, or promising to pay a portion of a fee or a commission, or accepting a rebate.

(17) Revealing a privileged communication from or relating to a patient, except when otherwise required or permitted by law.

(18) Failing to keep written chiropractic records justifying the course of treatment of the patient, including, but not limited to, patient histories, examination results, test results, and X-rays. Unless otherwise required by law, written records need not be retained for more than seven years and X-rays need not be retained for more than four years.

(19) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party which shall include, but not be limited to, the promotion or sale of services, goods, or appliances.

(20) Gross or repeated malpractice or the failure to practice chiropractic at a level of care, skill, and treatment which is recognized by a reasonably prudent chiropractor as being acceptable under similar conditions and circumstances.

(21) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that the person is not qualified by training, experience, or licensure to perform them.

(b) For the purposes of paragraph (a), clause (2), conduct that subverts or attempts to subvert the licensing examination process includes, but is not limited to: (1) conduct that violates the security of the examination materials, such as removing examination materials from the examination room or having unauthorized possession of any portion of a future, current, or previously administered licensing examination; (2) conduct that violates the standard of test administration, such as communicating with another examinee during administration of the examination, copying another examinee's answers, permitting another examinee to copy one's answers, or possessing unauthorized materials; or (3) impersonating an examinee or permitting an impersonator to take the examination on one's own behalf.

(c) For the purposes of paragraph (a), clauses (4) and (5), conviction as used in these subdivisions includes a conviction of an offense that if committed in this state would be deemed a felony without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilt is made or returned but the adjudication of guilt is either withheld or not entered.

(d) For the purposes of paragraph (a), clauses (4), (5), and (6), a copy of the judgment or proceeding under seal of the administrator of the court or of the administrative agency which entered the same shall be admissible into evidence without further authentication and shall constitute prima facie evidence of its contents.

(e) For the purposes of paragraph (a), clause (11), unprofessional conduct means any unethical, deceptive or deleterious conduct or practice harmful to the public, any departure from or the failure to conform to the minimal standards of acceptable chiropractic practice, or a willful or careless disregard for the health, welfare or safety of patients, in any of which cases proof of actual injury need not be established. Unprofessional conduct shall include, but not be limited to, the following acts of a chiropractor:

- (1) gross ignorance of, or incompetence in, the practice of chiropractic;
- (2) engaging in conduct with a patient that is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior that is seductive or sexually demeaning to a patient;
- (3) performing unnecessary services;
- (4) charging a patient an unconscionable fee or charging for services not rendered;
- (5) directly or indirectly engaging in threatening, dishonest, or misleading fee collection techniques;
- (6) perpetrating fraud upon patients, third-party payors, or others, relating to the practice of chiropractic, including violations of the Medicare or Medicaid laws or state medical assistance laws;
- (7) advertising that the licensee will accept for services rendered assigned payments from any third-party payer as payment in full, if the effect is to give the impression of eliminating the need of payment by the patient of any required deductible or copayment applicable in the patient's health benefit plan; or advertising a fee or charge for a service or treatment different from the fee or charge the licensee submits to a third-party payer for that service or treatment. As used in this clause, "advertise" means solicitation by the licensee by means of handbills, posters, circulars, motion pictures, radio, newspapers, television, or in any other manner. In addition to the board's power to punish for violations of this clause, violation of this clause is also a misdemeanor;
- (8) accepting for services rendered assigned payments from any third-party payer as payment in full, if the effect is to eliminate the need of payment by the patient of any required deductible or copayment applicable in the patient's health benefit plan, except as hereinafter provided; or collecting a fee or charge for a service or treatment different from the fee or charge the licensee submits to a third-party payer for that service or treatment, except as hereinafter provided. This clause is intended to prohibit offerings to the public of the above listed practices and those actual practices as well, except that in instances where the intent is not to collect an excessive remuneration from the third-party payer but rather to provide services at a reduced rate to a patient unable to afford the deductible or copayment, the services may be performed for a lesser charge or fee. The burden of proof for establishing that this is the case shall be on the licensee; and
- (9) any other act that the board by rule may define.

