

## STATE OF MINNESOTA

## EIGHTY-SECOND SESSION — 2001

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 FIFTIETH DAY

SAINT PAUL, MINNESOTA, WEDNESDAY, MAY 9, 2001

The House of Representatives convened at 11:00 a.m. and was called to order by Steve Sviggum, Speaker of the House.

Prayer was offered by the Reverend Lonnie E. Titus, House Chaplain.

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

A quorum was present.

Walker was excused.

Clark, K., was excused until 12:20 p.m.

The Chief Clerk proceeded to read the Journal of the preceding day. Vandever 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. 1124 and H. F. No. 514, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Carlson moved that S. F. No. 1124 be substituted for H. F. No. 514 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1769 and H. F. No. 1488, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

## SUSPENSION OF RULES

Workman moved that the rules be so far suspended that S. F. No. 1769 be substituted for H. F. No. 1488 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1821 and H. F. No. 1817, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

## SUSPENSION OF RULES

Workman moved that the rules be so far suspended that S. F. No. 1821 be substituted for H. F. No. 1817 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 2361 and H. F. No. 1832, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

## SUSPENSION OF RULES

Goodno moved that the rules be so far suspended that S. F. No. 2361 be substituted for H. F. No. 1832 and that the House File be indefinitely postponed. The motion prevailed.

CERTIFICATION PURSUANT TO RULE 4.03  
ON FINANCE AND REVENUE BILLS

May 9, 2001

Edward A. Burdick  
Chief Clerk of the House of Representatives  
The State of Minnesota

Dear Mr. Burdick:

House Rule 4.03 requires the Chair of the Committee on Ways and Means to certify to the House of Representatives that the Committee has reconciled any finance and revenue bills with the budget resolution and targets.

Please accept this letter as certification that H. F. No. 402 and S. F. No. 555 reconcile with the budget resolution.

Sincerely,

REPRESENTATIVE DAVE BISHOP  
Chair, House Ways and Means Committee

## REPORTS OF STANDING COMMITTEES

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

H. F. No. 94, A bill for an act relating to natural resources; establishing penalties for gross overlimit violations of fish and game laws; setting certain restitution values; providing criminal penalties; amending Minnesota Statutes 2000, sections 97A.225, subdivision 1; 97A.255, by adding a subdivision; 97A.421, subdivision 5, by adding a subdivision; 97C.505, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 97A.

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

The report was adopted.

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

H. F. No. 634, A bill for an act relating to claims against the state; providing for payment of various claims; appropriating money.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [ATTORNEY GENERAL.]

\$11,929.01 is appropriated from the general fund to the attorney general for payment to Eveleth Hospital Corporation, Eveleth, Minnesota, in full and final payment of its claim against the state for expenses related to legal advice given by the attorney general's office. This appropriation is available until June 30, 2002.

Sec. 2. [DEPARTMENT OF CORRECTIONS.]

Subdivision 1. [COMMUNITY SERVICE AND SENTENCING TO SERVICE WORK.] The amounts in this subdivision are appropriated from the general fund to the commissioner of corrections for payment under Minnesota Statutes, section 3.739, to service providers as indicated in full and final payment of claims against the state for medical services provided to individuals who were injured while performing community service or sentencing to service work for correctional purposes. These appropriations are available until June 30, 2002.

(a) For claims under \$500 each and other claims already paid by the department, \$5,885.39.

(b) For medical services provided to Carlos Block, who was injured while performing sentencing to service work in Hennepin county, \$760.85.

(c) For medical services provided to Timothy Burke, who was injured while performing sentencing to service work in McLeod county, \$576.17.

(d) For medical services provided to Roger Pearson, who was injured while performing sentencing to service work in Washington county, \$565.92, including reimbursement of \$71.68 to Mr. Pearson for bills he has already paid.

(e) For medical services provided to Phillip Piper, who was injured while performing sentencing to service work in Goodhue county, \$1,044.36.

(f) For medical services provided to James Wagner, who was injured while performing sentencing to service work in Todd county, \$1,585.85.

Subd. 2. [INSTITUTIONAL COMMUNITY WORK CREW PROGRAM.] \$2,049.86 is appropriated from the general fund to the commissioner of corrections for payment for medical services provided to Michael Murphy, who was injured while participating in the institutional community work crew program. This appropriation is available until June 30, 2002.

Sec. 3. [DEPARTMENT OF HUMAN SERVICES.]

\$7,600 is appropriated from the general fund to the commissioner of human services for payment under Minnesota Statutes, section 3.738, as full and final payment of a claim against the state by Kelly James Maurer, who suffered permanent injuries to his left hand while an inmate at the St. Peter Regional Treatment Center. This appropriation is available until June 30, 2002.

Sec. 4. [DEPARTMENT OF NATURAL RESOURCES.]

The amounts in this section are appropriated from the general fund to the commissioner of natural resources for payment to the persons named in this section in full and final payment of claims against the state for the reasons given. These appropriations are available until June 30, 2002.

(a) Charles G. Born of Janesville, Minnesota, to pay for crop losses caused by the elevated level of Willis Lake .... \$9,423.25.

(b) Rex Campbell of Gray Eagle, Minnesota, to pay for income lost because of enforcement of invalid rules .... \$20,000.

(c) Leonard Korbel of New Prague, Minnesota, to pay for the reduced value of property subject to an unrecorded easement .... \$28,300.

(d) St. Croix Valley Heritage Coalition, Inc., to reimburse that organization for costs it incurred as part of a project entered into in partnership with the department of natural resources which was abandoned because of unique concerns raised by the federal government and Wisconsin officials .... \$75,000.

(e) Waseca county, to pay for road damage caused by the elevated level of Willis Lake .... \$2,745.25.

Sec. 5. [PUBLIC EMPLOYEES RETIREMENT ASSOCIATION.]

\$69,637.02 is appropriated from the general fund to the Public Employees Retirement Association, for the benefit of Deborah Montgomery of St. Paul, Minnesota, in full and final payment of her claim against the state for inadvertent diminution of her pension benefits while she was serving as assistant commissioner of public safety. This appropriation is available until June 30, 2002.

Sec. 6. [DEPARTMENT OF REVENUE.]

\$13,098.84 is appropriated from the general fund to the commissioner of revenue for payment to GOCO Salons, Inc. of Minnetonka, Minnesota, in full and final payment of its claim against the state for a sales and use tax overpayment. This appropriation is available until June 30, 2002.

## Sec. 7. [DEPARTMENT OF TRANSPORTATION.]

\$439.52 is appropriated from the general fund to the commissioner of transportation for payment to Joann Danelski of Superior, Wisconsin, in full and final payment of her claim against the state for damage to her car caused by unique circumstances related to actions of an unknown driver who knocked severely deteriorated curbing into the roadway of a highway entrance ramp in Duluth, Minnesota. This appropriation is available until June 30, 2002.

## Sec. 8. [MURRAY COUNTY.]

Murray county may reimburse Howard Van Roekel of Chandler, Minnesota, for property taxes mistakenly overpaid from 1985 through 1995 because of failure to grant homestead classification to all of Mr. Van Roekel's property.

## Sec. 9. [WILLIS LAKE.]

Willis Lake in Waseca county is hereby designated as a wildlife management lake to be managed by the department of natural resources under Minnesota Statutes, section 97A.101, pursuant to the lake management plan prepared by the division of wildlife on April 16, 2001."

Delete the title and insert:

"A bill for an act relating to claims against the state; providing for payment of various claims; granting authority to Murray county; designating a lake as a wildlife management lake; appropriating money."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1270, A bill for an act relating to commerce; regulating currency exchanges, real estate brokers, real property appraisers, subdivided land sales licenses, residential contractors, and collection agencies; modifying certain continuing education requirements; regulating certain fees, costs, duties, rights, and penalties; regulating nonprofit corporations; amending Minnesota Statutes 2000, sections 45.0295; 53A.081, subdivision 2; 60K.19, subdivision 8; 72B.04, subdivisions 6, 7; 80B.03, subdivision 4a; 82.195, subdivision 2; 82.196, subdivision 2; 82.197, subdivisions 1, 4, by adding a subdivision; 82.22, subdivision 13; 82.24, subdivision 8; 82.27, subdivision 3; 82.34, subdivision 15; 82B.14; 83.25, subdivision 1; 317A.203; 326.91, subdivision 1; 326.975, subdivision 1; 332.33, by adding a subdivision; 332.41; 359.02.

Reported the same back with the following amendments:

Page 11, line 36, strike "THE" and insert "A"

Page 24, after line 25, insert:

"Sec. 24. [APPROPRIATION.]

Up to \$1,000,000 is appropriated from the real estate education, research, and recovery fund established under Minnesota Statutes, section 82.34, to the department of commerce for an educational campaign aimed at fair housing and housing-related antidiscrimination initiatives. The appropriation must be used for educating real estate licensees

and for a public information campaign across the state on consumers' rights under current fair housing laws. The educational campaign may include, but is not limited to, television and radio advertisements and printed material. The materials used for the public information campaign should be prepared in multiple languages where necessary."

Page 24, line 28, after the period, insert "Sections 7 to 14, 17, 18, and 21 are effective August 1, 2001."

Renumber the sections in sequence

Correct internal references

Amend the title as follows:

Page 1, line 8, after the semicolon, insert "appropriating money;"

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1311, A bill for an act relating to commerce; providing for the licensing of money transmitters; prescribing the powers and duties of the commissioner; amending Minnesota Statutes 2000, section 48.151; proposing coding for new law as Minnesota Statutes, chapter 53B.

Reported the same back with the following amendments:

Page 3, line 19, after "a" insert "prepaid telephone card, electronic benefits transfer card, or any other"

Page 14, line 20, delete "or authorized"

Page 14, line 21, delete "delegate"

Page 14, line 24, delete "or authorized delegate"

Page 16, line 33, before the period, insert "and that as a part of that supervision and regulation, the commissioner may require the licensee to cancel an authorized delegate contract as a result of a violation of section 53B.21"

Page 16, line 34, delete "DELEGATES" and insert "DELEGATE CONTRACT"

Page 17, delete lines 8 to 21 and insert:

"(b) An authorized delegate shall conduct its money transmission activities in a safe and sound manner.

(c) An authorized delegate shall cooperate with an investigation conducted by the commissioner under this chapter by providing any relevant information in its possession that the commissioner cannot reasonably obtain from another source."

Page 17, line 22, delete "(e)" and insert "(d)"

Page 17, line 25, delete everything after "contract"

Page 17, line 26, delete everything before the period

Page 17, line 27, delete "f" and insert "e"

Page 18, delete lines 3 to 5

Page 18, line 6, delete "(h)" and insert "(f)"

Page 18, delete lines 8 to 36

Page 19, delete lines 1 to 9

Page 19, line 10, delete "53B.23" and insert "53B.22"

Page 19, line 16, delete "53B.24" and insert "53B.23"

Page 19, line 19, delete "53B.26" and insert "53B.24"

Page 19, line 21, delete "53B.27" and insert "53B.25"

Page 19, line 27, delete "53B.28" and insert "53B.26"

Reorder the sections in sequence

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1338, A bill for an act relating to insurance; regulating insurers, agents, coverages and benefits, costs, claims, investments, and notifications and disclosures; prescribing powers and duties of the commissioner; eliminating the regulation of nonprofit legal services plans; amending Minnesota Statutes 2000, sections 60A.06, subdivision 3; 60A.08, subdivision 13; 60A.11, subdivision 10; 60A.129, subdivision 2; 60A.14, subdivision 1; 60A.16, subdivision 1; 60A.23, subdivision 8; 61A.072, by adding a subdivision; 62A.17, subdivision 1; 62A.20, subdivision 1; 62A.21, subdivision 2a; 62A.302; 62A.31, subdivisions 1a, 1i, 3; 62A.65, subdivision 8; 62E.04, subdivision 4; 62E.06, subdivision 1; 62L.05, subdivisions 1, 2; 62M.02, by adding a subdivision; 62M.03, subdivision 2; 62M.05, subdivision 5; 62Q.01, subdivision 6; 62Q.73, subdivision 3; 65A.29, subdivision 7; 65B.04, subdivision 3; 65B.06, subdivisions 1, 4; 65B.16; 65B.19, subdivision 2; 67A.20, by adding a subdivision; 79A.02, subdivision 1; 79A.03, subdivision 7; 471.617, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 62A; repealing Minnesota Statutes 2000, sections 13.7191, subdivision 11; 60A.111; 62G.01; 62G.02; 62G.03; 62G.04; 62G.05; 62G.06; 62G.07; 62G.08; 62G.09; 62G.10; 62G.11; 62G.12; 62G.13; 62G.14; 62G.15; 62G.16; 62G.17; 62G.18; 62G.19; 62G.20; 62G.21; 62G.22; 62G.23; 62G.24; 62G.25.

Reported the same back with the following amendments:

Page 28, after line 12, insert:

"Sec. 20. Minnesota Statutes 2000, section 62E.13, subdivision 3, is amended to read:

Subd. 3. [DUTIES OF WRITING CARRIER.] The writing carrier shall perform all administrative and claims payment functions required by this section. The writing carrier shall provide these services for a period of three years; ~~unless a request to terminate is approved by the commissioner.~~ The three-year contract period may be renewed

for a second three-year period without a competitive bidding process upon the approval of the commissioner of commerce and the consent of the association and the writing carrier. The renewal may include amendments agreed to by the association and the writing carrier and approved by the commissioner. At any time, either the writing carrier or the association may submit a request to terminate to the commissioner. The commissioner shall approve or deny a request to terminate within 90 days of its receipt. A failure to make a final decision on a request to terminate within the specified period shall be deemed to be an approval. Six months prior to the expiration of each three-year period, the association shall invite submissions of policy forms from members of the association, including the writing carrier. The association shall follow the provisions of subdivision 2 in selecting a writing carrier for the subsequent three-year period."

Page 28, delete line 36, and insert:

"Sec. 23. [62L.24] [SUSPENSION OF REINSURANCE OPERATIONS; REACTIVATION.]

Subdivision 1. [SUSPENSION.] The commissioner may, by order, suspend the operation of sections 62L.13 to 62L.22, upon receipt of a recommendation for suspension from the association board of directors. The order is effective 30 days after publication in the State Register.

Subd. 2. [SUSPENSION OF REINSURANCE OPERATIONS.] Upon the issuance of an order issued pursuant to subdivision 1, the association shall suspend its operations in an orderly manner supervised by the commissioner and shall provide for the proper storage of the association's records. Notwithstanding the provisions of subdivision 1, the association may continue to levy assessments under section 62L.22 for the purpose of satisfying the association's presuspension expenses and the expenses associated with the association's suspension activities pursuant to this subdivision. The assessments must be approved by the commissioner.

Subd. 3. [NO CANCELLATION PERMITTED.] Effective upon the effective date of an order issued pursuant to subdivision 1, reinsurance must be terminated for any person reinsured by the association pursuant to section 62L.18. No health carrier may cancel or fail to renew a health benefit plan for any person whose reinsurance with the association has been terminated subsequently to the issuance of an order pursuant to subdivision 1 solely because of the termination of reinsurance.

Subd. 4. [REACTIVATION OF REINSURANCE OPERATIONS.] The commissioner may, by order, reactivate the operation of sections 62L.13 to 62L.22, on a finding that the private market for reinsurance of health benefit plans has failed and that commercial reinsurance is unavailable to health carriers operating in the small employer market in Minnesota. The commissioner may not make findings or issue an order pursuant to this subdivision until a hearing is held pursuant to chapter 14.

Subd. 5. [TRANSITION.] After issuance of any order pursuant to subdivision 4, the commissioner shall immediately appoint an interim board of directors of the association. The terms of members of this interim board must be for a period not to exceed 18 months. The board shall cause the reinsurance operations of the association to be resumed within 180 days of an order issued pursuant to subdivision 4.

Subd. 6. [MODIFICATION OF FIVE-YEAR RULE.] If the commissioner issues an order pursuant to subdivision 4, any health carrier may elect to participate in the reinsurance association, notwithstanding any departure by the health carrier within the preceding five years that, pursuant to section 62L.17, would have otherwise prohibited the health carrier's participation."

Page 29, delete lines 1 to 4

Renumber the sections in sequence

Correct internal references



Amend the title as follows:

Page 1, line 14, after "1;" insert "62E.13, subdivision 3;"

Page 1, line 15, delete everything after "2;"

Page 1, line 23, delete "chapter" and insert "chapters" and after "62A;" insert "62L;"

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1733, A bill for an act relating to commerce; revised Article 9 of the Uniform Commercial Code; making corrective and conforming amendments; appropriating money; amending Minnesota Statutes 2000, sections 27.138, subdivisions 2 and 3; 86B.820, subdivisions 10 and 11; 86B.880, subdivision 2; 168A.01, subdivisions 18 and 19; 168A.05, subdivision 8; 168A.17, subdivision 2; 169A.63, subdivisions 7 and 11; 268.058, subdivision 1; 270.69, subdivisions 2, 9, and 13; 270.7001, subdivision 4; 272.483; 272.484; 272.488, subdivision 3; 277.20, subdivision 8; 300.112, subdivision 1; 325L.16; 336.2-210; 336.9-102; 336.9-201; 336.9-203; 336.9-311; 336.9-317; 336.9-334; 336.9-407; 336.9-509; 336.9-521; 336.9-601; 336.9-607; 336.9-617; 336.9-619; 336A.01, subdivision 4; 507.24, subdivision 2; 514.18, subdivision 2; 514.221, subdivisions 2 and 3; 514.661, subdivisions 3, 4, 5, and 6; 514.945, subdivisions 2, 4, and 6; 515B.3-116; 515B.3-117; 550.13; 557.12, subdivision 5; 583.26, subdivisions 1 and 2; and 583.284; Laws 1986, chapter 398, article 1, section 18, as amended; proposing coding for new law in Minnesota Statutes, chapters 336; 507; 508; and 508A; repealing Minnesota Statutes 2000, sections 168A.17, subdivision 3; 336.11-101; 336.11-102; 336.11-103; 336.11-104; 336.11-105; 336.11-106; 336.11-107; and 336.11-108; Minnesota Rules, parts 8260.0600; 8260.0700; 8260.0800; 8260.0900; 8260.1000; 8260.1100; 8270.0010; 8270.0050; 8270.0100; 8270.0105; 8270.0110; 8270.0115; 8270.0200; 8270.0205; 8270.0210; 8270.0215; 8270.0220; 827.0225; 8270.0230; 8270.0235; 8270.0240; 8270.0245; 8270.0255; 8270.0260; 8270.0265; and 8270.0270.

Reported the same back with the following amendments:

Page 37, line 10, delete "document" and insert "record"

Page 41, line 4, delete "fixture"

Page 41, line 32, delete "FIXTURE"

Page 41, line 33, delete "as a fixture filing"

Page 42, line 27, delete "FIXTURE"

Page 42, line 28, delete "as a fixture filing"

Page 43, line 17, delete "827.0225;" and insert "8270.0225;"

Page 54, line 19, before the semicolon, insert ", except that the filing fee charged to the district directors of internal revenue for filing a federal tax lien is \$15 for up to two debtor names and \$15 for each additional name"

Amend the title as follows:

Page 1, line 31, delete "827.0225;" and insert "8270.0225;"

With the recommendation that when so amended the bill pass.

The report was adopted.

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

S. F. No. 321, A bill for an act relating to probate; providing for a background study before appointment of guardians or conservators; authorizing access to data on substantiated maltreatment of vulnerable adults; providing for background study systems and records in the department of human services; amending Minnesota Statutes 2000, section 525.539, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 245A; 525.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [245A.041] [SYSTEMS AND RECORDS.]

Subdivision 1. [ESTABLISHMENT; USE.] (a) The commissioner may establish systems and records to fulfill the requirements of section 245A.04. The commissioner may also use these systems and records to obtain and provide criminal history data from the bureau of criminal apprehension and data about substantiated maltreatment under section 626.556 or 626.557, for other purposes, provided that:

(1) the background study is specifically authorized in statute; or

(2) the request is made with the informed consent of the subject of the study as provided in section 13.05, subdivision 4.

A person making a request under clause (2) must agree in writing not to disclose the data to any other person without the consent of the subject of the data.

(b) The commissioner may recover the cost of obtaining and providing background study data by charging the person requesting the study a fee of no more than \$12 per study. The fees collected under this paragraph are appropriated to the commissioner for the purpose of conducting background studies.

Subd. 2. [NATIONAL RECORDS SEARCH.] When specifically required by statute, the commissioner shall also obtain criminal history data from the national criminal records repository. To obtain criminal history data from the national criminal records repository, the commissioner shall require classifiable fingerprints of the data subject and must submit these fingerprint requests through the bureau of criminal apprehension. The commissioner may recover the cost of obtaining and providing criminal history data from the national criminal records repository by charging the person requesting the study a fee of no more than \$30 per study. The fees collected under this subdivision are appropriated to the commissioner for the purpose of obtaining criminal history data from the national criminal records repository.

Sec. 2. Minnesota Statutes 2000, section 525.539, is amended by adding a subdivision to read:

Subd. 8. [PROFESSIONAL GUARDIAN OR CONSERVATOR.] "Professional guardian or conservator" means a person who acts as a guardian or conservator at the same time for two or more wards or conservatees who are not related to the guardian or conservator by blood or marriage.

## Sec. 3. [525.545] [BACKGROUND STUDY.]

Subdivision 1. [WHEN REQUIRED; EXCEPTION.] (a) The court shall require a background study under this section:

(1) before the appointment of a guardian or conservator, unless a background study has been done on the person under this section within the previous five years; and

(2) once every five years after the appointment, if the person continues to serve as a guardian or conservator.

(b) The background study must include criminal history data from the bureau of criminal apprehension and data regarding whether the person has been a perpetrator of substantiated maltreatment of a vulnerable adult.

(c) The court shall request a search of the national criminal records repository if the proposed guardian or conservator has not resided in Minnesota for the previous five years or if the bureau of criminal apprehension information received from the commissioner of human services under subdivision 2, paragraph (b), indicates that the subject is a multistate offender or that the individual's multistate offender status is undetermined.

(d) If the guardian or conservator is not an individual, the background study must be done on all individuals currently employed by the proposed guardian or conservator who will be responsible for exercising powers and duties under the guardianship or conservatorship.

(e) If the court determines that it would be in the best interests of the ward or conservatee to appoint a guardian or conservator before the background study can be completed, the court may make the appointment pending the results of the study.

(f) The fee for conducting a background study for appointment of a professional guardian or conservator must be paid by the guardian or conservator. In other cases, the fee must be paid as follows:

(1) if the matter is proceeding in forma pauperis, the fee is an expense for purposes of section 563.01;

(2) if there is an estate of the ward or conservatee, the fee must be paid from the estate; or

(3) in the case of a guardianship or conservatorship of the person that is not proceeding in forma pauperis, the court may order that the fee be paid by the guardian or conservator or by the court.

(g) The requirements of this subdivision do not apply if the guardian or conservator is:

(1) a state agency or county;

(2) a parent or guardian of a proposed ward or conservatee who has mental retardation or a related condition, if the parent or guardian has raised the proposed ward or conservatee in the family home until the time the petition is filed, unless counsel appointed for the proposed ward or conservatee under section 525.5501 recommends a background study; or

(3) a bank with trust powers, bank and trust company, or trust company, organized under the laws of any state or of the United States and which is regulated by the commissioner of commerce or a federal regulator.

Subd. 2. [PROCEDURE; CRIMINAL HISTORY AND MALTREATMENT RECORDS BACKGROUND CHECK.] (a) The court shall request the commissioner of human services to complete a background study under section 245A.041. The request must be accompanied by the applicable fee and the signed consent of the subject of the study authorizing the release of the data obtained to the court. If the court is requesting a search of the national criminal records repository, the request must be accompanied by a set of classifiable fingerprints of the subject of the study. The fingerprints must be recorded on a fingerprint card provided by the commissioner of human services.

(b) The commissioner of human services shall provide the court with information from the bureau of criminal apprehension's criminal justice information system and data regarding substantiated maltreatment of vulnerable adults under section 626.557 within 15 working days of receipt of a request. If the subject of the study has been the perpetrator of substantiated maltreatment of a vulnerable adult, the response must include a copy of the public portion of the investigation memorandum under section 626.557, subdivision 12b. If the court did not request a search of the national criminal records repository and information from the bureau of criminal apprehension indicates that the subject is a multistate offender or that multistate offender status is undetermined, the response must include this information. The commissioner shall provide the court with information from the national criminal records repository within three working days of the commissioner's receipt of the data.

(c) Notwithstanding section 626.557, subdivision 12b, if the commissioner of human services or a county lead agency has information that a person on whom a background study was previously done under this section has been determined to be a perpetrator of maltreatment of a vulnerable adult, the commissioner or the county may provide this information to the court that requested the background study. The commissioner may also provide the court with additional criminal history information that becomes available after the background study is done.

Subd. 3. [FORM.] The commissioner of human services shall develop a form to be used for requesting a background study under this section, which must include:

(1) a notification to the subject of the study that the court will request the commissioner to perform a background study under this section;

(2) a notification to the subject of the rights in subdivision 4; and

(3) a signed consent to conduct the background study.

Subd. 4. [RIGHTS.] The court shall notify the subject of a background study that the subject has the following rights:

(1) the right to be informed that the court will request a background study on the subject for the purpose of determining whether the person's appointment or continued appointment is in the best interests of the ward or conservatee;

(2) the right to be informed of the results of the study and to obtain from the court a copy of the results; and

(3) the right to challenge the accuracy and completeness of information contained in the results under section 13.04, subdivision 4, except to the extent precluded by section 256.045, subdivision 3."

Amend the title accordingly

With the recommendation that when so amended the bill pass.

The report was adopted.

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

S. F. No. 1826, A bill for an act relating to insurance; providing qualifications and procedures for the licensing of insurance producers; prescribing a criminal penalty; making conforming changes; amending Minnesota Statutes 2000, sections 13.7191, subdivision 6; 43A.317, subdivision 12; 60A.02, subdivision 7; 60A.14; 60A.171, subdivision 1; 60A.198, subdivision 3; 62A.41, subdivision 4; 62C.17, subdivision 5; 62D.22, subdivision 8; 62H.10, subdivision 4; 62L.12, subdivision 3; 62S.30; 64B.33; 65B.09, subdivision 1; 72A.07; 72A.125, subdivision 2; 72A.201, subdivision 3; 270B.07, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 60K; repealing Minnesota Statutes 2000, sections 60K.01; 60K.02; 60K.03; 60K.04; 60K.05; 60K.06; 60K.07; 60K.081; 60K.09; 60K.10; 60K.11; 60K.12; 60K.13; 60K.14; 60K.15; 60K.16; 60K.17; 60K.18; 60K.19; 60K.20.

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:

S. F. No. 2022, A bill for an act relating to family law; clarifying crediting of support payments; modifying implementation of enforcement remedies to accommodate timing of support payments; amending Minnesota Statutes 2000, sections 518.551, subdivision 1; 518.6111, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 518.

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

Joint Rule 2.03 and Senate Concurrent Resolution No. 5 have been waived for subsequent committee action on this bill.

The report was adopted.

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

House Resolution No. 16, A house resolution congratulating the Southwest Christian High School boys basketball team on its third successive victory in the State High School Class A Boys Basketball Tournament.

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

The report was adopted.

## **SECOND READING OF HOUSE BILLS**

H. F. Nos. 94, 634, 1270, 1311, 1338 and 1733 were read for the second time.

## **SECOND READING OF SENATE BILLS**

S. F. Nos. 1124, 1769, 1821, 2361, 321, 1826 and 2022 were read for the second time.

## INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Juhnke introduced:

H. F. No. 2520, A bill for an act relating to state government; adding circumstances under which collection entity costs may be canceled; amending Minnesota Statutes 2000, section 16D.11, subdivision 3.

The bill was read for the first time and referred to the Committee on Governmental Operations and Veterans Affairs Policy.

Jaros introduced:

H. F. No. 2521, A bill for an act relating to education; modifying the membership of district school boards; amending Minnesota Statutes 2000, section 123B.09, subdivisions 1, 4, 5; repealing Minnesota Statutes 2000, section 123B.195.

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

## MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce that the Senate refuses to concur in the House amendments to the following Senate File:

S. F. No. 1968, 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.

The Senate respectfully requests that a Conference Committee be appointed thereon. The Senate has appointed as such committee:

Senators Samuelson; Johnson, Dave and Frederickson.

Said Senate File is herewith transmitted to the House with the request that the House appoint a like committee.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mullery moved that the House accede to the request of the Senate and that the Speaker appoint a Conference Committee of 3 members of the House to meet with a like committee appointed by the Senate on the disagreeing votes of the two houses on S. F. No. 1968. The motion prevailed.

Mr. Speaker:

I hereby announce that the Senate refuses to concur in the House amendments to the following Senate File:

S. F. No. 1752, A bill for an act relating to liquor; authorizing on-sale intoxicating liquor licenses in Minneapolis, St. Paul, Blaine, Elk River, Moorhead, and St. Louis Park; clarifying regulations with respect to premix machines; removing certain intoxicating liquor license restrictions relating to Metropolitan State University; authorizing Minneapolis to issue an intoxicating liquor license; removing certain temporary license restrictions; amending Minnesota Statutes 2000, sections 340A.404, subdivisions 2, 2b; 340A.410, subdivision 10; 340A.508, by adding a subdivision.

The Senate respectfully requests that a Conference Committee be appointed thereon. The Senate has appointed as such committee:

Senators Solon, Metzen and Lessard.

Said Senate File is herewith transmitted to the House with the request that the House appoint a like committee.

PATRICK E. FLAHAVEN, Secretary of the Senate

Stang moved that the House accede to the request of the Senate and that the Speaker appoint a Conference Committee of 3 members of the House to meet with a like committee appointed by the Senate on the disagreeing votes of the two houses on S. F. No. 1752. The motion prevailed.

Mr. Speaker:

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

S. F. Nos. 1495, 1721, 795, 1109, 446 and 1004.

PATRICE DWORAK, First Assistant Secretary of the Senate

### **FIRST READING OF SENATE BILLS**

S. F. No. 1495, A bill for an act relating to agriculture; modifying provisions of the value-added agricultural product processing and marketing grant program; eliminating the late fee for the license to use the Minnesota grown label; clarifying the term "private contributions" for the Minnesota grown matching account; modifying provisions of the shared savings loan program and the sustainable agriculture demonstration grant program; modifying provisions of the agriculture best management practices loan program; regulating pesticide application in certain schools; modifying financing limitations for the administration of the state meat inspection program; authorizing the state agricultural society to establish a nonprofit corporation for charitable purposes; modifying provisions relating to the rural finance authority; extending the sunset date and providing for designation of replacement members of the Minnesota agriculture education leadership council; modifying the definition of "agricultural land" for the purpose of recreational trespass; extending the sunset of the dairy producers board, and conditionally voiding its repeal; providing for pesticide application on golf courses; changing certain membership provisions on the state agricultural society; defining biodiesel fuel and requiring it in diesel fuel oil; requiring reports on it; allowing natural gasoline as a petroleum component in E85 fuel; extending the sunset date for the farmer-lender mediation program; providing a temporary waiver of board of animal health rules for use of biological products on poultry; adding

cultivated wild rice to the agricultural commodities promotion act provision; repealing obsolete agricultural statutes; amending Minnesota Statutes 2000, sections 17.101, subdivision 5; 17.102, subdivision 3; 17.109, subdivision 3; 17.115; 17.116; 17.117; 17.53, subdivisions 2, 8, 13; 17.63; 17.76, subdivision 2; 18B.01, by adding a subdivision; 31A.21, subdivision 2; 37.03, subdivision 1; 41B.025, subdivision 1; 41B.03, subdivision 2; 41B.043, subdivisions 1b, 2; 41B.046, subdivision 2; 41D.01, subdivisions 1, 3, 4; 97B.001, subdivision 1; 116O.09, subdivision 1a; 296A.01, subdivision 19; Laws 1986, chapter 398, article 1, section 18, as amended; proposing coding for new law in Minnesota Statutes, chapters 18B; 37; 239; repealing Minnesota Statutes 2000, sections 17.987; 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; 33.09; 33.111.

The bill was read for the first time.

Finseth moved that S. F. No. 1495 and H. F. No. 1547, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1721, A bill for an act relating to employment; regulating the use of protected genetic information in employment; providing penalties; proposing coding for new law in Minnesota Statutes, chapter 181.

The bill was read for the first time.

Kahn moved that S. F. No. 1721 and H. F. No. 1886, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 795, A bill for an act relating to natural resources; requiring the continuation of grant-in-aid snowmobile trail access when the commissioner of natural resources acquires land; permitting all-terrain vehicles to be operated on certain recreational land trails in Mille Lacs and Pine counties; amending Minnesota Statutes 2000, section 84.83, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Environment and Natural Resources Finance.

S. F. No. 1109, A bill for an act relating to transportation; providing for design-build method of state transportation project delivery; proposing coding for new law in Minnesota Statutes, chapter 161.

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

S. F. No. 446, A bill for an act relating to telecommunications; authorizing state agencies to allow commercial wireless equipment to be placed on state-owned lands, buildings, and other structures; proposing coding for new law in Minnesota Statutes, chapter 16B.

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

S. F. No. 1004, A bill for an act relating to commerce; prohibiting tampering with clock-hour meters on heavy machinery; prescribing criminal and civil penalties; providing remedies; proposing coding for new law in Minnesota Statutes, chapter 325E.

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



REPORT FROM THE COMMITTEE ON RULES AND  
LEGISLATIVE ADMINISTRATION

Pawlenty from the Committee on Rules and Legislative Administration, pursuant to rule 1.21, designated the following bills to be placed on the Calendar for the Day, immediately preceding the remaining bills on the Calendar for the Day, for Wednesday, May 9, 2001:

S. F. No. 824; H. F. No. 402; S. F. Nos. 510, 780, 555, 970, 2225, 1056, 1164, 1064 and 2031; H. F. No. 1947; and S. F. Nos. 1215, 229, 2049, 1407 and 974.

**CALENDAR FOR THE DAY**

S. F. No. 824 was reported to the House.

Goodno moved to amend S. F. No. 824 as follows:

Page 1, line 17, delete the new language

Page 1, line 18, delete the new language

Page 2, line 17, after "objects" insert a semicolon and after "or" insert "unless"

Page 2, line 18, after "employment" insert ", the person is receiving or expects to receive compensation for rendering this care,"

The motion prevailed and the amendment was adopted.

S. F. No. 824, A bill for an act relating to civil actions; clarifying the immunity from liability for persons rendering certain emergency care; amending Minnesota Statutes 2000, section 604A.01, subdivision 2.

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

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Clark, J.	Erickson	Hackbarth	Johnson, R.	Leighton
Abrams	Daggett	Evans	Harder	Johnson, S.	Lenczewski
Anderson, B.	Davids	Finseth	Hausman	Juhnke	Leppik
Anderson, I.	Davnie	Folliard	Hilstrom	Kahn	Lieder
Bakk	Dawkins	Fuller	Hilty	Kalis	Lindner
Bernardy	Dehler	Gerlach	Holberg	Kelliher	Lipman
Biernat	Dempsey	Gleason	Holsten	Kielkucki	Luther
Bishop	Dibble	Goodno	Howes	Knoblach	Mahoney
Boudreau	Dorman	Goodwin	Huntley	Koskinen	Mares
Bradley	Dorn	Gray	Jacobson	Krinkie	Mariani
Buesgens	Eastlund	Greiling	Jaros	Kubly	Marko
Carlson	Entenza	Gunther	Jennings	Kuisle	Marquart
Cassell	Erhardt	Haas	Johnson, J.	Larson	McElroy

McGuire	Opatz	Penas	Seifert	Swapinski	Wasiluk
Milbert	Osskopp	Peterson	Sertich	Swenson	Wenzel
Molnau	Osthoff	Pugh	Skoe	Sykora	Westerberg
Mulder	Otremba	Rhodes	Skoglund	Thompson	Westrom
Mullery	Ozment	Rifenberg	Slawik	Tingelstad	Wilkin
Murphy	Paulsen	Rukavina	Smith	Tuma	Winter
Ness	Pawlenty	Ruth	Solberg	Vandever	Wolf
Nornes	Paymar	Schumacher	Stanek	Wagenius	Workman
Olson	Pelowski	Seagren	Stang	Walz	Spk. Sviggum

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

H. F. No. 402, A bill for an act relating to natural disaster assistance; providing disaster relief measures for local units of government designated a major disaster area; appropriating money.

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

The bill was passed and its title agreed to.

S. F. No. 510 was reported to the House.

Howes moved to amend S. F. No. 510 as follows:

Delete everything after the enacting clause and insert:

"Section 1. [HUBBARD COUNTY; AUDITOR, TREASURER, RECORDER MAY BE APPOINTED.]

Subdivision 1. [AUTHORITY TO MAKE OFFICES APPOINTIVE.] Notwithstanding Minnesota Statutes, section 382.01, upon adoption of a resolution by the Hubbard county board of commissioners, any or all of the offices of county auditor, county treasurer, and county recorder are not elective but must be filled by appointment by the county board as provided in the resolution.

Subd. 2. [BOARD CONTROLS; MAY CHANGE AS LONG AS DUTIES DONE.] Upon adoption of a resolution by the Hubbard county board of commissioners and subject to subdivisions 3 and 4, the duties of the elected official required by statute whose office is made appointive as authorized by this section must be discharged by the board of commissioners of Hubbard county acting through a department head appointed by the board for that purpose. A reorganization, reallocation, or delegation or other administrative change or transfer does not diminish, prohibit, or avoid the discharge of duties required by statute.

Subd. 3. [INCUMBENTS TO COMPLETE TERM.] The person elected at the last general election to a position made appointed under this section must serve in that capacity and perform the duties, functions, and responsibilities required by statute until the completion of the term of office to which the person was elected or until a vacancy occurs in the office, whichever occurs earlier.

Subd. 4. [PUBLISHING RESOLUTION; PETITION, REFERENDUM.] The county board may provide for the appointment of the county auditor, county treasurer and the county recorder as permitted in this section if the resolution to make the office appointed is approved by 80 percent of the members of the county board. Before the adoption of the resolution, the county board must publish a resolution notifying the public of its intent to consider adopting the option once each week for two consecutive weeks in the official publication of the county. Following the publication, the county board shall provide an opportunity at its next regular meeting for public comment relating to the option, prior to formally adopting the option. The resolution may be implemented without the submission of the question to the voters of the county unless, within 30 days after the second publication of the resolution, a petition requesting a referendum, signed by at least ten percent of the registered voters of the county, is filed with the county auditor. If a petition is filed, the resolution may be implemented unless disapproved by a majority of the voters of the county voting on the question at a regular or special election.

Subd. 5. [EFFECTIVE DATE; LOCAL APPROVAL.] This section is effective the day after the governing body of Hubbard county and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 2. [CASS COUNTY; AUDITOR-TREASURER; RECORDER MAY BE APPOINTED.]

Subdivision 1. [AUTHORITY TO MAKE OFFICES APPOINTIVE.] Notwithstanding Minnesota Statutes, section 382.01, upon adoption of a resolution by the Cass county board of commissioners, either or both of the offices of county auditor-treasurer and county recorder are not elective but must be filled by appointment by the county board as provided in the resolution.

Subd. 2. [BOARD CONTROLS; MAY CHANGE AS LONG AS DUTIES DONE.] Upon adoption of a resolution by the Cass county board of commissioners and subject to subdivisions 3 and 4, the duties of the elected official required by statute whose office is made appointive as authorized by this section must be discharged by the board of commissioners of Cass county acting through a department head appointed by the board for that purpose. A reorganization, reallocation, or delegation or other administrative change or transfer does not diminish, prohibit, or avoid the discharge of duties required by statute.

Subd. 3. [INCUMBENTS TO COMPLETE TERM.] The person elected at the last general election to a position made appointed under this section must serve in that capacity and perform the duties, functions, and responsibilities required by statute until the completion of the term of office to which the person was elected or until a vacancy occurs in the office, whichever occurs earlier.

Subd. 4. [PUBLISHING RESOLUTION; PETITION, REFERENDUM.] The county board may provide for the appointment of the county auditor-treasurer and the county recorder as permitted in this section if the resolution to make the office appointed is approved by 80 percent of the members of the county board. Before the adoption of the resolution, the county board must publish a resolution notifying the public of its intent to consider adopting the option once each week for two consecutive weeks in the official publication of the county. Following the publication, the county board shall provide an opportunity at its next regular meeting for public comment relating to the option, prior to formally adopting the option. The resolution may be implemented without the submission of the question to the voters of the county unless, within 30 days after the second publication of the resolution, a petition requesting a referendum, signed by at least ten percent of the registered voters of the county, is filed with the county auditor-treasurer. If a petition is filed, the resolution may be implemented unless disapproved by a majority of the voters of the county voting on the question at a regular or special election.

Subd. 5. [EFFECTIVE DATE; LOCAL APPROVAL.] This section is effective the day after the governing body of Cass county and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3."

Amend the title accordingly

The motion prevailed and the amendment was adopted.

S. F. No. 510, A bill for an act relating to counties; providing a process for making certain county offices appointive; amending Minnesota Statutes 2000, sections 375A.10, subdivision 5; 375A.12, subdivision 2, and by adding a subdivision; and 382.01.

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

The question was taken on the passage of the bill and the roll was called. There were 93 yeas and 38 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Dorn	Hilstrom	Kubly	Osthoff	Stanek
Anderson, I.	Entenza	Hilty	Leppik	Otremba	Stang
Bernardy	Erhardt	Holberg	Lieder	Ozment	Swapinski
Biernat	Evans	Holsten	Lipman	Pelowski	Tingelstad
Bishop	Folliard	Howes	Luther	Penas	Tuma
Boudreau	Fuller	Huntley	Mares	Peterson	Wagenius
Bradley	Gleason	Jaros	Mariani	Pugh	Walz
Buesgens	Goodno	Jennings	Marko	Rhodes	Wasiluk
Carlson	Goodwin	Johnson, R.	McElroy	Rukavina	Westerberg
Cassell	Gray	Johnson, S.	McGuire	Ruth	Westrom
Daggett	Greiling	Juhnke	Mullery	Schumacher	Winter
Davnie	Gunther	Kahn	Murphy	Sertich	Wolf
Dawkins	Haas	Kalis	Ness	Skoe	Spk. Sviggum
Dehler	Hackbarth	Kelliher	Nornes	Skoglund	
Dempsey	Harder	Knoblach	Opatz	Slawik	
Dibble	Hausman	Koskinen	Osskopp	Solberg	

Those who voted in the negative were:

Abeler	Finseth	Larson	Molnau	Seagren	Wenzel
Abrams	Gerlach	Leighton	Mulder	Seifert	Wilkin
Clark, J.	Jacobson	Lenczewski	Olson	Smith	Workman
Davids	Johnson, J.	Lindner	Paulsen	Swenson	
Dorman	Kielkucki	Mahoney	Pawlenty	Sykora	
Eastlund	Krinkie	Marquart	Paymar	Thompson	
Erickson	Kuisle	Milbert	Rifenberg	Vandever	

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

S. F. No. 780 was reported to the House.

Lipman moved to amend S. F. No. 780 as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 1537, the first engrossment:

"Section 1. Minnesota Statutes 2000, section 14.05, subdivision 3, is amended to read:

Subd. 3. [AUTHORITY TO WITHDRAW PROPOSED RULE.] An agency may withdraw a ~~proposed~~ rule any time ~~prior to before~~ filing it with the secretary of state. An agency may withdraw a portion of a rule unless the remaining rule is substantially different from the rule as published. It shall publish notice that the ~~proposed~~ rule has been withdrawn in the State Register. If a rule is withdrawn, the agency may again propose it for adoption, either in the original or modified form, but the agency shall comply with all procedures of sections 14.05 to 14.28, with the exception of section 14.101, if the noncompliance is approved by the chief administrative law judge.