Sec. 3. Minnesota Statutes 2000, section 148.10, subdivision 3, is amended to read:

Subd. 3. [REPRIMAND; PENALTIES; PROBATION.] In addition to the other powers granted to the board under this chapter, the board may, in connection with any person whom the board, after a hearing, adjudges unqualified or whom the board, after a hearing, finds to have performed one or more of the acts described in subdivision 1:

- (1) publicly reprimand or censure the person;

(2) place the person on probation for the period and upon the terms and conditions that the board may prescribe; and

(3) require payment of all costs of proceedings resulting in the disciplinary action; and

(4) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the doctor of chiropractic of any economic advantage gained by reason of the violation charged or to reimburse the board for the cost of the investigation and proceeding. For purposes of this section, the cost of the investigation and proceeding may include, but is not limited to, fees paid for services provided by the office of administrative hearings, legal and investigative services provided by the office of the attorney general, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and travel costs and expenses incurred by board staff and board members.

Sec. 4. Minnesota Statutes 2000, section 148.104, is amended to read:

148.104 [COOPERATION DURING INVESTIGATIONS.]

A doctor of chiropractic who is the subject of an investigation by or on behalf of the board shall cooperate fully with the investigation. Cooperation includes appearing at conferences, meetings, or hearings scheduled by the board and for which the board provided notice in accordance with chapter 14; responding fully and promptly to any question raised by or on behalf of the board relating to the subject of the investigation; and providing copies of patient health records, as reasonably requested by the board, to assist the board in its investigation. If the board does not have written consent from a patient allowing the board access to the patient's health records, a doctor of chiropractic shall delete any data in the record which identifies the patient before providing the records to the board.

Sec. 5. Minnesota Statutes 2000, section 148.105, subdivision 2, is amended to read:

Subd. 2. [EXCEPTIONS.] The following persons shall not be in violation of subdivision 1:

(1) a student practicing under the direct supervision of a preceptor while the student is enrolled in and regularly attending a recognized chiropractic college or chiropractic program; ~~and~~

(2) a student who is in continuing training and performing the duties of an intern or resident or engaged in postgraduate work considered by the board to be the equivalent of an internship or residency in any institution approved for training by the board;

(3) a doctor of chiropractic licensed in another state or jurisdiction who is in actual consultation in Minnesota;

(4) a doctor of chiropractic licensed in another state or jurisdiction who is in this state for the sole purpose of providing chiropractic services at a competitive athletic event. The doctor of chiropractic may practice chiropractic only on participants in the athletic event;

(5) a doctor of chiropractic licensed in another state or jurisdiction whose duties are entirely of a research, public health, or educational character and while directly engaged in such duties, and who is employed in a scientific, sanitary, or teaching capacity by: (i) an accredited institution; (ii) a public or private school, college, or other bona fide educational institution; (iii) a nonprofit organization which has tax-exempt status in accordance with the Internal Revenue Code, section 501(c)(3), and is organized and operated primarily for the purpose of conducting scientific research; or (iv) the state department of health;

(6) a doctor of chiropractic licensed in another state or jurisdiction who treats the doctor of chiropractic's home state patients or other participating patients while the doctor of chiropractic and those patients are participating together in outdoor recreation in this state as defined by section 86A.03, subdivision 3; and

(7) a person licensed in another state or jurisdiction who is a commissioned officer of, a member of, or employed by the armed forces of the United States, the United States Public Health Service, the Veterans Administration, any federal institution, or any federal agency while engaged in the performance of official duties within this state.

Sec. 6. Minnesota Statutes 2000, section 148.106, subdivision 10, is amended to read:

Subd. 10. [CONFIDENTIALITY OF PEER REVIEW RECORDS.] All data and information acquired by the board or the peer review committee before August 1, 2001, in the exercise of its duties and functions in conducting peer reviews before August 1, 2001, shall be subject to the same disclosure and confidentiality protections as provided for data and information of other review organizations under section 145.64. ~~This subdivision does not limit or restrict the board or the peer review committee from fully performing their prescribed peer review duties and functions, nor does it apply to disciplinary and enforcement proceedings under sections 14.57 to 14.62, 148.10, 148.105, 214.10, and 214.11. The peer review committee shall file with the board a complaint against a health care provider if it determines that reasonable cause exists to believe the health care provider has violated any portion of this chapter or rules adopted under it, for which a licensed chiropractor may be disciplined. The peer review committee shall transmit all complaint information it possesses to the board.~~ The data, information, and records are classified as private data on individuals for purposes of chapter 13. The patient records obtained by the board pursuant to this section must be used solely for the purposes of the board relating to peer review or the disciplinary process.