Sec. 2. Minnesota Statutes 2000, section 14.07, subdivision 2, is amended to read:

Subd. 2. [APPROVAL OF FORM.] No agency decision to adopt a rule or an emergency, exempt, or expedited rule, including a decision to amend or modify a proposed rule or proposed emergency, exempt, or expedited rule, ~~shall be is~~ effective unless the agency has presented the rule to the revisor of statutes and the revisor has certified that its form is approved.

Sec. 3. Minnesota Statutes 2000, section 14.08, is amended to read:

14.08 [APPROVAL OF RULE AND RULE FORM; COSTS.]

(a) ~~Two copies~~ One copy of a rule adopted ~~pursuant to under~~ section 14.26 ~~shall must~~ be submitted by the agency to the chief administrative law judge. The chief administrative law judge shall ~~send one copy of the rule to the revisor on the same day request from the revisor certified copies of the rule when~~ it is submitted by the agency under section 14.26. Within five days after ~~receipt of the rule the request for certification of the rule is received by the revisor,~~ excluding weekends and holidays, the revisor shall either return the rule with a certificate of approval of the form of the rule to the chief administrative law judge or notify the chief administrative law judge and the agency that the form of the rule will not be approved.

If the chief administrative law judge disapproves a rule, the agency may modify it and the agency shall submit ~~two copies one copy~~ of the modified rule, approved as to form by the revisor, to the chief administrative law judge ~~who shall send a copy to the revisor for approval as to form as described in this paragraph.~~

(b) One copy of a rule adopted after a public hearing ~~shall~~ must be submitted by the agency to the ~~revisor for approval of the form of the rule~~ chief administrative law judge. ~~The chief administrative law judge shall request from the revisor certified copies of the rule when it is submitted by the agency.~~ Within five working days after receipt of the ~~rule request~~, the revisor shall either return the rule with a certificate of approval to the ~~agency chief administrative law judge~~ or notify the chief administrative law judge and the agency that the form of the rule will not be approved.

(c) If the revisor refuses to approve the form of the rule, the revisor's notice ~~shall~~ must revise the rule so it is in the correct form.

(d) The chief administrative law judge shall assess an agency for the actual cost of processing rules under this section. Each agency shall include in its budget money to pay the assessments. Receipts from the assessment must be deposited in the administrative hearings account ~~created~~ established in section 14.54.

Sec. 4. Minnesota Statutes 2000, section 14.101, subdivision 1, is amended to read:

Subdivision 1. [REQUIRED NOTICE.] In addition to seeking information by other methods designed to reach persons or classes of persons who might be affected by the proposal, an agency, at least 60 days before publication of a notice of intent to adopt or a notice of hearing, shall solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by causing notice to be published in the State Register. The notice must include a description of the subject matter of the proposal; and the types of groups and individuals likely to be affected, and must indicate where, when, and how persons may comment on the proposal and whether and how drafts of any proposal may be obtained from the agency.

This notice must be published within 60 days of the effective date of any new ~~statutory grant of required rulemaking or amendatory law requiring rules to be adopted, amended, or repealed.~~

Sec. 5. Minnesota Statutes 2000, section 14.101, subdivision 2, is amended to read:

Subd. 2. [ADVISORY COMMITTEES.] Each agency may also appoint committees to comment, before publication of a notice of intent to adopt or a notice of hearing, on the subject matter of a possible rulemaking under active consideration within the agency. ~~The membership of those committees must be published at least annually in the State Register.~~

Sec. 6. Minnesota Statutes 2000, section 14.101, is amended by adding a subdivision to read:

Subd. 4. [REDUCTION OF TIME PERIOD.] The chief administrative law judge shall reduce the time period before publication from 60 to 30 days for good cause.

Sec. 7. Minnesota Statutes 2000, section 14.131, is amended to read:

14.131 [STATEMENT OF NEED AND REASONABLENESS.]

~~Before the agency orders the publication of a rulemaking notice required~~ By the date of the section 14.14, subdivision 1a, notice, the agency must prepare, review, and make available for public review a statement of the need for and reasonableness of the rule. The statement of need and reasonableness must be prepared under rules adopted by the chief administrative law judge and must include the following to the extent the agency, through reasonable effort, can ascertain this information:

(1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule;

(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues;

(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule;

(4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule;

(5) the probable costs of complying with the proposed rule; and

(6) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference.

The statement must describe how the agency, in developing the rules, considered and implemented the legislative policy supporting performance-based regulatory systems set forth in section 14.002.

The statement must also describe the agency's efforts to provide additional notification under section 14.14, subdivision 1a, to persons or classes of persons who may be affected by the proposed rule or must explain why these efforts were not made.

The agency must send a copy of the statement of need and reasonableness to the legislative reference library when ~~it becomes available for public review~~ the notice of hearing is mailed under section 14.14, subdivision 1a.

Sec. 8. Minnesota Statutes 2000, section 14.14, subdivision 1a, is amended to read:

Subd. 1a. [NOTICE OF RULE HEARING.] (a) Each agency shall maintain a list of all persons who have registered with the agency for the purpose of receiving notice of rule proceedings. The agency may inquire as to whether those persons on the list wish to maintain their names on it and may remove names for which there is a negative reply or no reply within 60 days. The agency shall, at least 30 days before the date set for the hearing, give notice of its intention to adopt rules by United States mail to all persons on its list, and by publication in the State Register. The mailed notice must include either a copy of the proposed rule or ~~a~~ an easily readable and understandable description of its nature and effect and an announcement that a free copy of the proposed rule is available on request from the agency. ~~Each agency may, at its own discretion, also notify persons not on its list who may be affected by the rule being proposed.~~ In addition, each agency shall make reasonable efforts to notify persons or classes of persons who may be significantly affected by the rule being proposed by giving notice of its intention in newsletters, newspapers, or other publications, or through other means of communication. The notice in the State Register must include the proposed rule or an amended rule in the form required by the revisor under section 14.07, together with an easily readable and understandable summary of the overall nature and effect of the proposed rule, a citation to the most specific statutory authority for the proposed rule, a statement of the place, date, and time of the public hearing, a statement that persons may register with the agency for the purpose of receiving notice of rule proceedings and notice that ~~a rule has been adopted~~, the agency intends to adopt a rule and other information required by law or rule. When an entire rule is proposed to be repealed, the agency need only publish that fact, giving the along with an easily readable and understandable summary of the overall nature of the rules proposed for repeal, and a citation to the rule to be repealed in the notice.

(b) The chief administrative law judge may authorize an agency to omit from the notice of rule hearing the text of any proposed rule, the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient if:

(1) knowledge of the rule is likely to be important to only a small class of persons;

(2) the notice of rule hearing states that a free copy of the entire rule is available upon request to the agency; and

(3) the notice of rule hearing states in detail the specific subject matter of the omitted rule, cites the statutory authority for the proposed rule, and details the proposed rule's purpose and motivation.

Sec. 9. Minnesota Statutes 2000, section 14.15, subdivision 1, is amended to read:

Subdivision 1. [TIME OF PREPARATION.] After allowing a comment period during which written material ~~to may~~ be submitted and recorded in the hearing record for five working days after the public hearing ends, or for a longer period not to exceed 20 days if ordered by the administrative law judge, the administrative law judge assigned to the hearing shall write a report as provided for in section 14.50. ~~Prior to~~ Before writing the report, the administrative law judge shall allow the agency and interested persons a rebuttal period of five working days after the ~~submission~~ comment period ends to respond in writing to any new information submitted. During the comment period and five-day rebuttal period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. Additional evidence may not be submitted during this five-day rebuttal period. The written responses ~~shall~~ must be added to the rulemaking record.

Sec. 10. Minnesota Statutes 2000, section 14.16, subdivision 1, is amended to read:

Subdivision 1. [REVIEW OF MODIFICATIONS.] If the report of the administrative law judge finds no defects, the agency may proceed to adopt the rule. After receipt of the administrative law judge's report, if the agency makes any modifications to the rule ~~other than those recommended by the administrative law judge~~, it must return the rule, approved as to form by the revisor, to the chief administrative law judge for a review ~~on~~ of legality, including the issue of whether the rule as modified is substantially different, as determined under section 14.05, subdivision 2, from the rule as originally proposed. If the chief administrative law judge determines that the modified rule is substantially different from the rule that ~~which~~ was originally proposed, the chief administrative law judge shall advise the agency of actions ~~which that~~ will correct the defects. The agency ~~shall~~ may not adopt the modified rule until the chief administrative law judge determines that the defects have been corrected or, if applicable, that the agency has satisfied the rule requirements for the adoption of a substantially different rule.

The agency shall give notice to all persons who requested to be informed that the rule has been adopted and filed with the secretary of state. This notice ~~shall~~ must be given on the same day that the rule is filed.

Sec. 11. Minnesota Statutes 2000, section 14.19, is amended to read:

14.19 [DEADLINE TO COMPLETE RULEMAKING.]

Within 180 days after issuance of the administrative law judge's report or that of the chief administrative law judge, the agency shall submit its notice of adoption, amendment, or repeal to the State Register for publication. If the agency has not submitted its notice to the State Register within 180 days, the rule is automatically withdrawn. The agency may not adopt the withdrawn rules without again following the procedures of sections 14.05 to 14.28, with the exception of section 14.101, if the noncompliance is approved by the chief administrative law judge. ~~¶~~ The agency shall report to the legislative coordinating commission, other appropriate committees of the legislature, and the governor its failure to adopt rules and the reasons for that failure. The 180-day time limit of this section does not include any days used for review by the chief administrative law judge or the commission if the review is required by law.

Sec. 12. Minnesota Statutes 2000, section 14.22, subdivision 1, is amended to read:

Subdivision 1. [CONTENTS.] (a) Unless an agency proceeds directly to a public hearing on a proposed rule and gives the notice prescribed in section 14.14, subdivision 1a, the agency shall give notice of its intention to adopt a rule without public hearing. The notice must be given by publication in the State Register and by United States mail to persons who have registered their names with the agency under section 14.14, subdivision 1a. The mailed notice must include either a copy of the proposed rule or ~~a~~ an easily readable and understandable description of its nature and effect and an announcement that a free copy of the proposed rule is available on request from the agency. ~~Each agency may, at its own discretion, also notify persons not on its list who may be affected by the rule being proposed.~~ In addition, each agency shall make reasonable efforts to notify persons or classes of persons who may be significantly affected by the rule by giving notice of its intention in newsletters, newspapers, or other publications, or through other means of communication. The notice in the State Register must include the proposed rule or the



amended rule in the form required by the revisor under section 14.07, an easily readable and understandable summary of the overall nature and effect of the proposed rule, a citation to the most specific statutory authority for the proposed rule, a statement that persons may register with the agency for the purpose of receiving notice of rule proceedings and notice that a rule has been submitted to the chief administrative law judge, and other information required by law or rule. When an entire rule is proposed to be repealed, the notice need only state that fact, ~~giving the~~ along with an easily readable and understandable summary of the overall nature of the rules proposed for repeal, and a citation to the rule to be repealed ~~in the notice~~. The notice must include a statement advising the public:

(1) that the public has 30 days in which to submit comment in support of or in opposition to the proposed rule and that comment is encouraged;

(2) that each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed;

(3) that if 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held;

(4) of the manner in which persons must request a public hearing on the proposed rule;

(5) of the requirements contained in section 14.25 relating to a written request for a public hearing, and that the requester is encouraged to propose any change desired;

(6) that the proposed rule may be modified if the modifications are supported by the data and views submitted; and

(7) that if a hearing is not required, notice of the date of submission of the proposed rule to the chief administrative law judge for review will be mailed to any person requesting to receive the notice.

In connection with the statements required in clauses (1) and (3), the notice must also include the date on which the 30-day comment period ends.

(b) The chief administrative law judge may authorize an agency to omit from the notice of intent to adopt the text of any proposed rule, the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient if:

(1) knowledge of the rule is likely to be important to only a small class of persons;

(2) the notice of intent to adopt states that a free copy of the entire rule is available upon request to the agency; and

(3) the notice of intent to adopt states in detail the specific subject matter of the omitted rule, cites the statutory authority for the proposed rule, and details the proposed rule's purpose and motivation.

Sec. 13. Minnesota Statutes 2000, section 14.23, is amended to read:

14.23 [STATEMENT OF NEED AND REASONABLENESS.]

~~Before~~ By the date of the section 14.22 notice, the agency shall prepare a statement of need and reasonableness, which must be available to the public. The statement of need and reasonableness must include the analysis required in section 14.131. The statement must also describe the agency's efforts to provide additional notification under section 14.22 to persons or classes of persons who may be affected by the proposed rules or must explain why these efforts were not made. For at least 30 days following the notice, the agency shall afford the public an opportunity to request a public hearing and to submit data and views on the proposed rule in writing.

The agency shall send a copy of the statement of need and reasonableness to the legislative reference library when ~~it becomes available to the public~~ the notice of intent to adopt is mailed.

Sec. 14. Minnesota Statutes 2000, section 14.25, is amended to read:

14.25 [PUBLIC HEARING.]

Subdivision 1. [REQUESTS FOR HEARING.] If, during the 30-day period allowed for comment, 25 or more persons submit to the agency a written request for a public hearing of the proposed rule, the agency shall proceed under the provisions of sections 14.14 to 14.20. The written request must include: (1) the name and address of the person requesting the public hearing; and (2) the portion or portions of the rule to which the person objects or a statement that the person opposes the entire rule. If not previously published under section 14.22, subdivision 2, a notice of the public hearing must be published in the State Register and mailed to those persons who submitted a written request for the public hearing. Unless the agency has modified the proposed rule, the notice need not include the text of the proposed rule but only a citation to the State Register pages where the text appears.

A written request for a public hearing that does not comply with the requirements of this section is invalid and ~~must~~ may not be counted by the agency for purposes of determining whether a public hearing must be held.

Subd. 2. [WITHDRAWAL OF HEARING REQUESTS.] If a request for a public hearing has been withdrawn so as to reduce the number of requests below 25, the agency must give written notice of that fact to all persons who have requested the public hearing. No public hearing may be canceled by an agency within three working days of the hearing. The notice must explain why the request is being withdrawn, and must include a description of any action the agency has taken or will take that affected or may have affected the decision to withdraw the ~~request~~ requests. The notice must also invite persons to submit written comments within five working days to the agency relating to the withdrawal. The notice and any written comments received by the agency is part of the rulemaking record submitted to the administrative law judge under section 14.14 or 14.26. The administrative law judge shall review the notice and any comments received and determine whether the withdrawal is consistent with section 14.001, clauses (2), (4), and (5).

This subdivision applies only to a withdrawal of a hearing request that affects whether a public hearing must be held and only if the agency has taken any action to obtain the withdrawal of the hearing request.

Sec. 15. Minnesota Statutes 2000, section 14.26, subdivision 1, is amended to read:

Subdivision 1. [SUBMISSION.] If no hearing is required, the agency shall submit to an administrative law judge assigned by the chief administrative law judge the proposed rule and notice as published, the rule as ~~proposed for adoption~~ adopted, any written comments received by the agency, and a statement of need and reasonableness for the rule. The agency shall give notice to all persons who requested to be informed that these materials have been submitted to the administrative law judge. This notice must be given on the same day that the record is submitted. If the proposed rule has been modified, the notice must state that fact, and must also state that a free copy of the proposed rule, as modified, is available upon request from the agency. The rule and these materials must be submitted to the administrative law judge within 180 days of the day that the comment period for the rule is over or the rule is automatically withdrawn. The agency may not adopt the withdrawn rules without again following the procedures of sections 14.05 to 14.28, with the exception of section 14.101, if the noncompliance is approved by the chief administrative law judge. The agency shall report its failure to adopt the rules and the reasons for that failure to the legislative coordinating commission, other appropriate legislative committees, and the governor.

Sec. 16. Minnesota Statutes 2000, section 14.26, subdivision 3, is amended to read:

Subd. 3. [REVIEW.] (a) Within 14 days, the administrative law judge shall approve or disapprove the rule as to its legality and its form to the extent that the form relates to legality, including the issues of whether the rule if modified is substantially different, as determined under section 14.05, subdivision 2, from the rule as originally proposed, whether the agency has the authority to adopt the rule, and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rule. If the rule is approved, the administrative law judge shall promptly file ~~three~~ four copies of it in the office of the secretary of state. The secretary of state shall forward

one copy of each rule to the revisor of statutes, one to the agency, and one to the governor. If the rule is disapproved, the administrative law judge shall state in writing the reasons for the disapproval and make recommendations to overcome the defects.

(b) The written disapproval must be submitted to the chief administrative law judge for approval. If the chief administrative law judge approves of the findings of the administrative law judge, the chief administrative law judge shall send the statement of the reasons for disapproval of the rule to the agency, the legislative coordinating commission, the house of representatives and senate policy committees with primary jurisdiction over state governmental operations, and the revisor of statutes and advise the agency and the revisor of statutes of actions that will correct the defects. The rule may not be filed in the office of the secretary of state, nor be published, until the chief administrative law judge determines that the defects have been corrected or, if applicable, that the agency has satisfied the rule requirements for the adoption of a substantially different rule.

(c) If the chief administrative law judge determines that the need for or reasonableness of the rule has not been established, and if the agency does not elect to follow the suggested actions of the chief administrative law judge to correct that defect, then the agency shall submit the proposed rule to the legislative coordinating commission and to the house of representatives and senate policy committees with primary jurisdiction over state governmental operations for advice and comment. The agency may not adopt the rule until it has received and considered the advice of the commission and committees. However, the agency is need not required to wait for advice for more than 60 days after the commission and committees have received the agency's submission.

(d) The administrative law judge shall disregard any error or defect in the proceeding due to the agency's failure to satisfy any procedural requirements imposed by law or rule if the administrative law judge finds:

(1) that the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process; or

(2) that the agency has taken corrective action to cure the error or defect so that the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process.

Sec. 17. Minnesota Statutes 2000, section 14.365, is amended to read:

14.365 [OFFICIAL RULEMAKING RECORD.]

The agency shall maintain the official rulemaking record for every rule adopted pursuant to under sections 14.05 to ~~14.28~~ 14.389. The record shall must be available for public inspection. The record required by this section constitutes the official and exclusive agency rulemaking record with respect to agency action on or judicial review of the rule. The record shall must contain:

(1) copies of all publications in the State Register pertaining to the rule;

(2) all written petitions, and all requests, submissions, or comments received by the agency or the administrative law judge after publication of the notice of intent to adopt or the notice of hearing in the State Register pertaining to the rule;

(3) the statement of need and reasonableness for the rule;

(4) the official transcript of the hearing if one was held, or the tape recording of the hearing if a transcript was not prepared;

(5) the report of the administrative law judge, if any;

(6) the rule in the form last submitted to the administrative law judge under sections 14.14 to 14.20 or first submitted to the administrative law judge under sections 14.22 to 14.28;

(7) the administrative law judge's written statement of required modifications and of approval or disapproval by the chief administrative law judge, if any;

(8) any documents required by applicable rules of the office of administrative hearings;

(9) the agency's order adopting the rule;

(10) the revisor's certificate approving the form of the rule; and

(11) a copy of the adopted rule as filed with the secretary of state.

Sec. 18. Minnesota Statutes 2000, section 14.38, subdivision 2, is amended to read:

Subd. 2. [RETROACTIVE APPLICATION.] Every existing rule, regardless of whether it might be known as a substantive, procedural, or interpretive rule, ~~shall have~~ has the force and effect of law retroactive to the date on which the rule became effective if:

~~(a)~~ (1) the rule was adopted in compliance with the provisions of the Administrative Procedure Act in effect at the time the rule was adopted;

~~(b)~~ (2) the rule was approved by the attorney general or office of administrative hearings before becoming effective; and

~~(c)~~ (3) the adopting agency had statutory authority to adopt the rule.

Sec. 19. Minnesota Statutes 2000, section 14.386, is amended to read:

14.386 [PROCEDURE FOR ADOPTING EXEMPT RULES; DURATION.]

(a) A rule adopted, amended, or repealed by an agency, under a statute enacted after January 1, 1997, authorizing or requiring rules to be adopted but excluded from the rulemaking provisions of chapter 14 or from the definition of a rule, has the force and effect of law only if:

(1) the revisor of statutes approves the form of the rule by certificate;

(2) the person authorized to adopt the rule on behalf of the agency signs an order adopting the rule;

(3) the office of administrative hearings approves the rule as to its legality within 14 days after the agency submits it for approval and files ~~three~~ four copies of the rule with the revisor's certificate in the office of the secretary of state; and

~~(3)~~ (4) a copy is published by the agency in the State Register.

The secretary of state shall forward one copy of the rule to the governor.

A statute enacted after January 1, 1997, authorizing or requiring rules to be adopted but excluded from the rulemaking provisions of chapter 14 or from the definition of a rule does not excuse compliance with this section unless it makes specific reference to this section.

(b) A rule adopted under this section is effective for a period of two years from the date of publication of the rule in the State Register. The authority for the rule expires at the end of this two-year period.

(c) The chief administrative law judge shall adopt rules relating to the rule approval duties imposed by this section and section 14.388, including rules establishing standards for review.

(d) This section does not apply to:

- (1) any group or rule listed in section 14.03, subdivisions 1 and 3, except as otherwise provided by law;
- (2) game and fish rules of the commissioner of natural resources adopted under section 84.027, subdivision 13, or sections 97A.0451 to 97A.0459;
- (3) experimental and special management waters designated by the commissioner of natural resources under sections 97C.001 and 97C.005;
- (4) game refuges designated by the commissioner of natural resources under section 97A.085; or
- (5) transaction fees established by the commissioner of natural resources for electronic or telephone sales of licenses, stamps, permits, registrations, or transfers under section 84.027, subdivision 15, paragraph (a), clause (3).

(e) If a statute provides that a rule is exempt from chapter 14, and section 14.386 does not apply to the rule, the rule has the force of law unless the context of the statute delegating the rulemaking authority makes clear that the rule does not have force of law.

Sec. 20. Minnesota Statutes 2000, section 14.388, is amended to read:

14.388 [GOOD CAUSE EXEMPTION.]

If an agency for good cause finds that the rulemaking provisions of this chapter are unnecessary, impracticable, or contrary to the public interest when adopting, amending, or repealing a rule to:

- (1) address a serious and immediate threat to the public health, safety, or welfare;
- (2) comply with a court order or a requirement in federal law in a manner that does not allow for compliance with sections 14.14 to 14.28;
- (3) incorporate specific changes set forth in applicable statutes when no interpretation of law is required; or
- (4) make changes that do not alter the sense, meaning, or effect of a rule,

the agency may adopt, amend, or repeal the rule after satisfying the requirements of section 14.386, paragraph (a), clauses (1) to (3). The agency shall incorporate its findings and a brief statement of its supporting reasons in its order adopting, amending, or repealing the rule.

~~In review of the rule under section 14.386,~~ The office of administrative hearings shall determine whether the agency has provided adequate justification for its use of this section.

Rules adopted, amended, or repealed under clauses (1) and (2) are effective for a period of two years from the date of publication of the rule in the State Register.

Rules adopted, amended, or repealed under clause (3) or (4) are effective upon publication in the State Register.

Sec. 21. Minnesota Statutes 2000, section 14.389, subdivision 2, is amended to read:

Subd. 2. [NOTICE AND COMMENT.] The agency must publish notice of the proposed rule in the State Register and must mail the notice to persons who have registered with the agency to receive mailed notices. The mailed notice must include either a copy of the proposed rule or a description of the nature and effect of the proposed rule and a statement that a free copy is available from the agency upon request. The notice in the State Register must include the proposed rule or the amended rule in the form required by the revisor under section 14.07, an easily

readable and understandable summary of the overall nature and effect of the proposed rule, and a citation to the most specific statutory authority for the rule, including authority for the rule to be adopted under the process in this section. The agency must allow 30 days after publication in the State Register for comment on the rule.

Sec. 22. [EFFECTIVE DATE.]

This act is effective August 1, 2001, and applies to rules for which a notice under Minnesota Statutes, section 14.14, subdivision 1a; or 14.22, is published in the State Register on or after that date."

Delete the title and insert:

"A bill for an act relating to state government; regulating rulemaking by state agencies; making various technical and housekeeping changes; amending Minnesota Statutes 2000, sections 14.05, subdivision 3; 14.07, subdivision 2; 14.08; 14.101, subdivisions 1, 2, and by adding a subdivision; 14.131; 14.14, subdivision 1a; 14.15, subdivision 1; 14.16, subdivision 1; 14.19; 14.22, subdivision 1; 14.23; 14.25; 14.26, subdivisions 1 and 3; 14.365; 14.38, subdivision 2; 14.386; 14.388; and 14.389, subdivision 2."

The motion prevailed and the amendment was adopted.

S. F. No. 780, A bill for an act relating to state government; regulating rulemaking by state agencies; making various technical and housekeeping changes; amending Minnesota Statutes 2000, sections 14.05, subdivision 3; 14.07, subdivision 2; 14.08; 14.101, subdivisions 1, 2, and by adding a subdivision; 14.131; 14.14, subdivision 1a; 14.15, subdivision 1; 14.16, subdivision 1; 14.19; 14.22, subdivision 1; 14.23; 14.25; 14.26, subdivisions 1 and 3; 14.365; 14.38, subdivision 2; 14.386; and 14.388.

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

The question was taken on the passage of the bill and the roll was called. There were 129 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dempsey	Haas	Kelliher	Marquart	Pelowski
Abrams	Dibble	Hackbarth	Kielkucki	McElroy	Penas
Anderson, B.	Dorman	Harder	Knoblach	McGuire	Peterson
Anderson, I.	Dorn	Hausman	Koskinen	Milbert	Pugh
Bakk	Eastlund	Hilstrom	Krinkie	Molnau	Rhodes
Bernardy	Entenza	Hilty	Kubly	Mulder	Rifenberg
Biernat	Erhardt	Holberg	Kuisle	Mullery	Ruth
Bishop	Erickson	Holsten	Larson	Murphy	Schumacher
Boudreau	Evans	Howes	Leighton	Ness	Seagren
Bradley	Finseth	Huntley	Lenczewski	Nornes	Seifert
Buesgens	Folliard	Jacobson	Leppik	Olson	Sertich
Carlson	Fuller	Jaros	Lieder	Opatz	Skoe
Cassell	Gerlach	Jennings	Lindner	Osskopp	Skoglund
Clark, J.	Gleason	Johnson, J.	Lipman	Osthoff	Slawik
Daggett	Goodno	Johnson, R.	Luther	Otremba	Smith
Davids	Goodwin	Johnson, S.	Mahoney	Ozment	Solberg
Davnie	Gray	Juhnke	Mares	Paulsen	Stanek
Dawkins	Greiling	Kahn	Mariani	Pawlenty	Swapinski
Dehler	Gunther	Kalis	Marko	Paymar	Swenson

Sykora	Tuma	Walz	Westerberg	Wolf
Thompson	Vandever	Wasiluk	Wilkin	Workman
Tingelstad	Wagenius	Wenzel	Winter	Spk. Sviggum

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

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

The Speaker called Abrams to the Chair.

#### PENDING POINT OF ORDER

The pending point of order raised by Pugh on Tuesday, May 8, 2001, pursuant to section 769 of "Mason's Manual of Legislative Procedure" relating to the Appointment of Conference Committees was again reported to the House. Speaker pro tempore Abrams ruled the Pugh point of order not well taken.

Pugh appealed the decision of Speaker pro tempore Abrams.

A roll call was requested and properly seconded.

#### CALL OF THE HOUSE

On the motion of Pawlenty and on the demand of 10 members, a call of the House was ordered. The following members answered to their names:

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

Pawlenty moved that further proceedings of the roll call be suspended and that the Sergeant at Arms be instructed to bring in the absentees. The motion prevailed and it was so ordered.

The vote was taken on the question "Shall the decision of Speaker pro tempore Abrams stand as the judgment of the House?" and the roll was called.

Seifert moved that those not voting be excused from voting. The motion prevailed.

There were 70 yeas and 60 nays as follows:

Those who voted in the affirmative were:

Abeler	Dempsey	Harder	Lindner	Pawlenty	Tingelstad
Abrams	Dorman	Holberg	Lipman	Penas	Tuma
Anderson, B.	Eastlund	Holsten	Mares	Rhodes	Vandeveer
Bishop	Erhardt	Howes	McElroy	Rifenberg	Walz
Boudreau	Erickson	Jacobson	Molnau	Ruth	Westerberg
Bradley	Finseth	Jennings	Mulder	Seagren	Westrom
Buesgens	Fuller	Johnson, J.	Ness	Seifert	Wilkin
Cassell	Gerlach	Kielkucki	Nornes	Smith	Wolf
Clark, J.	Goodno	Knoblach	Olson	Stanek	Workman
Daggett	Gunther	Krinkie	Osskopp	Stang	Spk. Sviggum
Davids	Haas	Kuisle	Ozment	Swenson	
Dehler	Hackbarth	Leppik	Paulsen	Sykora	

Those who voted in the negative were:

Anderson, I.	Folliard	Johnson, S.	Lieder	Opatz	Skoe
Bernardy	Gleason	Juhnke	Luther	Osthoff	Skoglund
Biernat	Goodwin	Kahn	Mahoney	Otremba	Slawik
Carlson	Gray	Kalis	Mariani	Paymar	Solberg
Davnie	Greiling	Kelliher	Marko	Pelowski	Swapinski
Dawkins	Hausman	Koskinen	Marquart	Peterson	Thompson
Dibble	Hilstrom	Kubly	McGuire	Pugh	Wagenius
Dorn	Hilty	Larson	Milbert	Rukavina	Wasiluk
Entenza	Huntley	Leighton	Mullery	Schumacher	Wenzel
Evans	Johnson, R.	Lenczewski	Murphy	Sertich	Winter

So it was the judgment of the House that the decision of Speaker pro tempore Abrams should stand.

#### CALL OF THE HOUSE LIFTED

McElroy moved that the call of the House be suspended. The motion prevailed and it was so ordered.

S. F. No. 555 was reported to the House.

Seifert moved to amend S. F. No. 555 as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 667, the fourth engrossment:

"Section 1. Minnesota Statutes 2000, section 14.05, subdivision 6, is amended to read:

Subd. 6. [VETO OF ADOPTED RULES.] The governor may veto all or a severable portion of a rule of an agency as defined in section 14.02, subdivisions 2 and 4, by ~~publishing~~ submitting notice of the veto ~~in~~ to the State Register within 14 days of receiving a copy of the rule from the secretary of state under section 14.16, subdivision 3, 14.26,



subdivision 3, or 14.386 or the agency under section 14.389, subdivision 3, or section 14.3895. The veto is effective when the veto notice is submitted to the State Register. This authority applies only to the extent that the agency itself would have authority, through rulemaking, to take such action. If the governor vetoes a rule or portion of a rule under this section, the governor shall notify the chairs of the legislative committees having jurisdiction over the agency whose rule was vetoed. The governor may not veto a rule or portion of a rule promulgated by a constitutional officer.

Sec. 2. [14.055] [RULE VARIANCES; STANDARDS.]

Subdivision 1. [AUTHORITY.] A person or entity may petition an agency for a variance from a rule adopted by the agency, as it applies to the circumstances of the petitioner.

Subd. 2. [GENERAL TERMS.] The following general terms apply to variances granted pursuant to this section:

(1) the agency may attach any conditions to the granting of a variance that the agency determines are needed to protect public health, safety, or the environment;

(2) a variance has prospective effect only;

(3) conditions attached to the granting of a variance are an enforceable part of the rule to which the variance applies; and

(4) the agency may not grant a variance from a statute or court order.

Subd. 3. [MANDATORY VARIANCES.] An agency shall grant a variance from a rule as applied to the particular circumstances of the petitioner, if the agency finds that the application of the rule, as applied to the circumstances of that petitioner, would not serve any of the purposes of the rule.

Subd. 4. [DISCRETIONARY VARIANCES.] An agency may grant a variance if the agency finds that:

(1) application of the rule to the petitioner would result in hardship or injustice;

(2) variance from the rule would be consistent with the public interest; and

(3) variance from the rule would not prejudice the economic or substantial legal rights of any person or entity.

Subd. 5. [RULES.] An agency may adopt rules under section 14.389 establishing general standards for granting mandatory or discretionary variances from its rules. Section 14.389, subdivision 5, applies to these rules. An agency also may grant variances based on standards specified in other law.

Sec. 3. [14.056] [RULE VARIANCES; PROCEDURES.]

Subdivision 1. [CONTENTS OF VARIANCE PETITION.] A petition for a variance under section 14.055 must include the following information:

(1) the name and address of the person or entity for whom a variance is being requested;

(2) a description of and, if known, a citation to the specific rule for which a variance is requested;

(3) the variance requested, including the scope and duration of the variance;

(4) the reasons that the petitioner believes justify a variance, including a signed statement attesting to the accuracy of the facts asserted in the petition;

(5) a history of the agency's action relative to the petitioner, as relates to the variance request;

(6) information regarding the agency's treatment of similar cases, if known; and

(7) the name, address, and telephone number of any person the petitioner knows would be adversely affected by the grant of the petition.

Subd. 2. [FEES.] (a) An agency may charge a petitioner a variance fee. The fee is:

(1) \$10, which must be submitted with the petition, and is not refundable; or

(2) the estimated cost for the agency to process the variance petition, if the agency estimates that the cost will be more than \$20.

(b) If an agency intends to charge costs to the petitioner under paragraph (a), clause (2):

(1) the agency and the petitioner must agree on the costs and the timing and manner of payment;

(2) for purposes of the 60-day limit in subdivision 5, the petition is not complete until there is agreement with the petitioner on the costs and timing and manner of payment; and

(3) if the payment made by the petitioner exceeds the agency's actual costs, the agency must refund the overpayment to the petitioner. The payment is not otherwise refundable.

(c) Proceeds from fees charged under this subdivision must be deposited in the fund that supports the program that is the subject of the variance petition.

Subd. 3. [NOTICE.] In addition to any notice required by other law, an agency shall make reasonable efforts to ensure that persons or entities who may be affected by the variance have timely notice of the request for a variance. The agency may require the petitioner to serve notice on any other person or entity in the manner specified by the agency.

Subd. 4. [ADDITIONAL INFORMATION.] Before granting or denying a variance petition, an agency may request additional information from the petitioner.

Subd. 5. [ORDER; TIMING.] An agency must issue a written order granting or denying a variance and specifying the scope and period of any variance granted. The order must contain an agency statement of the relevant facts and the reasons for the agency's action. The agency shall grant or deny a variance petition as soon as practicable, and within 60 days of receipt of the completed petition, unless the petitioner agrees to a later date. Failure of the agency to act on a petition within 60 days constitutes approval of the petition.

Subd. 6. [ORDER; DELIVERY.] Within five days of issuing a variance order, the agency shall send the order to the petitioner and to any other person entitled to notice under other law.

Subd. 7. [RECORD.] An agency shall maintain a record of all orders granting and denying variances under section 14.055. The records must be indexed by rule and be available for public inspection to the extent provided in chapter 13.

Sec. 4. [14.057] [RELATION TO OTHER LAW.]

Sections 14.055 and 14.056 create variance standards and procedures that apply when there is not another state or federal law or rule authorizing variances. Sections 14.055 and 14.056 do not apply to the extent another state or federal law or rule authorizes or requires the granting of variances.

Sec. 5. Minnesota Statutes 2000, section 14.116, is amended to read:

14.116 [NOTICE TO LEGISLATURE.]

When an agency mails notice of intent to adopt rules under section 14.14 or 14.22, the agency must ~~make reasonable efforts to~~ send a copy of the same notice and a copy of the statement of need and reasonableness to the following:

(1) ~~all people who are still legislators and who were main authors, or supporting authors, of the law granting the agency the statutory authority the agency relies upon as authority to adopt the proposed rule; and~~

(2) ~~the chairs and ranking minority party members~~ of the legislative policy and budget committees with jurisdiction over the subject matter of the proposed rules.

In addition, if the mailing of the notice is within two years of the effective date of the law granting the agency authority to adopt the proposed rules, the agency must make reasonable efforts to send a copy of the notice and the statement to all sitting legislators who were chief house and senate authors of the bill granting the rulemaking authority. If the bill was amended to include this rulemaking authority, the agency must make reasonable efforts to send the notice and the statement to the chief house and senate authors of the amendment granting rulemaking authority, rather than to the chief authors of the bill.

Sec. 6. [14.126] [COMMITTEE AUTHORITY OVER RULE ADOPTION.]

Subdivision 1. [DELAY ACTION.] If the standing committee of the house of representatives and the standing committee of the senate with jurisdiction over the subject matter of a proposed rule both vote to advise an agency that a proposed rule should not be adopted as proposed, the agency may not adopt the rule until May 30 after the first March 1 following the vote of the committees. The speaker of the house of representatives and the president of the senate must determine if a standing committee has jurisdiction over a rule before a committee may act under this section.

Subd. 2. [VOTE.] A committee vote under this section must be by a majority of the committee. The vote may occur any time after the publication of the rulemaking notice under section 14.14, subdivision 1a, 14.22, 14.389, subdivision 2, or 14.3895, subdivision 3, and before notice of adoption is published in the State Register under section 14.18, 14.27, 14.389, subdivision 3, or 14.3895, subdivision 3. A committee voting under this section must notify the agency, the revisor of statutes, and the chief administrative law judge of the vote as soon as possible. The committee must publish notice of the vote in the State Register as soon as possible.

Sec. 7. Minnesota Statutes 2000, section 14.18, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] A rule is effective after it has been subjected to all requirements described in sections 14.131 to 14.20 and five working days after the notice of adoption is published in the State Register unless a later date is required by section 14.126 or other law or specified in the rule. If the rule adopted is the same as the proposed rule, publication may be made by publishing notice in the State Register that the rule has been adopted as proposed and by citing the prior publication. If the rule adopted differs from the proposed rule, the portions of the adopted rule that differ from the proposed rule must be included in the notice of adoption together with a citation to the prior State Register publication of the remainder of the proposed rule. The nature of the modifications must be clear to a reasonable person when the notice of adoption is considered together with the State Register publication of the proposed rule, except that modifications may also be made that comply with the form requirements of section 14.07, subdivision 7.

If the agency omitted from the notice of proposed rule adoption the text of the proposed rule, as permitted by section 14.14, subdivision 1a, paragraph (b), the chief administrative law judge may provide that the notice of the adopted rule need not include the text of any changes from the proposed rule. However, the notice of adoption must

state in detail the substance of the changes made from the proposed rule, and must state that a free copy of the portion of the adopted rule that was the subject of the rulemaking proceeding, not including any material adopted by reference as permitted by section 14.07, is available upon request to the agency.

Sec. 8. Minnesota Statutes 2000, section 14.19, is amended to read:

14.19 [DEADLINE TO COMPLETE RULEMAKING.]

Within 180 days after issuance of the administrative law judge's report, the agency shall submit its notice of adoption, amendment, or repeal to the State Register for publication. If the agency has not submitted its notice to the State Register within 180 days, the rule is automatically withdrawn. The agency may not adopt the withdrawn rules without again following the procedures of sections 14.05 to 14.28. It shall report to the legislative coordinating commission, other appropriate committees of the legislature, and the governor its failure to adopt rules and the reasons for that failure. The 180-day time limit of this section does not include: (1) any days used for review by the chief administrative law judge or the commission if the review is required by law; or (2) days during which the rule cannot be adopted, because of votes by legislative committees under section 14.126.

Sec. 9. [14.381] [UNADOPTED RULES.]

Subdivision 1. [PETITION.] A person may petition the office of administrative hearings seeking an order of an administrative law judge determining that an agency is enforcing or attempting to enforce a policy, guideline, bulletin, criterion, manual standard, or similar pronouncement as though it were a duly adopted rule. The petition must be supported by affidavit and must be served upon the agency. The agency must respond in writing to the petition within ten working days. The administrative law judge may order oral argument on the petition, but only if necessary to a decision.

Subd. 2. [ORDER.] The order of the administrative law judge must direct the agency to cease enforcement of the unadopted rule that is the subject of the petition. The order must be served upon the parties and the legislative coordinating commission by first class mail and must be published by the agency in the State Register. The decision of the administrative law judge may be appealed under sections 14.44 and 14.45.

Subd. 3. [COSTS.] (a) Except as provided in paragraphs (b) and (c), the agency must pay all office of administrative hearings costs associated with review of the petition.

(b) The petitioner must pay office of administrative hearings costs if the administrative law judge rules in favor of the agency, unless the administrative law judge determines that the petition was brought in good faith and that an assessment of costs would constitute an undue hardship for the petitioner.

(c) A person filing a petition under this section must provide a bond to the office of administrative hearings in an amount that the administrative law judge estimates is the cost for the office of administrative hearings to review the petition. As an alternative to a bond, the petitioner may deposit cash, or another form of guarantee approved by the chief administrative law judge. If the petitioner is required under paragraph (b) to pay office of administrative hearings costs, the agency must recover these costs directly from the petitioner, or from the bond or other guarantee provided under this paragraph.

(d) A petitioner entitled to proceed in forma pauperis under section 563.01 is not required to pay office of administrative hearings costs under this subdivision, and is not required to provide a bond or other form of guarantee under paragraph (c).

Sec. 10. [14.3895] [PROCESS FOR REPEALING OBSOLETE RULES.]

Subdivision 1. [APPLICATION.] An agency may use this section to repeal rules identified in the agency's annual obsolete rules report under section 14.05, subdivision 5, unless a law specifically requires another process or unless 25 requests are received under subdivision 4. Sections 14.19, 14.20, 14.365, and 14.366 apply to rules repealed under this section.

Subd. 2. [NOTICE PLAN; PRIOR APPROVAL.] The agency must draft a notice plan under which the agency will make reasonable efforts to notify persons or classes of persons who may be significantly affected by the rule repeal by giving notice of its intention in newsletters, newspapers, or other publications, or through other means of communication. Before publishing the notice in the State Register and implementing the notice plan, the agency must obtain prior approval of the notice plan by the chief administrative law judge.

Subd. 3. [NOTICE AND COMMENT.] The agency must publish notice of the proposed rule repeal in the State Register. The agency must also mail the notice to persons who have registered with the agency to receive mailed notices and to the chairs and ranking minority party members of the legislative policy and budget committees with jurisdiction over the subject matter of the proposed rule repeal. The agency must also give notice according to the notice plan approved under subdivision 2. The mailed notice must include either a copy of the rule proposed for repeal or a description of the nature and effect of the proposed rule repeal and a statement that a free copy is available from the agency upon request. The notice must include a statement that, if 25 or more people submit a written request, the agency will have to meet the requirements of sections 14.131 to 14.20 for rules adopted after a hearing or the requirements of sections 14.22 to 14.28 for rules adopted without a hearing, including the preparation of a statement of need and reasonableness and the opportunity for a hearing. The agency must allow 60 days after publication in the State Register for comment on the proposed rule repeal.

Subd. 4. [REQUESTS.] If 25 or more people submit a written request, the agency may repeal the rule only after complying with sections 14.131 to 14.20 or the requirements of sections 14.22 to 14.28. The requests must be in the manner specified in section 14.25.

Subd. 5. [ADOPTION.] If the final repeal is identical to the action originally published in the State Register, the agency must publish a notice of repealers in the State Register. If the final action is different from the action originally published in the State Register, the agency must publish a copy of the changes in the State Register. The agency must also file a copy of the repealed rule with the governor. The repeal is effective after it has been subjected to all requirements described in this section or sections 14.131 to 14.20 or 14.22 to 14.28 and five working days after the notice of repeal is published in the State Register unless a later date is required by law or specified in the rule repeal proposal.

Subd. 6. [LEGAL REVIEW.] Before publication of the final rule in the State Register, the agency must submit the rule to the chief administrative law judge in the office of administrative hearings. The chief administrative law judge shall within 14 days approve or disapprove the rule as to its legality and its form to the extent the form relates to legality.

Sec. 11. [REPEALER.]