Sec. 7. [REPEALER.]

Minnesota Statutes 2000, section 148.106, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, and 9, are repealed."

Delete the title and insert:

"A bill for an act relating to health occupations; modifying licensing requirements for the board of chiropractic examiners; modifying grounds for disciplinary action and penalties; allowing specified individuals to practice chiropractic in this state without being licensed in this state; amending Minnesota Statutes 2000, sections 148.06, subdivision 1; 148.10, subdivisions 1 and 3; 148.104; 148.105, subdivision 2; and 148.106, subdivision 10; repealing Minnesota Statutes 2000, section 148.106, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, and 9."

With the recommendation that when so amended the bill pass.

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. Nos. 464, 643, 779, 781, 1021, 1051, 1081, 1085, 1098, 1151, 1153, 1236, 1276, 1356, 1397, 1424, 1517, 1524, 1526, 1547, 1637, 1669, 1747, 1830, 1876, 1954, 1973, 2074, 2107, 2161, 2181, 2203 and 2252 were read for the second time.

SECOND READING OF SENATE BILLS

S. F. Nos. 883 and 359 were read for the second time.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Olson, Lindner and Kuisle introduced:

H. F. No. 2354, A bill for an act relating to education; providing for a qualified economic offer in teacher contracts; amending Minnesota Statutes 2000, sections 122A.40, by adding a subdivision; and 122A.41, by adding a subdivision.

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

Hausman introduced:

H. F. No. 2355, A bill for an act relating to human services; adding a provision under the nursing facility moratorium exceptions; amending Minnesota Statutes 2000, section 256B.431, subdivision 17.

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

Bakk introduced:

H. F. No. 2356, A bill for an act relating to the University of Minnesota; extending competitive bidding and prompt payment requirements to the University of Minnesota; amending Minnesota Statutes 2000, sections 16A.124, subdivision 1; 16C.02, subdivision 2; 16C.25.

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

Mariani, Paymar and Entenza introduced:

H. F. No. 2357, A bill for an act relating to higher education; appropriating money to the higher education services office for a grant to the united family medicine residency program.

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

Nornes introduced:

H. F. No. 2358, A bill for an act relating to motor vehicles; defining "residence" for purposes of the 60-day exemption from vehicle registration for new residents; amending Minnesota Statutes 2000, section 168.012, subdivision 8.

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

Stang introduced:

H. F. No. 2359, A bill for an act relating to state finance; changing procedures regarding certain donations to the state; changing responsibility for payment of substitutes in cases of certain athletic leaves; changing the years of capital budgets from even to odd; removing the two percent budget amount presumption for building maintenance;

providing for presumption of fee approval unless legislature acts otherwise; stating the goal of the budget reserve; providing for disposition of interest on the budget reserve; providing for up to five percent of second year budget allocations to go to the budget reserve; changing and adding to deficit remedies; removing a provision that made certain delayed payments subject to allotment reduction; clarifying when capital appropriations lapse; stating exclusive method for canceling appropriation of bond proceeds; changing the timing of political subdivisions capital requests; repealing the Property Tax Reform Account, the requirement for commissioner of finance approval of executive agency application for nonstate funds, detail about the use of trunk highway appropriations, and the requirement for use of uniform settlement forms under PELRA; modifying provisions governing trunk highway bond proceeds and highway bond-financed property; amending Minnesota Statutes 2000, sections 7.09, subdivision 1; 15.62, subdivision 3; 16A.11, subdivisions 1, 6; 16A.1283; 16A.152, subdivisions 1a, 2, 4, 7; 16A.28, subdivision 5; 16A.641, subdivision 8; 16A.86, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 167; repealing Minnesota Statutes 2000, sections 16A.1521; 16A.30; 161.20, subdivision 3; 179A.07, subdivision 7.