(a) Minnesota Statutes 2000, section 14.05, subdivision 4, is repealed. Variances granted and rules adopted under Minnesota Statutes, section 14.05, subdivision 4, remain in effect, however, and the rules may be amended.

(b) Laws 1999, chapter 129, section 6, is repealed.

Sec. 12. [EFFECTIVE DATE.]

Sections 1 and 5 to 11 are effective July 1, 2001. Sections 2 to 4 are effective July 1, 2002, except that the authority to adopt rules under Minnesota Statutes, section 14.055, subdivision 5, is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to state government; modifying certain procedures relating to administrative rules; appropriating money; amending Minnesota Statutes 2000, sections 14.05, subdivision 6; 14.116; 14.18, subdivision 1; 14.19; proposing coding for new law in Minnesota Statutes, chapter 14; repealing Minnesota Statutes 2000, section 14.05, subdivision 4; Laws 1999, chapter 129, section 6."

The motion prevailed and the amendment was adopted.

Bishop, Pelowski and Seifert moved to amend S. F. No. 555, as amended, as follows:

Page 3, line 36, delete "must" and insert "are appropriated to the commissioner of finance. The commissioner of finance may transfer amounts to the fund and agency that supports the program that is the subject of the variance petition when the agency makes a request for the fee proceeds and the commissioner of finance determines the agency needs the fee proceeds to implement this section. Annually, the commissioner of finance must transfer proceeds from fees that are not transferred to agencies to the general fund."

Page 4, delete lines 1 and 2

The motion prevailed and the amendment was adopted.

S. F. No. 555, A bill for an act relating to state government; modifying certain procedures relating to administrative rules; amending Minnesota Statutes 2000, sections 14.05, subdivision 6; 14.116; and 14.18, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 14; repealing Laws 1999, chapter 129, section 6.

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

The question was taken on the passage of the bill and the roll was called. There were 117 yeas and 11 nays as follows:

Those who voted in the affirmative were:

Abeler	Eastlund	Jacobson	Lipman	Pawlenty	Swenson
Abrams	Entenza	Jaros	Luther	Pelowski	Sykora
Anderson, B.	Erhardt	Johnson, J.	Mares	Penas	Thompson
Anderson, I.	Erickson	Johnson, R.	Marko	Peterson	Tingelstad
Bernardy	Evans	Johnson, S.	Marquart	Pugh	Tuma
Biernat	Finseth	Juhnke	McElroy	Rhodes	Vandever
Bishop	Folliard	Kalis	McGuire	Rifenberg	Wagenius
Boudreau	Fuller	Kelliher	Milbert	Rukavina	Walz
Bradley	Gerlach	Kielkucki	Molnau	Ruth	Wasiluk
Buesgens	Goodno	Knoblach	Mulder	Schumacher	Wenzel
Carlson	Goodwin	Koskinen	Mullery	Seagren	Westerberg
Cassell	Gunther	Krinkie	Ness	Seifert	Westrom
Clark, J.	Haas	Kubly	Nornes	Sertich	Wilkin
Daggett	Hackbarth	Kuile	Olson	Skoe	Winter
Davids	Harder	Larson	Opatz	Skoglund	Wolf
Dawkins	Hilstrom	Leighton	Osskopp	Slawik	Workman
Dehler	Hilty	Lenczewski	Osthoff	Smith	Spk. Sviggum
Dempsey	Holberg	Leppik	Otremba	Solberg	
Dibble	Holsten	Lieder	Ozment	Stanek	
Dorn	Howes	Lindner	Paulsen	Stang	

Those who voted in the negative were:

Davnie	Gleason	Greiling	Kahn	Mariani	Paymar
Dorman	Gray	Hausman	Mahoney	Murphy	

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

S. F. No. 970 was reported to the House.

Dauids moved that S. F. No. 970 be continued on the Calendar for the Day. The motion prevailed.

S. F. No. 2225 was reported to the House.

S. F. No. 2225 was read for the third time.

Carlson moved that S. F. No. 2225 be re-referred to the Committee on Education Policy.

A roll call was requested and properly seconded.

The question was taken on the Carlson motion and the roll was called. There were 59 yeas and 71 nays as follows:

Those who voted in the affirmative were:

Anderson, I.	Evans	Jaros	Larson	Milbert	Sertich
Bernardy	Folliard	Jennings	Leighton	Mullery	Skoe
Biernat	Gleason	Johnson, R.	Lenczewski	Murphy	Slawik
Carlson	Goodwin	Johnson, S.	Lieder	Opatz	Solberg
Clark, K.	Gray	Juhnke	Luther	Otremba	Swapinski
Davnie	Greiling	Kahn	Mahoney	Paymar	Thompson
Dawkins	Hausman	Kalis	Mariani	Peterson	Wagenius
Dibble	Hilstrom	Kelliher	Marko	Pugh	Wasiluk
Dorn	Hilty	Koskinen	Marquart	Rukavina	Winter
Entenza	Huntley	Kubly	McGuire	Schumacher	

Those who voted in the negative were:

Abeler	Dempsey	Harder	Lipman	Pelowski	Tingelstad
Abrams	Dorman	Holberg	Mares	Penas	Tuma
Anderson, B.	Eastlund	Holsten	McElroy	Rhodes	Vandever
Bishop	Erhardt	Howes	Molnau	Rifenberg	Walz
Boudreau	Erickson	Jacobson	Mulder	Ruth	Wenzel
Bradley	Finseth	Johnson, J.	Ness	Seagren	Westerberg
Buesgens	Fuller	Kielkucki	Nornes	Seifert	Westrom
Cassell	Gerlach	Knoblach	Olson	Smith	Wilkin
Clark, J.	Goodno	Krinkie	Osskopp	Stanek	Wolf
Daggett	Gunther	Kuisle	Ozment	Stang	Workman
Davids	Haas	Leppik	Paulsen	Swenson	Spk. Sviggum
Dehler	Hackbarth	Lindner	Pawlenty	Sykora	

The motion did not prevail.

S. F. No. 2225, A bill for an act relating to drivers' licenses; allowing certain school buses to be operated by licensed child care providers; 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, sections 169.01, subdivision 75; 169.448, subdivision 1; 171.02, subdivisions 2, 2a.

The bill was placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 107 yeas and 24 nays as follows:

Those who voted in the affirmative were:

Abeler	Eastlund	Holsten	Lieder	Ozment	Stanek
Abrams	Erhardt	Howes	Lindner	Paulsen	Stang
Anderson, B.	Erickson	Jacobson	Lipman	Pawlenty	Swenson
Anderson, I.	Evans	Jaros	Mares	Pelowski	Sykora
Bernardy	Finseth	Jennings	Marko	Penas	Thompson
Biernat	Fuller	Johnson, J.	Marquart	Peterson	Tingelstad
Bishop	Gerlach	Johnson, R.	McElroy	Rhodes	Tuma
Boudreau	Gleason	Johnson, S.	McGuire	Rifenberg	Vandever
Bradley	Goodno	Juhnke	Milbert	Rukavina	Walz
Buesgens	Gray	Kelliher	Molnau	Ruth	Wenzel
Carlson	Greiling	Kielkucki	Mulder	Schumacher	Westerberg
Cassell	Gunther	Knoblach	Mullery	Seagren	Westrom
Clark, J.	Haas	Krinkie	Ness	Seifert	Wilkin
Daggett	Hackbarth	Kubly	Nornes	Sertich	Winter
Davids	Harder	Kuise	Olson	Skoe	Wolf
Dehler	Hilstrom	Larson	Opatz	Skoglund	Workman
Dorman	Hilty	Lenczewski	Osskopp	Slawik	Spk. Sviggum
Dorn	Holberg	Leppik	Otremba	Smith	

Those who voted in the negative were:

Clark, K.	Dibble	Huntley	Leighton	Murphy	Solberg
Davnie	Entenza	Kahn	Luther	Osthoff	Swapinski
Dawkins	Goodwin	Kalis	Mahoney	Paymar	Wagenius
Dempsey	Hausman	Koskinen	Mariani	Pugh	Wasiluk

The bill was passed and its title agreed to.

S. F. No. 1056, A bill for an act relating to drivers' licenses; modifying certain annual requirements relating to school bus drivers; amending Minnesota Statutes 2000, section 171.321, subdivision 5.

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	Buesgens	Dehler	Finseth	Gunther	Howes
Abrams	Carlson	Dempsey	Folliard	Haas	Huntley
Anderson, B.	Cassell	Dibble	Fuller	Hackbarth	Jacobson
Anderson, I.	Clark, J.	Dorman	Gerlach	Harder	Jaros
Bernardy	Clark, K.	Dorn	Gleason	Hausman	Jennings
Biernat	Daggett	Eastlund	Goodno	Hilstrom	Johnson, J.
Bishop	Davids	Entenza	Goodwin	Hilty	Johnson, R.
Boudreau	Davnie	Erickson	Gray	Holberg	Johnson, S.
Bradley	Dawkins	Evans	Greiling	Holsten	Juhnke



Kahn	Lieder	Mulder	Paymar	Skoe	Vandev eer
Kalis	Lindner	Mullery	Pelowski	Skoglund	Wagenius
Kelliher	Lipman	Murphy	Penas	Slawik	Walz
Kielkucki	Luther	Ness	Peterson	Smith	Wasiluk
Knoblach	Mahoney	Nornes	Pugh	Solberg	Wenzel
Koskinen	Mares	Olson	Rhodes	Stanek	Westerberg
Krinkie	Mariani	Opatz	Rifenberg	Stang	Westrom
Kubly	Marko	Osskopp	Rukavina	Swapinski	Wilkin
Kuisle	Marquart	Osthoff	Ruth	Swenson	Winter
Larson	McElroy	Otremba	Schumacher	Sykora	Wolf
Leighton	McGuire	Ozment	Seagren	Thompson	Workman
Lenczewski	Milbert	Paulsen	Seifert	Tingelstad	Spk. Sviggum
Leppik	Molnau	Pawlenty	Sertich	Tuma	

The bill was passed and its title agreed to.

S. F. No. 1164, A bill for an act relating to conservation; modifying the definition of landowner for purposes of participation in the RIM program; increasing the amount of funding available to participants; amending Minnesota Statutes 2000, sections 103F.511, subdivision 6; and 103F.515, subdivision 6.

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	Dorn	Holberg	Lenczewski	Osskopp	Solberg
Abrams	Eastlund	Holsten	Leppik	Osthoff	Stanek
Anderson, B.	Entenza	Howes	Lieder	Otremba	Stang
Anderson, I.	Erhardt	Huntley	Lindner	Ozment	Swapinski
Bernardy	Erickson	Jacobson	Lipman	Paulsen	Swenson
Biernat	Evans	Jaros	Luther	Pawlenty	Sykora
Bishop	Finseth	Jennings	Mahoney	Paymar	Thompson
Boudreau	Folliard	Johnson, J.	Mares	Pelowski	Tingelstad
Bradley	Fuller	Johnson, R.	Mariani	Penas	Tuma
Buesgens	Gerlach	Johnson, S.	Marko	Peterson	Vandev eer
Carlson	Gleason	Juhnke	Marquart	Pugh	Wagenius
Cassell	Goodno	Kahn	McElroy	Rhodes	Walz
Clark, J.	Goodwin	Kalis	McGuire	Rifenberg	Wasiluk
Clark, K.	Gray	Kelliher	Milbert	Ruth	Wenzel
Daggett	Greiling	Kielkucki	Molnau	Schumacher	Westerberg
Davids	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	Workman
Dibble	Hilstrom	Larson	Olson	Slawik	Spk. Sviggum
Dorman	Hilty	Leighton	Opatz	Smith	

The bill was passed and its title agreed to.

S. F. No. 1064, A bill for an act relating to public contracts; specifying procedures to be followed for certain professional service contracts; proposing coding for new law in Minnesota Statutes, chapter 16C.

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 3 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Buesgens                      Goodwin                      Greiling

The bill was passed and its title agreed to.

S. F. No. 2031 was reported to the House.

Clark, J., moved that S. F. No. 2031 be continued on the Calendar for the Day. The motion prevailed.

H. F. No. 1947 was reported to the House.

Tingelstad moved to amend H. F. No. 1947, the second engrossment, as follows:

Page 12, line 19, strike "or"

Page 12, line 23, after the semicolon, insert "or"

Page 12, after line 23, insert:

"(xi) adoption agencies in order to complete confidential postadoption searches as required by section 259.83;"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Seagren moved to amend H. F. No. 1947, the second engrossment, as amended, as follows:

Page 2, line 17, after the period, insert "The birth record is not the medical record of the mother or the child."

The motion prevailed and the amendment was adopted.

H. F. No. 1947, A bill for an act relating to health; modifying the Vital Statistics Act; modifying access to adoption records; amending Minnesota Statutes 2000, sections 144.212, subdivisions 2a, 3, 5, 7, 8, 9, 11; 144.214, subdivisions 1, 3, 4; 144.215, subdivisions 1, 3, 4, 6, 7; 144.217; 144.218; 144.221, subdivisions 1, 3; 144.222, subdivision 2; 144.223; 144.225, subdivisions 1, 2, 3, 4, 7; 144.226, subdivisions 1, 3; 144.227; 260C.317, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 144; repealing Minnesota Statutes 2000, sections 144.1761; 144.217, subdivision 4; 144.219.

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

The question was taken on the passage of the bill and the roll was called. There were 127 yeas and 5 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Anderson, B.      Boudreau      Gerlach      Olson      Smith

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

S. F. No. 1215 was reported to the House.

Holberg moved that S. F. No. 1215 be continued on the Calendar for the Day. The motion prevailed.

S. F. No. 229, A bill for an act relating to criminal records; requiring that crime victims be notified of expungement proceedings and allowed to submit a statement; amending Minnesota Statutes 2000, section 609A.03, subdivisions 2, 3, and 4.

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	Dorn	Holberg	Lenczewski	Osskopp	Solberg
Abrams	Eastlund	Holsten	Leppik	Osthoff	Stanek
Anderson, B.	Entenza	Howes	Lieder	Otremba	Stang
Anderson, I.	Erhardt	Huntley	Lindner	Ozment	Swapinski
Bernardy	Erickson	Jacobson	Lipman	Paulsen	Swenson
Biernat	Evans	Jaros	Luther	Pawlenty	Sykora
Bishop	Finseth	Jennings	Mahoney	Pelowski	Thompson
Boudreau	Folliard	Johnson, J.	Mares	Penas	Tingelstad
Bradley	Fuller	Johnson, R.	Mariani	Peterson	Tuma
Buesgens	Gerlach	Johnson, S.	Marko	Pugh	Vandev eer
Carlson	Gleason	Juhnke	Marquart	Rhodes	Wagenius
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
Davids	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	Workman
Dibble	Hilstrom	Larson	Olson	Slawik	Spk. Sviggum
Dorman	Hilty	Leighton	Opatz	Smith	

The bill was passed and its title agreed to.

S. F. No. 2049, A bill for an act relating to historic preservation; recognizing and extending the protection of the Minnesota Historic Sites Act and the Minnesota Field Archaeology Act to historic Camp Coldwater Springs; amending Minnesota Statutes 2000, section 138.73, subdivision 13.

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 110 yeas and 20 nays as follows:

Those who voted in the affirmative were:

Abeler	Erhardt	Jaros	Lipman	Pawlenty	Swapinski
Anderson, B.	Erickson	Jennings	Luther	Paymar	Sykora
Anderson, I.	Evans	Johnson, J.	Mahoney	Pelowski	Thompson
Bernardy	Folliard	Johnson, R.	Mares	Peterson	Tingelstad
Biernat	Fuller	Johnson, S.	Mariani	Pugh	Tuma
Boudreau	Gleason	Juhnke	Marko	Rhodes	Wagenius
Carlson	Goodno	Kahn	Marquart	Rukavina	Walz
Clark, J.	Goodwin	Kalis	McGuire	Ruth	Wasiluk
Clark, K.	Gray	Kelliher	Milbert	Schumacher	Wenzel
Daggett	Greiling	Kielkucki	Mullery	Seagren	Westerberg
Davids	Gunther	Koskinen	Murphy	Seifert	Westrom
Davnie	Haas	Krinkie	Ness	Sertich	Wilkin
Dawkins	Harder	Kubly	Nornes	Skoe	Winter
Dehler	Hausman	Larson	Olson	Skoglund	Wolf
Dempsey	Hilstrom	Leighton	Opatz	Slawik	Spk. Sviggum
Dibble	Hilty	Lenczewski	Osskopp	Smith	
Dorn	Howes	Leppik	Otremba	Solberg	
Eastlund	Huntley	Lieder	Ozment	Stanek	
Entenza	Jacobson	Lindner	Paulsen	Stang	

Those who voted in the negative were:

Abrams	Cassell	Hackbarth	McElroy	Rifenberg
Bishop	Dorman	Holberg	Molnau	Swenson
Bradley	Finseth	Holsten	Mulder	Vandever
Buesgens	Gerlach	Kuisle	Penas	Workman

The bill was passed and its title agreed to.

S. F. No. 1258, A bill for an act relating to economic development; modifying provisions of the Minnesota investment fund; amending Minnesota Statutes 2000, section 116J.8731, subdivision 2.

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	Davnie	Entenza	Gleason	Harder
Abrams	Buesgens	Dawkins	Erhardt	Goodno	Hausman
Anderson, B.	Carlson	Dehler	Erickson	Goodwin	Hilstrom
Anderson, I.	Cassell	Dempsey	Evans	Gray	Hilty
Bernardy	Clark, J.	Dibble	Finseth	Greiling	Holberg
Biernat	Clark, K.	Dorman	Folliard	Gunther	Holsten
Bishop	Daggett	Dorn	Fuller	Haas	Howes
Boudreau	Davids	Eastlund	Gerlach	Hackbarth	Huntley

Jacobson	Kubly	Marquart	Otremba	Seagren	Tingelstad
Jaros	Kuisle	McElroy	Ozment	Seifert	Tuma
Jennings	Larson	McGuire	Paulsen	Sertich	Vandever
Johnson, J.	Leighton	Milbert	Pawlenty	Skoe	Wagenius
Johnson, R.	Lenczewski	Molnau	Paymar	Skoglund	Walz
Johnson, S.	Leppik	Mulder	Pelowski	Slawik	Wasiluk
Juhnke	Lieder	Mullery	Penas	Smith	Wenzel
Kahn	Lindner	Murphy	Peterson	Solberg	Westerberg
Kalis	Lipman	Ness	Pugh	Stanek	Westrom
Kelliher	Luther	Nornes	Rhodes	Stang	Wilkin
Kielkucki	Mahoney	Olson	Rifenberg	Swapinski	Winter
Knoblach	Mares	Opatz	Rukavina	Swenson	Wolf
Koskinen	Mariani	Osskopp	Ruth	Sykora	Workman
Krinkie	Marko	Osthoff	Schumacher	Thompson	Spk. Sviggum

The bill was passed and its title agreed to.

S. F. No. 1528 was reported to the House.

Erhardt moved to amend S. F. No. 1528 as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 1526, the second engrossment:

"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."

Hackbarth moved to amend the Erhardt amendment to S. F. No. 1528 as follows:

Page 1, line 16, after "the" insert "recreational"

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

The question recurred on the Erhardt amendment, as amended, to S. F. No. 1528. The motion prevailed and the amendment, as amended, was adopted.

S. F. No. 1528, A bill for an act relating to the city of Edina; authorizing the city to impose additional restrictions on the recreational use of recreational motor vehicles on certain property; amending Minnesota Statutes 2000, section 84.90, by adding a subdivision.

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

The question was taken on the passage of the bill and the roll was called. There were 77 yeas and 54 nays as follows:

Those who voted in the affirmative were:

Abeler	Dempsey	Hausman	Lieder	Osthoff	Solberg
Anderson, I.	Dibble	Hilstrom	Lindner	Otremba	Stanek
Bernardy	Entenza	Hilty	Luther	Ozment	Swapinski
Biernat	Erhardt	Huntley	Mares	Paulsen	Sykora
Bishop	Evans	Jaros	Mariani	Paymar	Thompson
Boudreau	Folliard	Jennings	Marko	Pelowski	Tuma
Bradley	Gleason	Johnson, R.	McElroy	Pugh	Wagenius
Carlson	Goodwin	Kahn	McGuire	Rhodes	Wasiluk
Cassell	Gray	Kalis	Mullery	Ruth	Wenzel
Clark, K.	Greiling	Kelliher	Murphy	Seagren	Winter
Daggett	Gunther	Koskinen	Ness	Seifert	Wolf
Davids	Haas	Lenczewski	Nornes	Skoglund	Spk. Sviggum
Dawkins	Harder	Leppik	Opatz	Slawik	

Those who voted in the negative were:

Abrams	Erickson	Jacobson	Larson	Pawlenty	Stang
Anderson, B.	Finseth	Johnson, J.	Lipman	Penas	Swenson
Buesgens	Fuller	Johnson, S.	Mahoney	Peterson	Tingelstad
Clark, J.	Gerlach	Juhnke	Marquart	Rifenberg	Vandever
Davnie	Goodno	Kielkucki	Milbert	Rukavina	Walz
Dehler	Hackbarth	Knoblach	Molnau	Schumacher	Westerberg
Dorman	Holberg	Krinkie	Mulder	Sertich	Westrom
Dorn	Holsten	Kubly	Olson	Skoe	Wilkin
Eastlund	Howes	Kuisle	Osskopp	Smith	Workman

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

S. F. No. 859 was reported to the House.

Stang moved to amend S. F. No. 859 as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 661, the first engrossment:

## "ARTICLE 1

## REGULATION OF ACCOUNTANCY

Section 1. [TITLE.]

This act may be cited as the "Accountancy Act of 2001."

Sec. 2. [PURPOSE.]

It is the policy of this state, and the purpose of this act, to promote the reliability of information that is used for guidance in financial transactions or for accounting for, or assessing the financial status or performance of, commercial, noncommercial, and governmental enterprises. The public interest requires that persons professing special competence in accountancy or offering assurance as to the reliability or fairness of presentation of such information must have demonstrated their qualifications to do so, and that persons who have not demonstrated and maintained such qualifications, not be permitted to represent themselves as having such special competence or to offer such assurance; that the conduct of persons licensed or registered as having special competence in accountancy be regulated in all aspects of their professional work; that a public authority competent to prescribe and assess the qualifications and to regulate the conduct of licensees and registrants be established; and that the use of titles that have a capacity or tendency to deceive the public as to the status or competence of the persons using such titles be prohibited.

Sec. 3. [326A.01] [DEFINITIONS.]

Subdivision 1. [SCOPE.] When used in this chapter, the terms in this section have the meanings given.

Subd. 2. [ATTEST.] "Attest" means to provide the following financial statement services:

- (1) an audit or other engagement performed in accordance with the Statements on Auditing Standards (SAS);
- (2) a review of a financial statement performed in accordance with the Statements on Standards for Accounting and Review Services (SSARS); and
- (3) an examination of prospective financial information performed in accordance with the Statements on Standards for Attestation Engagements (SSAE).

Subd. 3. [BOARD.] "Board" means the Minnesota board of accountancy established under section 326A.02 or its predecessor under prior law.

Subd. 4. [CERTIFICATE.] "Certificate" means a certificate as a certified public accountant issued under section 326A.04, or corresponding provisions of prior law, or a corresponding certificate as certified public accountant issued after examination under the law of any other state.

Subd. 5. [CLIENT.] "Client" means a person or entity that agrees with a licensee, a person registered under section 326A.06, paragraph (b), or the person's or licensee's employers to receive any professional service.

Subd. 6. [COMPILATION.] "Compilation" means the provision of a service performed in accordance with Statements on Standards for Accounting and Review Services (SSARS) that presents in the form of financial statements information that is the representation of management or owners without undertaking to express any assurance on the statements.

Subd. 7. [CPA FIRM.] "CPA Firm" means a sole proprietorship, a corporation, a partnership, or any other form of organization issued a permit under section 326A.05.



Subd. 8. [LICENSE.] "License" means a certificate issued under section 326A.04, a permit issued under section 326A.05, or a certificate or permit issued under corresponding provisions of prior law.

Subd. 9. [LICENSEE.] "Licensee" means the holder of a license.

Subd. 10. [MANAGER.] "Manager" means a manager of a limited liability company.

Subd. 11. [MEMBER.] "Member" means a member of a limited liability company.

Subd. 12. [PEER REVIEW.] "Peer review" means a study, appraisal, or review of one or more aspects of the professional work of a certificate holder or CPA firm that performs attest or compilation services, or the professional work of a person registered under section 326A.06, paragraph (b), by a person or persons who hold certificates and who are not affiliated with the certificate holder, CPA firm, or person being reviewed.

Subd. 13. [PERMIT.] "Permit" means a permit to practice as a CPA firm issued under section 326A.05, or corresponding provisions of prior law, or under corresponding provisions of the laws of other states.

Subd. 14. [PROFESSIONAL.] "Professional" means arising out of or related to the specialized knowledge or skills associated with certified public accountants or persons registered under section 326A.06, paragraph (b).

Subd. 15. [REPORT.] "Report," when used with reference to financial statements, means an opinion, report, or other form of language that states or implies assurance as to the reliability of any financial statements and that also includes or is accompanied by a statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor, or from the language of the report itself. The term "report" includes any form of language that disclaims an opinion when the form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to or special competence on the part of the person or firm issuing the language. It includes any other form of language that is conventionally understood to imply such assurance or such special knowledge or competence.

Subd. 16. [STATE.] "State" means any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam; except that "this state" means the state of Minnesota.

Subd. 17. [SUBSTANTIAL EQUIVALENCY.] "Substantial equivalency" is a determination under section 326A.14 by the board of accountancy or its designee that the education, examination, and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to, or exceed the education, examination, and experience requirements contained in this chapter or that an individual CPA's education, examination, and experience qualifications are comparable to or exceed the education, examination, and experience requirements contained in this chapter.

#### Sec. 4. [326A.02] [STATE BOARD OF ACCOUNTANCY.]

Subdivision 1. [BOARD.] A board of accountancy is created to carry out the purposes and enforce the provisions of this chapter. It consists of nine citizens of this state appointed by the governor. Two must be public members as defined by section 214.02, and seven must be certified public accountants under the provisions of this chapter. Effective January 1, 2003, no fewer than five of the certified public accountants must be owners or employees of a CPA firm that holds a current permit and provides professional services at the time of appointment and reappointment. At least two of the seven certified public accountants at the time of appointment and reappointment must be owners or employees of a CPA firm that:

(1) holds a current permit;

(2) provides professional services; and

(3) consists of ten or fewer certified public accountants.

Subd. 2. [MEMBERSHIP CONDITIONS.] Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements are as provided in sections 214.07 to 214.09. The provision of staff, administrative services, and office space; the review and processing of complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in this chapter and chapter 214.

Any member of the board whose certificate under section 326A.04 is revoked or suspended automatically ceases to be a member of the board.

Subd. 3. [OFFICERS; PROCEEDINGS.] The board shall elect one of its number as chair, another as vice-chair, and another as secretary and treasurer. The officers shall hold their respective offices for a term of one year and until their successors are elected. The affirmative vote of a majority of the qualified members of the board is considered the action of the board. The board shall meet at such times and places as may be fixed by the board. Meetings of the board are subject to chapter 13D. A majority of the board members then in office constitutes a quorum at any meeting duly called. The board shall have a seal, which must be judicially noticed. The board shall retain or arrange for the retention of all applications and all documents under oath that are filed with the board and also records of its proceedings, and it shall maintain a registry of the names and addresses of all licensees and registrants under this chapter. In any proceeding in court, civil or criminal, arising out of or founded upon any provision of this chapter, copies of records of the proceeding certified as true copies under the seal of the boards shall be admissible in evidence as tending to prove the contents of the records.

Subd. 4. [POWERS.] The board may issue subpoenas to compel the attendance of witnesses and the production of documents, to administer oaths, to take testimony, to cooperate with the appropriate authorities in other states in investigation and enforcement concerning violations of this chapter and comparable acts of other states, and to receive evidence concerning all matters within the scope of this chapter. In case of disobedience of a subpoena, the board may invoke the aid of any court in requiring the attendance and testimony of witnesses and the production of documentary evidence. The board, its members, and its agents are immune from personal liability for actions taken in good faith in the discharge of the board's responsibilities, and the state shall hold the board, its members, and its agents harmless from all costs, damages, and attorneys' fees arising from claims and suits against them with respect to matters to which such immunity applies. The board shall enforce the standard of general education, the standard of special education in the science and art of accounting, and the standard of good character and general experience, as prescribed in this chapter.

Subd. 5. [RULES.] The board may adopt rules governing its administration and enforcement of this chapter and the conduct of licensees and persons registered under section 326A.06, paragraph (b), including:

(1) rules governing the board's meetings and the conduct of its business;

(2) rules of procedure governing the conduct of investigations and hearings and discipline by the board;

(3) rules specifying the educational and experience qualifications required for the issuance of certificates and the continuing professional education required for renewal of certificates;

(4) rules of professional conduct directed to controlling the quality and probity of services by licensees, and dealing among other things with independence, integrity, and objectivity; competence and technical standards; and responsibilities to the public and to clients;

(5) rules governing the professional standards applicable to licensees including adoption of the statements on standards specified in section 326A.01, subdivision 2, and as developed for general application by recognized national accountancy organizations such as the American Institute of Certified Public Accountants;

(6) rules governing the manner and circumstances of use of the titles "certified public accountant," "CPA," "registered accounting practitioner," and "RAP";

(7) rules regarding peer review that may be required to be performed under provisions of this chapter;

(8) rules on substantial equivalence to implement section 326A.14;

(9) rules regarding the conduct of the certified public accountant examination;

(10) rules regarding the issuance and renewals of certificates, permits, and registrations;

(11) rules regarding transition provisions to implement this chapter;

(12) rules specifying the educational and experience qualifications for registration, rules of professional conduct, rules regarding peer review, rules governing standards for providing services, and rules regarding the conduct and content of examination for those persons registered under section 326A.06, paragraph (b); and

(13) rules regarding fees for examinations, certificate issuance and renewal, firm permits, registrations under section 326A.06, paragraph (b), notifications made under section 326A.14, and late processing fees.

Subd. 6. [COMPLAINT COMMITTEE.] The board shall establish a complaint committee to investigate, mediate, or initiate administrative or legal proceedings on behalf of the board with respect to complaints filed with or information received by the board alleging or indicating violations of this chapter. The complaint committee shall consist of three members of the board.

Subd. 7. [EXPENSES OF ADMINISTRATION.] The expenses of administering this chapter must be paid from appropriations made to the board.

Sec. 5. [326A.03] [QUALIFICATIONS FOR A CERTIFICATE AS A CERTIFIED PUBLIC ACCOUNTANT.]

Subdivision 1. [QUALIFICATIONS.] The certificate of certified public accountant shall be granted to persons of good moral character who meet the education, experience, and examination requirements of this section and rules adopted under it and who apply under section 326A.04.

Good moral character for purposes of this section means lack of a history of dishonest or felonious acts. The board may refuse to grant a certificate on the ground of failure to satisfy this requirement only if there is a substantial connection between the lack of good moral character of the applicant and the professional responsibilities of a licensee and if the finding by the board of lack of good moral character is supported by clear and convincing evidence. When an applicant is found to be unqualified for a certificate because of a lack of good moral character, the board shall furnish the applicant a statement containing the findings of the board, a complete record of the evidence upon which the determination was based, and a notice of the applicant's right of appeal.

Subd. 2. [EDUCATIONAL AND EXPERIENCE REQUIREMENTS TO TAKE EXAMINATION BEFORE JULY 1, 2006.] Until July 1, 2006, the examination must be administered by the board only to a candidate who:

(1) holds a master's degree with a major in accounting from a college or university that is fully accredited by a recognized accrediting agency listed with the United States Department of Education;

(2) holds a baccalaureate degree, with a major in accounting, from a college or university that is fully accredited by a recognized accrediting agency listed with the United States Department of Education or who has in the opinion of the board at least an equivalent education;

(3) holds a baccalaureate degree from a college or university that is fully accredited by a recognized accrediting agency listed with the United States Department of Education, or who has in the opinion of the board at least an equivalent education, provided that at least one year of experience of the type specified in subdivision 8 has been completed;

(4) provides evidence of having completed two or more years of study with a passing grade average or above from a college, university, technical college, or a Minnesota licensed private school that is fully accredited by a recognized accrediting agency listed with the United States Department of Education, or who has in the opinion of the board at least an equivalent education, provided that at least three years experience of the type specified in subdivision 8 has been completed; or

(5) holds a diploma as a graduate of an accredited high school, or who has in the opinion of the board at least an equivalent education, provided that at least five years experience of the type specified in subdivision 8 has been completed.

Subd. 3. [EDUCATIONAL REQUIREMENTS TO TAKE EXAMINATION ON OR AFTER JULY 1, 2006.] On or after July 1, 2006, the examination must be administered by the board only to a candidate who has a baccalaureate or higher degree, with a major in accounting or a major in business with accounting emphasis, or an equivalent education, from a college or university that is fully accredited by a recognized accrediting agency listed with the United States Department of Education or an equivalent accrediting association.

Subd. 4. [EXAMINATION REQUIREMENTS.] (a) The examination required to be passed as a condition for the granting of a certificate must be held as often as convenient, in the opinion of the board, and must test the applicant's knowledge of the subjects of accounting and auditing, and other related subjects that the board may specify by rule, including but not limited to business law and taxation. The time for holding the examination must be determined by the board and may be changed from time to time. The board shall prescribe by rule the methods of applying for and conducting the examination, including methods for grading and determining a passing grade required of an applicant for a certificate. However, the board shall to the extent possible ensure that the examination itself, grading of the examination, and the passing grades, are uniform with those applicable in all other states. The board may make such use of all or any part of the Uniform Certified Public Accountant Examination and Advisory Grading Service of the American Institute of Certified Public Accountants and may contract with third parties to perform administrative services with respect to the examination that it considers appropriate to assist it in performing its duties under this paragraph.

(b) The board may charge, or provide for a third party administering the examination to charge, each applicant a fee.

Subd. 5. [EXPERIENCE REQUIREMENTS FOR CERTIFICATE BEFORE JULY 1, 2006.] Until July 1, 2006, those persons who have passed the examination required by this section and who meet all other requirements for a certificate, including payment of required fees, must be granted certificates as certified public accountants, providing that they have completed the following experience requirements of the type specified in subdivision 8 in addition to any experience already required in subdivision 2:

(1) for those whose educational qualifications meet the requirements of subdivision 2, clause (1), the experience requirement is one year;

(2) for those whose educational qualifications meet the requirements of subdivision 2, clause (2), the experience requirement is two years;

(3) for those whose educational and experience qualifications meet the requirements of subdivision 2, clause (3), the additional required experience is two years;

(4) for those whose educational and experience qualifications meet the requirements of subdivision 2, clause (4), the additional required experience is two years; and

(5) for those whose educational and experience qualifications meet the requirements of subdivision 2, clause (5), the additional required experience is one year.

Subd. 6. [EXPERIENCE AND EDUCATIONAL REQUIREMENTS FOR CERTIFICATE ON OR AFTER JULY 1, 2006.] (a) On or after July 1, 2006, those persons who have passed the examination required in this section must be granted certificates as certified public accountants provided they certify to the board that they have completed at least 150 semester or 225 quarter hours at a college or university that is fully accredited by a recognized accrediting agency listed with the United States Department of Education, or an equivalent accrediting association, and have completed at least one year of experience of the type specified in paragraph (b).

(b) An applicant for initial issuance of a certificate under this subdivision shall show that the applicant has had one year of experience. Acceptable experience includes providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills, as verified by a licensee and meeting requirements prescribed by the board by rule. Acceptable experience may be gained through employment in government, industry, academia, or public practice. Experience as an auditor in the office of the legislative auditor or state auditor, as verified by a licensee, shall be acceptable experience.

Subd. 7. [EQUIVALENT EDUCATION CRITERIA.] The board, in consultation with the University of Minnesota, the Minnesota state colleges and universities, private colleges, and private career schools regulated under chapter 141, shall establish criteria to assess equivalent education for purposes of subdivision 3.

Subd. 8. [QUALIFYING EXPERIENCE UNTIL JULY 1, 2006.] Until July 1, 2006, qualifying experience includes public accounting experience:

(1) as a staff employee of a certified public accountant, or a firm;

(2) as an auditor in the office of the legislative auditor or state auditor, or as an auditor or examiner with any other agency of government, if the experience, in the opinion of the board, is equally comprehensive and diversified;

(3) as a self-employed public accountant or as a partner in a firm; or

(4) in any combination of the foregoing capacities.

Sec. 6. [326A.04] [ISSUANCE AND RENEWAL OF CERTIFICATES, AND MAINTENANCE OF COMPETENCY.]

Subdivision 1. [ELIGIBILITY.] The board shall grant or renew certificates to persons who make application and demonstrate:

(1) that their qualifications, including where applicable the qualifications prescribed by section 326A.03, are in accordance with this section; or

(2) that they are eligible under the substantial equivalency standard in section 326A.14, subdivision 1, paragraph (b), which requires licensure for those certified public accountants who establish their principal places of business in another state. The holder of a certificate issued under this section may only provide attest services in a CPA firm that holds a permit issued under section 326A.05.

Subd. 2. [TIMING.] (a) Certificates must be initially issued and renewed for periods of not more than one year but in any event must expire on the December 31 following issuance or renewal. Applications for certificates must be made in the form, and in the case of applications for renewal between the dates, specified by the board in rule. The board shall grant or deny an application no later than 90 days after the application is filed in proper form. If the applicant seeks the opportunity to show that issuance or renewal of a certificate was mistakenly denied, or if the

board is unable to determine whether it should be granted or denied, the board may issue to the applicant a provisional certificate that expires 90 days after its issuance, or when the board determines whether or not to issue or renew the certificate for which application was made, whichever occurs first.

(b) Certificate holders who do not provide professional services and do not use the certified public accountant designation in any manner are not required to renew their certificates provided they have notified the board as provided in board rule and comply with the requirements for nonrenewal as specified in board rule.

Subd. 3. [RESIDENTS OF OTHER STATES.] (a) With regard to applicants who do not qualify for reciprocity under the substantial equivalency standard in section 326A.14, subdivision 1, paragraph (b), the board shall issue a certificate to a holder of a certificate, license, or permit issued by another state upon a showing that:

(1) the applicant passed the examination required for issuance of the applicant's certificate with grades that would have been passing grades at the time in this state;

(2) the applicant had four years of experience outside of this state of the type described in section 326A.03, subdivision 6, paragraph (b), if application is made on or after July 1, 2006, or section 326A.03, subdivision 8, if application is made before July 1, 2006; or the applicant meets equivalent requirements prescribed by the board by rule, after passing the examination upon which the applicant's certificate was based and within the ten years immediately preceding the application; and

(3) if the applicant's certificate, license, or permit was issued more than four years prior to the application for issuance of an initial certificate under this subdivision, that the applicant has fulfilled the requirements of continuing professional education that would have been applicable under subdivision 4.

(b) As an alternative to the requirements of paragraph (a), a certificate holder licensed by another state who establishes a principal place of business in this state shall request the issuance of a certificate from the board prior to establishing the principal place of business. The board shall issue a certificate to the person if the person's individual certified public accountant qualifications, upon verification, are substantially equivalent to the certified public accountant licensure requirements of this chapter.

Subd. 4. [PROGRAM OF LEARNING.] For renewal of a certificate under this section, each licensee shall participate in a program of learning designed to maintain professional competency. The program of learning must comply with rules adopted by the board. The board may by rule create an exception to this requirement for licensees who do not perform or offer to perform for the public one or more kinds of services involving the use of accounting or auditing skills, including issuance of reports on financial statements or of one or more kinds of management advisory, financial advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. A licensee granted such an exception by the board must place the word "inactive" adjacent to the CPA title on any business card, letterhead, or any other document or device, with the exception of the licensee's certificate on which the CPA title appears.

Subd. 5. [FEE.] The board shall charge a fee for each application for initial issuance or renewal of a certificate under this section.

Subd. 6. [OTHER STATE LICENSES.] Applicants for initial issuance or renewal of certificates under this section shall in their applications list all states in which they have applied for or hold certificates, licenses, or permits and list any past denial, revocation, or suspension of a certificate, license, or permit. Each holder of or applicant for a certificate under this section shall notify the board in writing, within 30 days after its occurrence, of any issuance, denial, revocation, or suspension of a certificate, license, or permit by another state.

Subd. 7. [CERTIFICATES ISSUED BY FOREIGN COUNTRIES.] The board shall issue a certificate to a holder of a substantially equivalent foreign country designation, provided that:

(1) the foreign authority that granted the designation makes similar provision to allow a person who holds a valid certificate issued by this state to obtain the foreign authority's comparable designation;

(2) the foreign designation:

(i) was duly issued by a foreign authority that regulates the practice of public accountancy and the foreign designation has not expired or been revoked or suspended;

(ii) entitles the holder to issue reports upon financial statements; and

(iii) was issued upon the basis of educational, examination, and experience requirements established by the foreign authority or by law; and

(3) the applicant:

(i) received the designation, based on educational and examination standards substantially equivalent to those in effect in this state, at the time the foreign designation was granted;

(ii) has, within the ten years immediately preceding the application, completed an experience requirement that is substantially equivalent to the requirement in section 326A.03, subdivision 6, paragraph (b), if application is made on or after July 1, 2006, or section 326A.03, subdivision 8, if application is made before July 1, 2006, in the jurisdiction that granted the foreign designation; completed four years of professional experience in this state; or met equivalent requirements prescribed by the board by rule; and

(iii) passed a uniform qualifying examination in national standards and an examination on the laws, regulations, and code of ethical conduct in effect in this state acceptable to the board.

Subd. 8. [OTHER JURISDICTIONS IN WHICH FOREIGN APPLICANT IS LICENSED.] An applicant under subdivision 7 shall in the application list all jurisdictions, foreign and domestic, in which the applicant has applied for or holds a designation to practice public accountancy. Each holder of a certificate issued under subdivision 7 shall notify the board in writing, within 30 days after its occurrence, of any issuance, denial, revocation, or suspension of a designation or commencement of a disciplinary or enforcement action by any jurisdiction.

Subd. 9. [APPLICATION BY FOREIGN CERTIFICATE HOLDER.] The board has the sole authority to interpret the application of the provisions of subdivisions 7 and 8.

Subd. 10. [PEER REVIEW.] The board shall by rule require as a condition for renewal of a certificate under this section by any certificate holder who performs compilation services for the public other than through a CPA firm, that the individual undergo, no more frequently than once every three years, a peer review conducted in a manner specified by the board in rule. The review shall include verification that the individual has met the competency requirements set out in professional standards for the services described in this subdivision as set forth by rule.

Subd. 11. [AUTOMATIC REVOCATION.] The certificates of persons who fail to renew their certificates for more than two years after expiration shall be automatically revoked by order of the board. The orders may be issued by the board without following the procedures of chapter 14, provided the board notifies each such person by mail at the person's last known address on file with the board at least three days prior to the issuance of any such order. No notice is required if the last communication sent by the board to a licensee was returned to the board by the United States Postal Service as undeliverable and with no forwarding address. Certificates so revoked by the board may be reinstated, if at all, under section 326A.09. This subdivision does not apply to certified public accountants who have notified the board that they will not use the CPA designation in any manner and will not provide professional services.

Sec. 7. [326A.05] [CPA FIRM PERMITS TO PRACTICE, ATTEST AND COMPILATION COMPETENCY, AND PEER REVIEW.]

Subdivision 1. [GENERAL.] The board shall grant or renew permits to practice as a CPA firm to entities that make application and demonstrate their qualifications in accordance with this section. A firm must hold a permit issued under this section in order to provide attest services or to use the title "CPAs" or "CPA firm."