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

Wasiluk introduced:

H. F. No. 2360, A bill for an act relating to retirement; excluding certain public employees from coverage by the public employees retirement plan; amending Minnesota Statutes 2000, section 353.01, subdivision 2b.

The bill was read for the first time and referred to the Committee on Governmental Operations and Veterans Affairs Policy.

Kubly and Juhnke introduced:

H. F. No. 2361, A bill for an act relating to education; authorizing a lease levy for independent school district No. 2190, Yellow Medicine East.

The bill was read for the first time and referred to the Committee on K-12 Education Finance.

Davids and Ozment introduced:

H. F. No. 2362, A resolution memorializing Congress to pass legislation requiring cigarettes that are less likely to start fires.

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

Gunther; Dorn; Clark, J.; Workman and Winter introduced:

H. F. No. 2363, A bill for an act relating to highways; expanding uses of money appropriated for fiscal year 2001 for local bridge replacement and rehabilitation; amending Laws 2000, chapter 479, article 1, section 2, subdivision 11.

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

Mulder introduced:

H. F. No. 2364, A bill for an act relating to education; authorizing certain school districts to start the school year before Labor Day.

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

McElroy and Leighton introduced:

H. F. No. 2365, A bill for an act relating to taxation; income and franchise; exempting a portion of the capital gain realized on certain investments in high technology businesses from taxation; providing that the credit for increased research and development activities is refundable; appropriating money; amending Minnesota Statutes 2000, sections 290.01, subdivision 19b; 290.068, by adding subdivisions; repealing Minnesota Statutes 2000, section 290.068, subdivision 3.

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

Harder introduced:

H. F. No. 2366, A bill for an act relating to telecommunications; appropriating money for connected communities projects.

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

Ness introduced:

H. F. No. 2367, A bill for an act relating to agriculture; establishing a permanent certification program; changing certain fees, charges, and licensing provisions; expanding certain programs; changing a reimbursement program; funding programs of the department of agriculture and the board of animal health; imposing penalties; appropriating money; amending Minnesota Statutes 2000, sections 17.1025; 17.85; 18C.425, subdivisions 2, 6; 18E.02, by adding a subdivision; 18E.04, subdivisions 2, 4, 5, by adding a subdivision; 21.85, subdivision 12; 27.041, subdivision 2; 28A.04, subdivision 1; 29.22, subdivision 2; 31.39; 32.392; 32.394, subdivisions 8a, 8e; 223.17, subdivision 3; 231.16; proposing coding for new law in Minnesota Statutes, chapters 28A; 32; repealing Minnesota Statutes 2000, sections 31.11, subdivision 2;

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

Kuise, Bishop and Bradley introduced:

H. F. No. 2368, A bill for an act relating to appropriations; appropriating money for a solid waste recovery facility.

The bill was read for the first time and referred to the Committee on Environment and Natural Resources Finance.

Kuise, Bishop and Bradley introduced:

H. F. No. 2369, A bill for an act relating to capital improvements; authorizing the sale of state bonds; appropriating money for a solid waste recovery facility.

The bill was read for the first time and referred to the Committee on Environment and Natural Resources Finance.

Wenzel introduced:

H. F. No. 2370, A bill for an act relating to education finance; expanding the time period for the repayment of state aid by independent school district No. 482, Little Falls.

The bill was read for the first time and referred to the Committee on K-12 Education Finance.

Nornes introduced:

H. F. No. 2371, A bill for an act relating to education; appropriating money for a tech center in Fergus Falls.

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

Juhnke and Kubly introduced:

H. F. No. 2372, A bill for an act relating to corrections; requiring the department of corrections to determine the feasibility of placing felony DWI offenders at existing surplus state facilities; requiring a cost-benefit analysis; proposing coding for new law in Minnesota Statutes, chapter 243.

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

Hausman introduced:

H. F. No. 2373, A bill for an act relating to human services; providing a rate increase for a nursing facility in Ramsey county; amending Minnesota Statutes 2000, section 256B.434, by adding a subdivision.

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

Rhodes, Stanek and Paymar introduced:

H. F. No. 2374, A bill for an act relating to corrections; providing for compensation of clergy; proposing coding for new law in Minnesota Statutes, chapter 241.