Subd. 2. [TIMING.] Permits must be initially issued and renewed for periods of not more than one year but in any event must expire on December 31 following issuance or renewal. Applications for permits shall be made in the form, and in the case of applications for renewal between the dates, as the board specifies in rule. The board shall grant or deny an application no later than 90 days after the application is filed in proper form. If the applicant seeks the opportunity to show that issuance or renewal of a permit was mistakenly denied or if the board is not able to determine whether it should be granted or denied, the board may issue to the applicant a provisional permit, which expires 90 days after its issuance, or when the board determines whether or not to issue or renew the permit for which application was made, whichever occurs first.

Subd. 3. [QUALIFICATIONS.] (a) An applicant for initial issuance or renewal of a permit to practice under this section shall comply with the requirements in this subdivision.

(b) Notwithstanding chapter 319B or any other provision of law, a simple majority of the ownership of the firm, in terms of financial interests and voting rights of all partners, officers, shareholders, members, or managers, must belong to holders of certificates who are licensed in some state, and the partners, officers, shareholders, members, or managers, whose principal place of business is in this state, and who perform professional services in this state, must hold valid certificates issued under section 326A.04 or the corresponding provision of prior law. Although firms may include nonlicensee owners, the firm and its ownership must comply with rules adopted by the board. The firm shall register all nonlicensee owners with the state board as set forth by rule.

(c) A CPA firm may include nonlicensee owners provided that:

(1) the firm designates a licensee of this state, who is responsible for the proper registration of the firm and identifies that individual to the board;

(2) all nonlicensee owners are active individual participants in the CPA firm or affiliated entities; and

(3) the firm complies with other requirements imposed by the board in rule.

(d) An individual licensee who is responsible for supervising attest or compilation services and signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the firm, shall meet the competency requirements set out in the professional standards for such services.

(e) An individual licensee who signs or authorizes someone to sign the accountants' report on the financial statements on behalf of the firm shall meet the competency requirement of paragraph (d).

Subd. 4. [INITIAL ISSUANCE OR RENEWAL.] An applicant for initial issuance or renewal of a permit to practice under this section shall register each office of the firm within this state with the board and to show that all attest and compilation services rendered in this state are under the charge of a person holding a valid certificate, or the corresponding provision of prior law.

Subd. 5. [FEES.] The board shall charge a fee for each application for initial issuance or renewal of a permit under this section.

Subd. 6. [OTHER JURISDICTIONS IN WHICH APPLICANT HOLDS A PERMIT.] An applicant for initial issuance or renewal of permits under this section shall in the applicant's application list all states in which the applicant has applied for or holds permits as a CPA firm and list any past denial, revocation, or suspension of a



permit by any other state. Each holder of or applicant for a permit under this section shall notify the board in writing, within 30 days after its occurrence, of any change in the identities of partners, officers, shareholders, members, or managers whose principal place of business is in this state, any change in the number or location of offices within this state, any change in the identity of the persons in charge of such offices, and any issuance, denial, revocation, or suspension of a permit by any other state.

Subd. 7. [CORRECTIVE ACTIONS, REVOCATION.] Firms that fall out of compliance with the provisions of the section due to changes in firm ownership or personnel, after receiving or renewing a permit, shall take corrective action to bring the firm back in to compliance as quickly as possible. Failure to bring the firm back into compliance within a reasonable period as defined by the board rule shall result in the suspension or revocation of the firm permit.

Subd. 8. [PEER REVIEW; RULES.] (a) The board shall by rule require as a condition to renewal of permits under this section, that applicants undergo, no more frequently than once every three years, peer reviews conducted in a manner specified by the board. The review must include a verification that individuals in the firm who are responsible for supervising attest and compilation services and who sign or authorize someone to sign the accountant's report on the financial statements on behalf of the firm meet the competency requirements set out in the professional standards for such services. In addition, the rules must meet the requirements in paragraphs (b) to (d).

(b) The rules must be adopted reasonably in advance of the time when they first become effective.

(c) The rules must include reasonable provision for compliance by an applicant showing that it has, within the preceding three years, undergone a peer review that is a satisfactory equivalent to peer review generally required pursuant to this subdivision.

(d) The rules must require, with respect to peer reviews contemplated by paragraph (c), that they be subject to oversight by an oversight body established or sanctioned by board rule. This body shall periodically report to the board on the effectiveness of the review program under its charge, and provide to the board a listing of firms that have participated in a peer review program that is satisfactory to the board.

(e) The rules must require, with respect to peer reviews contemplated by paragraph (c), that the peer review processes be operated and documents maintained in a manner designed to preserve confidentiality, and that neither the board nor any third party, other than the oversight body, has access to documents furnished or generated in the course of the review. The applicant shall submit to the board reports and letters received at the conclusion of the peer review process as provided for in board rule.

Subd. 9. [COOPERATIVE AUDITING ORGANIZATION.] Any cooperative auditing organization organized under chapter 308A is qualified for a cooperative auditing service license and may style itself as a licensed cooperative auditing service if:

(1) for a minimum of one year prior to July 1, 1979, it rendered auditing or accounting of business analysis services to its members only; and

(2) its managers in charge of offices maintained in this state are certified public accountants of this state.

Cooperative auditing services shall comply with all requirements imposed on CPA firms and the board's rules governing firms.

Sec. 8. [326A.06] [LICENSED PUBLIC ACCOUNTANTS AND REGISTERED ACCOUNTING PRACTITIONERS.]

(a) All licensed public accountants (LPA) who are actively licensed by the state board on December 31, 2002, shall be issued a certified public accountant certificate. LPA's are those accountants who were eligible for licensure on July 1, 1979, under the law in effect on that date and who were issued a license as a licensed public accountant by the board at that time.

(b) By July 1, 2004, the board shall implement a voluntary registration of accounting practitioners. The board shall prescribe by rule the limitations of practice, educational preparation, examination, registration, fees, peer review, and continuing education requirements for the registration. The board shall consult with the University of Minnesota, the Minnesota state colleges and universities, the Minnesota association of private post-secondary schools, the private college council, the Minnesota association of public accountants, and other organizations as appropriate in the implementation of this section.

Sec. 9. [326A.07] [APPOINTMENT OF SECRETARY OF STATE AS AGENT.]

Application by a person or a firm not a resident of this state for a certificate or a permit shall constitute appointment of the secretary of state as the applicant's agent upon whom process may be served in any action or proceeding against the applicant arising out of any transaction or operation connected with or incidental to services performed by the applicant while a licensee within this state.

Sec. 10. [326A.08] [ENFORCEMENT.]

Subdivision 1. [BASIS FOR CONDUCTING INVESTIGATIONS.] If the board, or the complaint committee if authorized by the board, has a reasonable basis to believe that a person or firm has engaged in or is about to engage in a violation of a statute, rule, or order that the board has issued or is empowered to enforce, the board, or the complaint committee if authorized by the board, may proceed as described in this section. The board may, upon receipt of a complaint or other information suggesting violations of this chapter or of the rules of the board, conduct investigations to determine whether there is reasonable basis to institute proceedings under this section against any person or firm for such violations. The investigation is not a prerequisite to such proceedings in the event that a determination can be made without investigation.

Subd. 2. [HEARINGS CONDUCTED UNDER CHAPTER 14.] Except as otherwise described in this section, all hearings shall be conducted in accordance with chapter 14.

Subd. 3. [LEGAL ACTION.] (a) When necessary to prevent an imminent violation of a statute, rule, or order that the board has issued or is empowered to enforce, the board, or the complaint committee if authorized by the board, may bring an action in the name of the state in the district court in Ramsey county, when necessary to prevent imminent harm to the public, or in any county in which jurisdiction is proper to enjoin the act or practice and to enforce compliance with the statute, rule, or order. Upon a showing that a person or firm has engaged in or is about to engage in an act or practice constituting a violation of a statute, rule, or order that the board has issued or is empowered to enforce, a permanent or temporary injunction, restraining order, or other appropriate relief shall be granted.

(b) For purposes of injunctive relief under this subdivision, irreparable harm exists when the board shows that a person or firm has engaged in or is about to engage in an act or practice constituting a violation of a statute, rule, or order that the board has issued or is empowered to enforce.

(c) Injunctive relief granted under paragraph (a) does not relieve an enjoined person or firm from criminal prosecution from a competent authority or from action by the board pursuant to subdivisions 4 to 7 with respect to the person's or firm's certificate, permit, registration, or practice privileges granted under section 326A.14 or application for examination, certificate, registration, permit, or renewal or notification for practice privileges granted under section 326A.14.

Subd. 4. [CEASE AND DESIST ORDERS.] (a) The board, or the complaint committee if authorized by the board, may issue and have served upon a certificate holder, a permit holder, a registration holder, a person with practice privileges granted under section 326A.14 who has previously been subject to a disciplinary order by the board, or an unlicensed firm or person an order requiring the person or firm to cease and desist from the act or practice constituting a violation of the statute, rule, or order. The order must be calculated to give reasonable notice of the rights of the person or firm to request a hearing and must state the reasons for the entry of the order. No order may be issued until an investigation of the facts has been conducted pursuant to section 214.10.

(b) Service of the order is effective when the order is served on the person, firm, or counsel of record personally, or by certified mail to the most recent address provided to the board for the person, firm, or counsel of record.

(c) Unless otherwise agreed by the board, or the complaint committee if authorized by the board, and the person or firm requesting the hearing, the hearing must be held no later than 30 days after the request for the hearing is received by the board.

(d) The administrative law judge shall issue a report within 30 days of the close of the contested case hearing record, notwithstanding Minnesota Rules, part 1400.8100, subpart 3. Within 30 days after receiving the report and any exceptions to it, the board shall issue a further order vacating, modifying, or making permanent the cease and desist orders as the facts require.

(e) If no hearing is requested within 30 days of service of the order, the order becomes final and remains in effect until it is modified or vacated by the board.

(f) If the person or firm to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person or firm is in default and the proceeding may be determined against that person or firm upon consideration of the cease and desist order, the allegations of which may be considered to be true.

(g) In lieu of or in addition to the order provided in paragraph (a), the board may require the person or firm to provide to the board a true and complete list of the person's or firm's clientele so that they can, if deemed necessary, be notified of the board's action. Failure to do so, or to provide an incomplete or inaccurate list, is an act discreditable.

Subd. 5. [ACTIONS AGAINST PERSONS OR FIRMS.] (a) The board may, by order, deny, refuse to renew, suspend, temporarily suspend, or revoke the application, or practice privileges, registration or certificate of a person or firm; censure or reprimand the person or firm; prohibit the person or firm from preparing tax returns or reporting on financial statements; refuse to permit a person to sit for examination; or refuse to release the person's examination grades if the board finds that the order is in the public interest and that, based on a preponderance of the evidence presented, the person or firm:

(1) has violated a statute, rule, or order that the board has issued or is empowered to enforce;

(2) has engaged in conduct or acts that are fraudulent, deceptive, or dishonest whether or not the conduct or acts relate to performing or offering to perform professional services, providing that the fraudulent, deceptive, or dishonest conduct or acts reflect adversely on the person's or firm's ability or fitness to provide professional services;

(3) has engaged in conduct or acts that are negligent or otherwise in violation of the standards established by board rule, where the conduct or acts relate to providing professional services;

(4) has been convicted of, has pled guilty or nolo contendere to or has been sentenced as a result of the commission of a felony or crime, an element of which is dishonesty or fraud; has been shown to have or admitted to having engaged in acts or practices tending to show that the person or firm is incompetent; or has engaged in conduct reflecting adversely on the person's or firm's ability or fitness to provide professional services, whether or not a plea was entered or withheld;

(5) employed fraud or deception in obtaining a certificate, permit, registration, practice privileges, renewal, or reinstatement or in passing all or a portion of the examination;

(6) has had the person's or firm's permit, registration, practice privileges, certificate, right to examine, or other similar authority revoked, suspended, canceled, limited, or not renewed for cause, or has committed unprofessional acts for which the person or firm was otherwise disciplined or sanctioned, including, but not limited to, being ordered to or agreeing to cease and desist from prescribed conduct, in any state or any foreign country;

(7) has had the person's or firm's right to practice before any federal, state, or other government agency revoked, suspended, canceled, limited, or not renewed for cause, or has committed unprofessional acts for which the person or firm was otherwise disciplined or sanctioned, including, but not limited to, being ordered to or agreeing to cease and desist from prescribed conduct;

(8) failed to meet any requirement for the issuance or renewal of the person's or firm's certificate, registration or permit, or for practice privileges;

(9) with respect to temporary suspension orders, has committed an act, engaged in conduct, or committed practices that may result or may have resulted, in the opinion of the board or the complaint committee if authorized by the board, in an immediate threat to the public; or

(10) has engaged in any conduct reflecting adversely upon the person's or firm's fitness to perform services while a licensee, individual granted privileges under section 326A.14, or a person registered under section 326A.06, paragraph (b).

(b) In lieu of or in addition to any remedy provided in paragraph (a), the board may require, as a condition of continued possession of a certificate, a registration or practice privileges, termination of suspension, reinstatement of permit, registration of a person or firm or of practice privileges under section 326A.14, a certificate, an examination, or release of examination grades, that the person or firm:

(1) submit to a peer review of the person's or firm's ability, skills, or quality of work, conducted in a fashion and by persons, entity, or entities as required by the board; and

(2) complete to the satisfaction of the board continuing professional education courses specified by the board.

(c) Service of the order is effective if the order is served on the person, firm, or counsel of record personally or by certified mail to the most recent address provided to the board for the person, firm, or counsel of record. The order shall state the reasons for the entry of the order.

(d) All hearings required by this subdivision must be conducted in accordance with chapter 14 except with respect to temporary suspension orders as provided for in subdivision 6.

(e) In addition to the remedies authorized by this subdivision, the board may enter into an agreement with the person or firm for corrective action and may unilaterally issue a warning to a person or firm.

(f) The board shall not use agreements for corrective action or warnings in any situation where the person or firm has been convicted of or pled guilty or nolo contendere to a felony or crime and the felony or crime is the basis of the board's action against the person or firm, where the conduct of the person or firm indicates a pattern of related violations of paragraph (a) or the rules of the board, or where the board concludes that the conduct of the person or firm will not be deterred other than by disciplinary action under this subdivision or subdivision 4 or 6.

(g) Agreements for corrective action may be used by the board, or the complaint committee if authorized by the board, where the violation committed by the person or firm does not warrant disciplinary action pursuant to this subdivision or subdivision 4 or 6, but where the board, or the complaint committee if authorized by the board, determines that corrective action is required to prevent further such violations and to otherwise protect the public. Warnings may be used by the board, or the complaint committee if authorized by the board, where the violation of the person or firm is de minimus, does not warrant disciplinary action under this subdivision or subdivision 4 or 6, and does not require corrective action to protect the public.

(h) Agreements for corrective action must not be considered disciplinary action against the person's or firm's application, permit, registration or certificate, or practice privileges under section 326A.14. However, agreements for corrective action are public data. Warnings must not be considered disciplinary action against the person's or firm's application, permit, registration, or certificate or person's practice privileges and are private data.

Subd. 6. [PROCEDURE FOR TEMPORARY SUSPENSION OF PERMIT, REGISTRATION, OR CERTIFICATE OR PRACTICE PRIVILEGES.] (a) When the board, or the complaint committee if authorized by the board, issues a temporary suspension order, the suspension is in effect upon service of a written order on the person, firm, or counsel of record, specifying the statute, rule, or order violated. The order remains in effect until the board issues a final order in the matter after a hearing or upon agreement between the board and the person or firm.

(b) The order may prohibit the person or firm from providing professional services in whole or in part, as the facts may require, and may condition the end of such suspension on compliance with a statute, rule, or order that the board has issued or is empowered to enforce.

(c) The order must set forth the rights to hearing contained in this section and must state the reasons for the entry of order.

(d) Within ten days after service of the order, the person or firm may request a hearing in writing. The board shall hold a hearing before its own members within five working days of a receipt of a request for hearing or within five working days of receipt of a request for hearing on the sole issue of whether there is a reasonable basis to continue, modify, or lift the temporary suspension. This hearing is not subject to chapter 14. Evidence presented by the board or the person or firm shall be in affidavit form only. The person, firm, or counsel of record may appear for oral argument.

(e) Within five working days after the hearing, the board shall issue its order and, if the suspension is continued, schedule a contested case hearing within 30 days after issuance of the order. The administrative law judge shall issue a report within 30 days after closing of the contested case hearing record, notwithstanding the provisions of Minnesota Rules, part 1400.8100, subpart 3. The board shall issue a final order within 30 days after receipt of that report.

Subd. 7. [VIOLATION; PENALTIES; COSTS OF PROCEEDING.] (a) The board may impose a civil penalty not to exceed \$2,000 per violation upon a person or firm that violates an order, statute, or rule that the board has issued or is empowered to enforce.

(b) The board may, in addition, impose a fee to reimburse the board for all or part of the cost of the proceedings, including reasonable investigative costs, resulting in disciplinary or corrective action authorized by this section, the imposition of civil penalties, or the issuance of a cease and desist order. The fee may be imposed when the board shows that the position of the person or firm that violates a statute, rule, or order that the board has issued or is empowered to enforce is not substantially justified, unless special circumstances make an award unjust, notwithstanding the provisions of Minnesota Rules, part 1400.8401. The costs include, but are not limited to, the amount paid by the board for services from the office of administrative hearings, attorney and reasonable investigative fees, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and expense incurred by board members and staff.

(c) All hearings required by this subdivision must be conducted in accordance with chapter 14.

Subd. 8. [PERSONS AND ENTITIES SUBJECT TO DISCIPLINE.] Any person or entity who prepares or reports on financial statements or schedules for a client for a fee is subject to this section and the practice of the person or entity may be disciplined by the boards as provided for in this section. The board may discipline a person or entity based on violations of this chapter, the board's rules, or misrepresentations made by the person or entity regarding the work the person or entity performed.

Subd. 9. [NOTIFICATION OF OTHER STATES.] In any case where the board renders a decision imposing discipline against a person or firm, the board shall examine its records to determine whether the person or firm holds a certificate or a permit in any other state. If so, the board shall notify the board of accountancy of the other state of its decision, by mail, within 45 days of the decision becoming final.

## Sec. 11. [326A.09] [REINSTATEMENT.]

The board may reinstate a suspended, revoked, or surrendered certificate, registration, or permit or suspended, revoked, or surrendered practice privileges upon petition of the person or firm holding or formerly holding the registration, permit, or certificate, or practice privileges. The board may, in its sole discretion, require that the person or firm submit to the board evidence of having obtained up to 120 hours of continuing professional education credits that would have been required had the person or firm held a registration, certificate, permit, or practice privileges continuously. The board may, in its sole discretion, place any other conditions upon reinstatement of a suspended, revoked, or surrendered certificate, permit, registration, or of practice privileges that it finds appropriate and necessary to ensure that the purposes of this chapter are met. No suspended certificate, registration, permit, or practice privileges may be reinstated until the former holder, or person with practice privileges has completed one-half of the suspension.

## Sec. 12. [326A.10] [UNLAWFUL ACTS.]

(a) Only a licensee may issue a report on financial statements of any person, firm, organization, or governmental unit that results from providing attest services, or offer to render or render any attest service. Only a certified public accountant, a CPA firm, or, to the extent permitted by board rule, a person registered under section 326A.06, paragraph (b), may issue a report on financial statements of any person, firm, organization, or governmental unit that results from providing compilation services or offer to render or render any compilation service. These restrictions do not prohibit any act of a public official or public employee in the performance of that person's duties or prohibit the performance by any nonlicensee of other services involving the use of accounting skills, including the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports on them. Nonlicensees may prepare financial statements and issue nonattest transmittals or information on them which do not purport to be in compliance with the Statements on Standards for Accounting and Review Services (SSARS). Nonlicensees registered under section 326A.06, paragraph (b), may, to the extent permitted by board rule, prepare financial statements and issue nonattest transmittals or information on them.

(b) Licensees performing attest or compilation services must provide those services in accordance with professional standards. To the extent permitted by board rule, registered accounting practitioners performing compilation services must provide those services in accordance with standards specified in board rule.

(c) A person who does not hold a valid certificate issued under section 326A.04 shall not use or assume the title "certified public accountant," the abbreviation "CPA," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a certified public accountant.

(d) A firm shall not provide attest services or assume or use the title "certified public accountants," the abbreviation "CPAs," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is a CPA firm unless (1) the firm holds a valid permit issued under section 326A.05, and (2) ownership of the firm is in accordance with this chapter and rules adopted by the board.

(e) A person or firm that does not hold a valid certificate or permit issued under section 326A.04 or 326A.05 shall not assume or use the title "certified accountant," "chartered accountant," "enrolled accountant," "licensed accountant," "registered accountant," "accredited accountant," "accounting practitioner," "public accountant," "licensed public accountant," or any other title or designation likely to be confused with the title "certified public accountant," or use any of the abbreviations "CA," "LA," "RA," "AA," "PA," "AP," "LPA," or similar abbreviation likely to be confused with the abbreviation "CPA." The title "enrolled agent" or "EA" may only be used by individuals so designated by the Internal Revenue Service.

(f) Persons registered under section 326A.06, paragraph (b), may use the title "registered accounting practitioner" or the abbreviation "RAP." A person who does not hold a valid registration under section 326A.06, paragraph (b), shall not assume or use such title or abbreviation.

(g) Except to the extent permitted in paragraph (a), nonlicensees may not use language in any statement relating to the financial affairs of a person or entity that is conventionally used by licensees in reports on financial statements. In this regard, the board shall issue by rule safe harbor language that nonlicensees may use in connection with such financial information. A person or firm that does not hold a valid certificate or permit, or a registration issued under section 326A.04, 326A.05, or 326A.06, paragraph (b), shall not assume or use any title or designation that includes the word "accountant" or "accounting" in connection with any other language, including the language of a report, that implies that the person or firm holds such a certificate, permit, or registration or has special competence as an accountant. A person or firm that does not hold a valid certificate or permit issued under section 326A.04 or 326A.05 shall not assume or use any title or designation that includes the word "auditor" in connection with any other language, including the language of a report, that implies that the person or firm holds such a certificate or permit or has special competence as an auditor. However, this paragraph does not prohibit any officer, partner, member, manager, or employee of any firm or organization from affixing that person's own signature to any statement in reference to the financial affairs of such firm or organization with any wording designating the position, title, or office that the person holds, nor prohibit any act of a public official or employee in the performance of the person's duties as such.