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

Erhardt introduced:

H. F. No. 2375, A bill for an act relating to deed taxes; clarifying the definition of consideration in certain cases; amending Minnesota Statutes 2000, section 287.20, subdivision 2.

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

Carlson, Abeler, Mullery and Mares introduced:

H. F. No. 2376, A bill for an act relating to education finance; promoting school success through enhanced pupil attendance; providing funding for truancy reduction activities; amending Minnesota Statutes 2000, sections 120A.30; 126C.10, subdivision 3; 126C.15, subdivision 1.

The bill was read for the first time and referred to the Committee on K-12 Education Finance.

Pawlenty, Leppik and Carlson introduced:

H. F. No. 2377, A bill for an act relating to higher education; establishing a commission on University of Minnesota excellence to identify centers of excellence; requiring a report to the legislature; providing appointments.

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

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 File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 264, A bill for an act relating to energy; correcting names of legislative committees represented by certain members of legislative electric energy task force; amending Minnesota Statutes 2000, section 216C.051, subdivision 2.

PATRICK E. FLAHAVEN, Secretary of the Senate

Wolf moved that the House refuse to concur in the Senate amendments to H. F. No. 264, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

Mr. Speaker:

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

S. F. Nos. 1502, 991, 1435, 1404, 1419, 1204, 244 and 702.

PATRICK E. FLAHAVEN, Secretary of the Senate

FIRST READING OF SENATE BILLS

S. F. No. 1502, A bill for an act relating to the courts; authorizing courts to accept affidavits in lieu of a hearing on a name change application; amending Minnesota Statutes 2000, section 259.10, subdivision 1.

The bill was read for the first time.

Skoglund moved that S. F. No. 1502 and H. F. No. 1638, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 991, A bill for an act relating to education; notifying schools of student possession of drug paraphernalia; amending Minnesota Statutes 2000, section 121A.28.

The bill was read for the first time.

Clark, J., moved that S. F. No. 991 and H. F. No. 1046, now on the Calendar for the Day, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1435, A bill for an act relating to state government; modifying provisions relating to the designer selection board; amending Minnesota Statutes 2000, section 16B.33, subdivision 4.

The bill was read for the first time.

Osskopp moved that S. F. No. 1435 and H. F. No. 1455, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1404, A bill for an act relating to state employment; permitting retired state employees to purchase group long-term care insurance through the same plan offered to active state employees; amending Minnesota Statutes 2000, section 43A.318, subdivision 1.

The bill was read for the first time.

Haas moved that S. F. No. 1404 and H. F. No. 1657, now on the Consent Calendar, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1419, A bill for an act relating to payment bonds; regulating notices of claims; amending Minnesota Statutes 2000, section 574.31, subdivision 2.

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

S. F. No. 1204, A bill for an act relating to insurance; regulating the use of HIV and bloodborne pathogen tests; amending Minnesota Statutes 2000, section 72A.20, subdivision 29.

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

S. F. No. 244, A bill for an act relating to appropriations; redirecting an appropriation to People, Inc.; amending Laws 1998, chapter 404, section 18, subdivision 4.

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

S. F. No. 702, A bill for an act relating to natural resources; modifying requirements for the Blufflands trail system; amending Minnesota Statutes 2000, section 85.015, subdivision 7.

The bill was read for the first time and referred to the Committee on Environment and Natural Resources Policy.

CONSENT CALENDAR

H. F. No. 1391, A resolution urging the United States Postal Service to create a postage stamp reproducing Eric Enstrom's photograph "Grace."

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 124 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was passed and its title agreed to.

H. F. No. 1160, A bill for an act relating to health; changing the frequency with which physician assistant delegated prescribing activities must be reviewed; amending Minnesota Statutes 2000, sections 147A.18, subdivision 1; and 147A.20.

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 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Clark, K.	Evans	Hausman	Kahn	Lindner
Abrams	Daggett	Finseth	Hilstrom	Kalis	Lipman
Anderson, B.	Davids	Folliard	Hilty	Kelliher	Luther
Anderson, I.	Davnie	Fuller	Holberg	Kielkucki	Mahoney
Bakk	Dawkins	Gerlach	Holsten	Knoblach	Mares
Bernardy	Dehler	Gleason	Howes	Koskinen	Mariani
Biernat	Dempsey	Goodno	Huntley	Krinkie	Marko
Bishop	Dibble	Goodwin	Jacobson	Kubly	Marquart
Boudreau	Dorman	Gray	Jaros	Kuisle	McElroy
Bradley	Dorn	Greiling	Jennings	Larson	McGuire
Buesgens	Eastlund	Gunther	Johnson, J.	Leighton	Milbert
Carlson	Entenza	Haas	Johnson, R.	Lenczewski	Molnau
Cassell	Erhardt	Hackbarth	Johnson, S.	Leppik	Mulder
Clark, J.	Erickson	Harder	Juhnke	Lieder	Mullery

Murphy	Pawlenty	Ruth	Solberg	Vandever	Winter
Ness	Paymar	Schumacher	Stanek	Wagenius	Wolf
Nornes	Pelowski	Seagren	Stang	Walker	Workman
Olson	Penas	Seifert	Swapinski	Walz	Spk. Sviggum
Opatz	Peterson	Sertich	Swenson	Wasiluk	
Osskopp	Pugh	Skoe	Sykora	Wenzel	
Osthoff	Rhodes	Skoglund	Thompson	Westerberg	
Ozment	Rifenberg	Slawik	Tingelstad	Westrom	
Paulsen	Rukavina	Smith	Tuma	Wilkin	

The bill was passed and its title agreed to.

CALENDAR FOR THE DAY

S. F. No. 509, A bill for an act relating to local government; authorizing the use of credit cards by city and town officers and employees; providing for payment of city and county obligations by electronic transfer or credit card; authorizing electronic approvals; amending Minnesota Statutes 2000, section 471.38, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 471.

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 131 yeas and 1 nay as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Smith

The bill was passed and its title agreed to.

H. F. No. 208 was reported to the House.

Workman moved that H. F. No. 208 be continued on the Calendar for the Day. The motion prevailed.

S. F. No. 63, A bill for an act relating to highways; designating a bridge on marked trunk highway No. 55 in Stearns county as Old St. Anne's Pass; amending Minnesota Statutes 2000, section 161.14, by adding a subdivision.

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 131 yeas and 1 nay as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Krinkie

The bill was passed and its title agreed to.

S. F. No. 647, A resolution memorializing the President and Congress to carry through on their pledge to fund 40 percent of special education costs.

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 123 yeas and 1 nay as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Wolf

The bill was passed and its title agreed to.

H. F. No. 704, A bill for an act relating to health; creating exception from criminal rehabilitation provisions for emergency medical services personnel; amending Minnesota Statutes 2000, section 364.09.

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 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Bradley	Dawkins	Erickson	Gray	Holberg
Abrams	Buesgens	Dehler	Evans	Greiling	Holsten
Anderson, B.	Carlson	Dempsey	Finseth	Gunther	Howes
Anderson, I.	Cassell	Dibble	Folliard	Haas	Huntley
Bakk	Clark, J.	Dorman	Fuller	Hackbarth	Jacobson
Bernardy	Clark, K.	Dorn	Gerlach	Harder	Jaros
Biernat	Daggett	Eastlund	Gleason	Hausman	Jennings
Bishop	Dauids	Entenza	Goodno	Hilstrom	Johnson, J.
Boudreau	Davnie	Erhardt	Goodwin	Hilty	Johnson, R.

Johnson, S.	Lenczewski	Milbert	Pawlenty	Skoe	Vandever
Juhnke	Leppik	Molnau	Paymar	Skoglund	Wagenius
Kahn	Lieder	Mulder	Pelowski	Slawik	Walker
Kalis	Lindner	Mullery	Penas	Smith	Walz
Kelliher	Lipman	Murphy	Peterson	Solberg	Wasiluk
Kielkucki	Luther	Ness	Pugh	Stanek	Wenzel
Knoblach	Mahoney	Nornes	Rhodes	Stang	Westerberg
Koskinen	Mares	Olson	Rifenberg	Swapinski	Westrom
Krinkie	Mariani	Opatz	Ruth	Swenson	Wilkin
Kubly	Marko	Osskopp	Schumacher	Sykora	Winter
Kuisle	Marquart	Osthoff	Seagren	Thompson	Wolf
Larson	McElroy	Ozment	Seifert	Tingelstad	Workman
Leighton	McGuire	Paulsen	Sertich	Tuma	Spk. Sviggum

The bill was passed and its title agreed to.

H. F. No. 867, A bill for an act relating to the suburban Hennepin regional park district; authorizing the district to set commissioners' compensation; clarifying the district's boundaries; clarifying that meetings shall be held in conformance with the open meeting law; permitting the district to accept donations without court approval; deleting obsolete reference to condemnation procedures; authorizing the district to enter into joint powers agreements by majority board action; amending Minnesota Statutes 2000, sections 383B.70; 383B.703; 398.06; and 398.09; repealing Minnesota Statutes 2000, sections 383B.73, subdivision 2; and 383B.74.

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

The question was taken on the passage of the bill and the roll was called. There were 129 yeas and 1 nay as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Olson

The bill was passed and its title agreed to.

S. F. No. 346, A bill for an act relating to trusts; making changes to the uniform principal and income act; simplifying the antilapse law; amending Minnesota Statutes 2000, sections 144.225, subdivision 7; 501B.59, by adding a subdivision; 501B.60, by adding a subdivision; 501B.61, subdivision 2; 501B.62, subdivision 1; 501B.63, subdivision 2; 501B.64; 501B.68; 501B.69; and 524.6-301; proposing coding for new law in Minnesota Statutes, chapters 501B; and 524; repealing Minnesota Statutes 2000, sections 501B.66; 501B.70; and 524.2-603.

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 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

The bill was passed and its title agreed to.

MOTIONS AND RESOLUTIONS

Bernardy moved that her name be stricken as an author on H. F. No. 43. The motion prevailed.

Stanek moved that his name be stricken as an author on H. F. No. 1055. The motion prevailed.

Finseth moved that the name of Ruth be added as an author on H. F. No. 1469. The motion prevailed.

Mahoney moved that the name of Wasiluk be added as an author on H. F. No. 1904. The motion prevailed.

Abrams moved that the name of Paulsen be added as an author on H. F. No. 1963. The motion prevailed.

Smith moved that the name of Mulder be added as an author on H. F. No. 2014. The motion prevailed.

Sykora moved that the name of Mulder be added as an author on H. F. No. 2019. The motion prevailed.

Kielkucki moved that the name of Mulder be added as an author on H. F. No. 2057. The motion prevailed.

Olson moved that the name of Mulder be added as an author on H. F. No. 2092. The motion prevailed.

Workman moved that the name of Mulder be added as an author on H. F. No. 2101. The motion prevailed.

Workman moved that the name of Mulder be added as an author on H. F. No. 2102. The motion prevailed.

McElroy moved that the name of Rifenberg be added as an author on H. F. No. 2106. The motion prevailed.

Jacobson moved that the name of Goodwin be added as an author on H. F. No. 2185. The motion prevailed.

Abeler moved that the name of Davids be added as an author on H. F. No. 2195. The motion prevailed.

Stanek moved that his name be stricken as an author on H. F. No. 2227. The motion prevailed.

Hilstrom moved that the name of Dibble be added as an author on H. F. No. 2252. The motion prevailed.

Anderson, B., moved that the name of Mulder be added as an author on H. F. No. 2275. The motion prevailed.

Ness moved that the name of Mulder be added as an author on H. F. No. 2288. The motion prevailed.

Osskopp moved that the name of Mulder be added as an author on H. F. No. 2289. The motion prevailed.

Kielkucki moved that the name of Mulder be added as an author on H. F. No. 2304. The motion prevailed.

Penas moved that the name of Mulder be added as an author on H. F. No. 2322. The motion prevailed.

Goodno moved that the name of Penas be added as an author on H. F. No. 2344. The motion prevailed.

Daggett moved that the name of Mulder be added as an author on H. F. No. 2346. The motion prevailed.

Seagren moved that the name of Rifenberg be added as an author on H. F. No. 2353. The motion prevailed.

Daggett moved that H. F. No. 289 be recalled from the Committee on Ways and Means and be re-referred to the Committee on State Government Finance. The motion prevailed.

Ness moved that H. F. No. 640, now on the General Register, be re-referred to the Committee on Higher Education Finance. The motion prevailed.

Stanek moved that H. F. No. 783, now on the General Register, be re-referred to the Committee on Judiciary Finance. The motion prevailed.

Thompson moved that H. F. No. 1080 be recalled from the Committee on Ways and Means and be re-referred to the Committee on State Government Finance. The motion prevailed.

McGuire moved that H. F. No. 1453 be recalled from the Committee on K-12 Education Finance and be re-referred to the Committee on Family and Early Childhood Education Finance. The motion prevailed.

Koskinen moved that H. F. No. 1672 be recalled from the Committee on Regulated Industries and be re-referred to the Committee on State Government Finance. The motion prevailed.

Kuisle moved that H. F. No. 1821 be recalled from the Committee on Transportation Policy and be re-referred to the Committee on Commerce, Jobs and Economic Development. The motion prevailed.

Walker moved that H. F. No. 1867 be recalled from the Committee on Health and Human Services Finance and be re-referred to the Committee on Health and Human Services Policy. The motion prevailed.

Slawik moved that H. F. No. 2231 be recalled from the Committee on Health and Human Services Finance and be re-referred to the Committee on Health and Human Services Policy. The motion prevailed.

Hilstrom moved that H. F. No. 2252, now on the General Register, be re-referred to the Committee on Governmental Operations and Veterans Affairs Policy. The motion prevailed.

Tingelstad moved that H. F. No. 2255 be recalled from the Committee on Health and Human Services Finance and be re-referred to the Committee on Health and Human Services Policy. The motion prevailed.

Huntley moved that H. F. No. 2303 be recalled from the Committee on Health and Human Services Finance and be re-referred to the Committee on Health and Human Services Policy. The motion prevailed.

Abeler moved that H. F. No. 2345 be recalled from the Committee on Health and Human Services Finance and be re-referred to the Committee on Health and Human Services Policy. The motion prevailed.

SUSPENSION OF RULES

Huntley moved that the rules be so far suspended that House Resolution No. 12 be recalled from the Committee on Higher Education Finance and be placed upon its adoption. The motion prevailed.

House Resolution No. 12 was reported to the House.

HOUSE RESOLUTION NO. 12

A house resolution congratulating the University of Minnesota-Duluth women's hockey team on winning the 2001 NCAA Women's Ice Hockey Championship.

Whereas, the sport of women's ice hockey has experienced rapid growth in recent years, with the support of law, legislative appropriation, and an enthusiastic public; and

Whereas, the inaugural NCAA Women's Frozen Four tournament, hosted by the University of Minnesota-Twin Cities, took place from March 23 to March 25, 2001, at Mariucci Arena in Minneapolis; and

Whereas, the University of Minnesota-Duluth Bulldogs, led by coach Shannon Miller, defeated Harvard in the semifinals on March 23; and

Whereas, in only their second season, the Bulldogs defeated St. Lawrence 4-2 in the final game of the tournament to win the national championship, and they ended the season with an outstanding 28-5-4 record; *Now, Therefore*,

Be It Resolved by the House of Representatives of the State of Minnesota that it congratulates the University of Minnesota-Duluth women's hockey team on winning the 2001 NCAA Women's Ice Hockey Championship, the first in history.

Be It Further Resolved that the Chief Clerk of the House of Representatives is directed to prepare an enrolled copy of this resolution, to be authenticated by his signature and that of the Speaker, and transmit it to the University of Minnesota-Duluth.

Huntley moved that House Resolution No. 12 be now adopted. The motion prevailed and House Resolution No. 12 was adopted.

ANNOUNCEMENT BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 264:

Wolf, Jennings and Ozment.

ADJOURNMENT

Pawlenty moved that when the House adjourns today it adjourn until 3:00 p.m., Wednesday, April 4, 2001. The motion prevailed.

Pawlenty moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 3:00 p.m., Wednesday, April 4, 2001.

EDWARD A. BURDICK, Chief Clerk, House of Representatives