(h) No person holding a certificate or registration or firm holding a permit under this chapter shall use a professional or firm name or designation that is misleading about the legal form of the firm, or about the persons who are partners, officers, members, managers, or shareholders of the firm, or about any other matter. However, names of one or more former partners, members, managers, or shareholders may be included in the name of a firm or its successor.

(i) Paragraphs (a) to (h) do not apply to a person or firm holding a certification, designation, degree, or license granted in a foreign country entitling the holder to engage in the practice of public accountancy or its equivalent in that country, if:

(1) the activities of the person or firm in this state are limited to the provision of professional services to persons or firms who are residents of, governments of, or business entities of the country in which the person holds the entitlement;

(2) the person or firm performs no attest or compilation services and issues no reports with respect to the financial statements of any other persons, firms, or governmental units in this state; and

(3) the person or firm does not use in this state any title or designation other than the one under which the person practices in the foreign country, followed by a translation of the title or designation into English, if it is in a different language, and by the name of the country.

(j) No holder of a certificate issued under section 326A.04 may perform attest services through any business form that does not hold a valid permit issued under section 326A.05.

(k) No individual licensee may issue a report in standard form upon a compilation of financial information through any form of business that does not hold a valid permit issued under section 326A.05, unless the report discloses the name of the business through which the individual is issuing the report, and the individual:

(1) signs the compilation report identifying the individual as a certified public accountant;

(2) meets the competency requirement provided in applicable standards; and

(3) undergoes no less frequently than once every three years, a peer review conducted in a manner specified by the board in rule, and the review includes verification that the individual has met the competency requirements set out in professional standards for such services.

(1) No person registered under section 326A.06, paragraph (b), may issue a report in standard form upon a compilation of financial information unless the board by rule permits the report and the person:

(1) signs the compilation report identifying the individual as a registered accounting practitioner;

(2) meets the competency requirements in board rule; and

(3) undergoes no less frequently than once every three years a peer review conducted in a manner specified by the board in rule, and the review includes verification that the individual has met the competency requirements in board rule.

(m) Nothing in this section prohibits a practicing attorney or firm of attorneys from preparing or presenting records or documents customarily prepared by an attorney or firm of attorneys in connection with the attorney's professional work in the practice of law.

(n) Notwithstanding other provisions of this section, persons preparing unaudited financial statements under corresponding provisions of prior law shall be permitted to perform compilation services until six months after the board adopts rules under section 326A.06.

Sec. 13. [326A.11] [SINGLE ACT EVIDENCE OF PRACTICE.]

In any action brought under section 326A.08, evidence of the commission of a single act prohibited by this chapter is sufficient to justify a penalty, injunction, restraining order, or conviction, respectively, without evidence of a general course of conduct.

Sec. 14. [326A.12] [CONFIDENTIAL COMMUNICATIONS.]

(a) Except by permission of the client for whom a licensee performs services or the heirs, successors, or personal representatives of the client, a licensee shall not voluntarily disclose information communicated to the licensee by the client relating to and in connection with services rendered to the client by the licensee. Nothing in this section may be construed to prohibit:

(1) the disclosure of information required to be disclosed by the standards of the public accounting profession in reporting on the examination of financial statements; or

(2) disclosures in court proceedings, in investigations or proceedings under section 326A.08, in ethical investigations conducted by private professional organizations, in the course of peer reviews, to other persons active in the organization performing services for that client on a need-to-know basis, or to persons in the entity who need this information for the sole purpose of assuring quality control.

(b) This section also applies to persons registered under section 326A.06, paragraph (b).

Sec. 15. [326A.13] [WORKING PAPERS; CLIENTS' RECORDS.]

(a) Subject to the provisions of section 326A.12, all statements, records, schedules, working papers, and memoranda made by a licensee or a partner, shareholder, officer, director, member, manager, or employee of a licensee, incident to, or in the course of, rendering services to a client while a licensee, except the reports submitted by the licensee to the client and except for records that are part of the client's records, remain the property of the licensee in the absence of an express agreement between the licensee and the client to the contrary. No statement, record, schedule, working paper, or memorandum may be sold, transferred, or bequeathed, without the consent of the client or the client's personal representative or assignee, to anyone other than one or more surviving partners, stockholders, members or new partners, new stockholders, new members of the licensee, or any combined or merged



firm or successor in interest to the licensee. Nothing in this section may be construed as prohibiting any temporary transfer of workpapers or other material necessary in the course of carrying out peer reviews or as otherwise interfering with the disclosure of information pursuant to section 326A.12.

(b) A licensee shall furnish to a client or former client, upon request and reasonable notice:

(1) a copy of the licensee's working papers, to the extent that the working papers include records that would ordinarily constitute part of the client's records and are not otherwise available to the client; and

(2) any accounting or other records belonging to, or obtained from or on behalf of, the client that the licensee removed from the client's premises or received for the client's account. The licensee may make and retain copies of such documents of the client when they form the basis for work done by the licensee.

(c) Nothing in this section requires a licensee to keep any work paper beyond the period prescribed in any other applicable statute.

(d) This section also applies to persons registered under section 326A.06, paragraph (b).

Sec. 16. [326A.14] [SUBSTANTIAL EQUIVALENCY.]

Subdivision 1. [REQUIREMENTS.] (a) An individual whose principal place of business is not in this state and who has a valid certificate or license as a certified public accountant from any state which, upon verification, is in substantial equivalence with the certified public accountant licensure requirements of this chapter shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges of certificate holders and licensees of this state without the need to obtain a certificate or permit. However, such individuals shall notify the board of their intent to enter the state under this provision as provided for in board rule and pay the required fee.

(b) An individual whose principal place of business is not in this state and who has a valid certificate or license as a certified public accountant from any state whose certified public accountant licensure qualifications, upon verification, are not substantially equivalent with the licensure requirements of this chapter shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges of certificate holders and licensees of this state without the need to obtain a certificate or permit if the individual obtains verification, as specified in board rule, that the individual's qualifications are substantially equivalent to the licensure requirements of this chapter. Such individuals shall notify the board of their intent to enter the state under this provision as provided for in board rule and pay the required fee.

(c) Any licensee of another state exercising the privilege afforded under this section consents, as a condition of the grant of this privilege:

(1) to the personal and subject matter jurisdiction and disciplinary authority of the board;

(2) to comply with this chapter and the board's rules; and

(3) to the appointment of the state board that issued the license as the licensee's agent upon whom process may be served in any action or proceeding by this board against the licensee.

Subd. 2. [USE OF TITLE IN ANOTHER STATE.] A licensee of this state offering or rendering services or using the CPA title in another state is subject to the same disciplinary action in this state for which the licensee would be subject to discipline for an act committed in the other state. The board shall investigate any complaint made by the board of accountancy of another state.

## Sec. 17. [TRANSITIONAL PROVISIONS FOR BOARD MEMBERS.]

Notwithstanding Minnesota Statutes, section 326A.02, members of the board of accountancy who were appointed to the board prior to January 1, 2003, may complete their terms. Appointments made on or after January 1, 2003, are governed by Minnesota Statutes, section 326A.02.

## Sec. 18. [REPEALER.]

Minnesota Statutes 2000, sections 326.165; 326.1655; 326.17; 326.18; 326.19; 326.192; 326.197; 326.20; 326.201; 326.211; 326.212; 326.22; 326.223; 326.224; 326.228; and 326.229, are repealed.

## Sec. 19. [EFFECTIVE DATE.]

This article is effective January 1, 2003.

## ARTICLE 2

## CONFORMING CHANGES

Section 1. Minnesota Statutes 2000, section 3.972, subdivision 1, is amended to read:

Subdivision 1. [PUBLIC ACCOUNTANT.] For the purposes of this section, "public accountant" means a certified public accountant; ~~or certified public accounting firm; or a licensed public accountant~~ licensed by the board of accountancy under ~~sections 326.17 to 326.229~~ chapter 326A.

Sec. 2. Minnesota Statutes 2000, section 116J.70, subdivision 2a, is amended to read:

Subd. 2a. [LICENSE; EXCEPTIONS.] "Business license" or "license" does not include the following:

(1) any occupational license or registration issued by a licensing board listed in section 214.01 or any occupational registration issued by the commissioner of health pursuant to section 214.13;

(2) any license issued by a county, home rule charter city, statutory city, township, or other political subdivision;

(3) any license required to practice the following occupation regulated by the following sections:

(i) abstracters regulated pursuant to chapter 386;

(ii) accountants regulated pursuant to chapter ~~326~~ 326A;

(iii) adjusters regulated pursuant to chapter 72B;

(iv) architects regulated pursuant to chapter 326;

(v) assessors regulated pursuant to chapter 270;

(vi) athletic trainers regulated pursuant to chapter 148;

(vii) attorneys regulated pursuant to chapter 481;

(viii) auctioneers regulated pursuant to chapter 330;

(ix) barbers regulated pursuant to chapter 154;

- (x) beauticians regulated pursuant to chapter 155A;
- (xi) boiler operators regulated pursuant to chapter 183;
- (xii) chiropractors regulated pursuant to chapter 148;
- (xiii) collection agencies regulated pursuant to chapter 332;
- (xiv) cosmetologists regulated pursuant to chapter 155A;
- (xv) dentists, registered dental assistants, and dental hygienists regulated pursuant to chapter 150A;
- (xvi) detectives regulated pursuant to chapter 326;
- (xvii) electricians regulated pursuant to chapter 326;
- (xviii) mortuary science practitioners regulated pursuant to chapter 149A;
- (xix) engineers regulated pursuant to chapter 326;
- (xx) insurance brokers and salespersons regulated pursuant to chapter 60A;
- (xxi) certified interior designers regulated pursuant to chapter 326;
- (xxii) midwives regulated pursuant to chapter 147D;
- (xxiii) nursing home administrators regulated pursuant to chapter 144A;
- (xxiv) optometrists regulated pursuant to chapter 148;
- (xxv) osteopathic physicians regulated pursuant to chapter 147;
- (xxvi) pharmacists regulated pursuant to chapter 151;
- (xxvii) physical therapists regulated pursuant to chapter 148;
- (xxviii) physician assistants regulated pursuant to chapter 147A;
- (xxix) physicians and surgeons regulated pursuant to chapter 147;
- (xxx) plumbers regulated pursuant to chapter 326;
- (xxxi) podiatrists regulated pursuant to chapter 153;
- (xxxii) practical nurses regulated pursuant to chapter 148;
- (xxxiii) professional fund raisers regulated pursuant to chapter 309;
- (xxxiv) psychologists regulated pursuant to chapter 148;
- (xxxv) real estate brokers, salespersons, and others regulated pursuant to chapters 82 and 83;
- (xxxvi) registered nurses regulated pursuant to chapter 148;

- (xxxvii) securities brokers, dealers, agents, and investment advisers regulated pursuant to chapter 80A;
- (xxxviii) steamfitters regulated pursuant to chapter 326;
- (xxxix) teachers and supervisory and support personnel regulated pursuant to chapter 125;
- (xl) veterinarians regulated pursuant to chapter 156;
- (xli) water conditioning contractors and installers regulated pursuant to chapter 326;
- (xlii) water well contractors regulated pursuant to chapter 103I;
- (xliii) water and waste treatment operators regulated pursuant to chapter 115;
- (xliv) motor carriers regulated pursuant to chapter 221;
- (xlv) professional firms regulated under chapter 319B;
- (xlvi) real estate appraisers regulated pursuant to chapter 82B;
- (xlvii) residential building contractors, residential remodelers, residential roofers, manufactured home installers, and specialty contractors regulated pursuant to chapter 326;
- (4) any driver's license required pursuant to chapter 171;
- (5) any aircraft license required pursuant to chapter 360;
- (6) any watercraft license required pursuant to chapter 86B;
- (7) any license, permit, registration, certification, or other approval pertaining to a regulatory or management program related to the protection, conservation, or use of or interference with the resources of land, air, or water, which is required to be obtained from a state agency or instrumentality; and
- (8) any pollution control rule or standard established by the pollution control agency or any health rule or standard established by the commissioner of health or any licensing rule or standard established by the commissioner of human services.

Sec. 3. Minnesota Statutes 2000, section 214.01, subdivision 3, is amended to read:

Subd. 3. [NON-HEALTH-RELATED LICENSING BOARD.] "Non-health-related licensing board" means the board of teaching established pursuant to section 122A.07, the board of barber examiners established pursuant to section 154.22, the board of assessors established pursuant to section 270.41, the board of architecture, engineering, land surveying, landscape architecture, geoscience, and interior design established pursuant to section 326.04, ~~the board of accountancy established pursuant to section 326.17,~~ the board of electricity established pursuant to section 326.241, the private detective and protective agent licensing board established pursuant to section 326.33, the board of accountancy established pursuant to section 326A.02, the board of boxing established pursuant to section 341.01, and the peace officer standards and training board established pursuant to section 626.841.

Sec. 4. Minnesota Statutes 2000, section 319B.02, subdivision 19, is amended to read:

Subd. 19. [PROFESSIONAL SERVICES.] "Professional services" means services of the type required or permitted to be furnished by a professional under a license, registration, or certificate issued by the state of Minnesota to practice medicine and surgery under sections 147.01 to 147.22, as a physician assistant pursuant to sections 147A.01 to 147A.27, chiropractic under sections 148.01 to 148.105, registered nursing under

sections 148.171 to 148.285, optometry under sections 148.52 to 148.62, psychology under sections 148.88 to 148.98, dentistry and dental hygiene under sections 150A.01 to 150A.12, pharmacy under sections 151.01 to 151.40, podiatric medicine under sections 153.01 to 153.25, veterinary medicine under sections 156.001 to 156.14, architecture, engineering, surveying, landscape architecture, geoscience, and certified interior design under sections 326.02 to 326.15, accountancy under ~~sections 326.17 to 326.229~~ chapter 326A, or law under sections 481.01 to 481.17, or under a license or certificate issued by another state under similar laws. Professional services includes services of the type required to be furnished by a professional pursuant to a license or other authority to practice law under the laws of a foreign nation.

Sec. 5. Minnesota Statutes 2000, section 326.53, is amended to read:

326.53 [VIOLATIONS; PENALTY PROVISIONS.]

Subdivision 1. [GENERALLY.] (1) Any violation of ~~the provisions of sections 326.02 to 326.229~~ chapter 326A is a gross misdemeanor.

(2) Every person violating any of the provisions of sections 326.523 to 326.526, or assisting in such violation, shall, upon conviction thereof, be punished by a fine not exceeding \$3,000 or, in default of the payment of such fine, by imprisonment in the county jail for not more than one year. In the case of a corporation, the violation of these sections shall be deemed to be also that of the individual directors, officers, or agents of such corporation who have assisted in such violation, or who have authorized, ordered, or done the acts or omissions constituting, in whole or in part, such violation; and, upon conviction thereof, any such directors, officers, or agents shall be punished by fine or imprisonment as herein provided.

Sec. 6. Minnesota Statutes 2000, section 367.36, subdivision 1, is amended to read:

Subdivision 1. [TRANSITION; AUDIT.] In a town in which option D is adopted, the incumbent treasurer shall continue in office until the expiration of the term. Thereafter the duties of the treasurer prescribed by law shall be performed by the clerk who shall be referred to as the clerk-treasurer. If the offices of clerk and treasurer are combined and the town's annual revenue is more than \$100,000, the town board shall provide for an annual audit of the town's financial affairs by the state auditor or a public accountant in accordance with minimum audit procedures prescribed by the state auditor. If the offices of clerk and treasurer are combined and the town's annual revenue is \$100,000 or less, the town board shall provide for an audit of the town's financial affairs by the state auditor or a public accountant in accordance with minimum audit procedures prescribed by the state auditor at least once every five years, which audit shall be for a one-year period to be determined at random by the person conducting the audit. Upon completion of an audit by a public accountant, the public accountant shall forward a copy of the audit to the state auditor. For purposes of this subdivision, "public accountant" means a certified public accountant; ~~or a certified public accounting firm; or a licensed public accountant,~~ all licensed by the board of accountancy under sections 326.17 to 326.229 chapter 326A.

Sec. 7. Minnesota Statutes 2000, section 412.222, is amended to read:

412.222 [PUBLIC ACCOUNTANTS IN STATUTORY CITIES.]

The council of any city may employ public accountants on a monthly or yearly basis for the purpose of auditing, examining, and reporting upon the books and records of account of such city. For the purpose of this section, "public accountant" means a certified public accountant; ~~or a certified public accounting firm; or a licensed public accountant,~~ all licensed by the board of accountancy under sections 326.17 to 326.23 chapter 326A. All expenditures for these purposes shall be within the statutory limits upon tax levies in such cities.

Sec. 8. Minnesota Statutes 2000, section 471.49, subdivision 10, is amended to read:

Subd. 10. [PUBLIC ACCOUNTANT.] "Public accountant" means a certified public accountant; ~~or a certified public accounting firm; or a licensed public accountant,~~ all licensed by the board of accountancy under sections 326.17 to 326.229 chapter 326A.

Sec. 9. Minnesota Statutes 2000, section 544.42, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For purposes of this section:

(1) "professional" means a licensed attorney or an architect, certified public accountant, engineer, land surveyor, or landscape architect licensed or certified under ~~sections 326.02 to 326.229~~ chapter 326 or 326A; and

(2) "action" includes an original claim, cross-claim, counterclaim, or third-party claim. An action does not include a claim for damages requiring notice pursuant to section 604.04.

Sec. 10. [EFFECTIVE DATE.]

This article is effective January 1, 2003."

Delete the title and insert:

"A bill for an act relating to professions; creating the Accountancy Act of 2001; authorizing rulemaking; imposing penalties; amending Minnesota Statutes 2000, sections 3.972, subdivision 1; 116J.70, subdivision 2a; 214.01, subdivision 3; 319B.02, subdivision 19; 326.53; 367.36, subdivision 1; 412.222; 471.49, subdivision 10; and 544.42, subdivision 1; proposing coding for new law as Minnesota Statutes, chapter 326A; repealing Minnesota Statutes 2000, sections 326.165; 326.1655; 326.17; 326.18; 326.19; 326.192; 326.197; 326.20; 326.201; 326.211; 326.212; 326.22; 326.223; 326.224; 326.228; and 326.229."

The motion prevailed and the amendment was adopted.

S. F. No. 859, A bill for an act relating to professions; creating the Accountancy Act of 2001; authorizing rulemaking; imposing penalties; amending Minnesota Statutes 2000, sections 3.972, subdivision 1; 116J.70, subdivision 2a; 214.01, subdivision 3; 319B.02, subdivision 19; 326.53; 367.36, subdivision 1; 412.222; 471.49, subdivision 10; and 544.42, subdivision 1; proposing coding for new law as Minnesota Statutes, chapter 326A; repealing Minnesota Statutes 2000, sections 326.165; 326.1655; 326.17; 326.18; 326.19; 326.191; 326.192; 326.197; 326.20; 326.201; 326.21; 326.211; 326.212; 326.22; 326.223; 326.224; 326.225; 326.228; and 326.229.

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

The question was taken on the passage of the bill and the roll was called. There were 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Cassell	Dorn	Goodno	Holberg	Kahn
Abrams	Clark, J.	Eastlund	Goodwin	Holsten	Kalis
Anderson, B.	Clark, K.	Entenza	Gray	Howes	Kelliher
Anderson, I.	Daggett	Erhardt	Greiling	Huntley	Kielkucki
Bernardy	Davids	Erickson	Gunther	Jacobson	Knoblach
Biernat	Davnie	Evans	Haas	Jaros	Koskinen
Bishop	Dawkins	Finseth	Hackbarth	Jennings	Krinkie
Boudreau	Dehler	Folliard	Harder	Johnson, J.	Kubly
Bradley	Dempsey	Fuller	Hausman	Johnson, R.	Kuisle
Buesgens	Dibble	Gerlach	Hilstrom	Johnson, S.	Larson
Carlson	Dorman	Gleason	Hilty	Juhnke	Leighton

Lenczewski	McElroy	Osskopp	Rifenberg	Solberg	Walz
Leppik	McGuire	Otremba	Rukavina	Stanek	Wasiluk
Lieder	Milbert	Ozment	Ruth	Stang	Wenzel
Lindner	Molnau	Paulsen	Schumacher	Swapinski	Westerberg
Lipman	Mulder	Pawlenty	Seagren	Swenson	Westrom
Luther	Mullery	Paymar	Seifert	Sykora	Wilkin
Mahoney	Murphy	Pelowski	Sertich	Thompson	Winter
Mares	Ness	Penas	Skoe	Tingelstad	Wolf
Mariani	Nornes	Peterson	Skoglund	Tuma	Workman
Marko	Olson	Pugh	Slawik	Vandevveer	Spk. Sviggum
Marquart	Opatz	Rhodes	Smith	Wagenius	

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

S. F. No. 333 was reported to the House.

Boudreau moved to amend S. F. No. 333 as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 1145, the first engrossment:

"Section 1. [156.15] [CEASE AND DESIST ORDERS.]

Subdivision 1. [ISSUANCE.] In addition to the remedies and procedures applicable to the health-related licensing board provided in chapter 214, the board's complaint review committee, on behalf of the board, may issue and have served upon a person an order requiring the person to cease and desist from the unauthorized practice of veterinary medicine, or from violating or threatening to violate a statute, rule, or order which the board has authority to enforce. The order must be calculated to give reasonable notice of the rights of the person to request a hearing and must state the reasons for the entry of the order.

Subd. 2. [SERVICE.] Service of an order under this section is effective if the order is served on the person or counsel of record personally or by certified mail to the most recent address provided to the board for the person or counsel of record.

Subd. 3. [HEARING.] Unless otherwise agreed by the complaint review committee and the person requesting the hearing, the hearing must be held no later than 30 days after the written request for the hearing is received by the complaint review committee.

Subd. 4. [REPORT; FURTHER ORDER.] The administrative law judge shall issue a report within 30 days of the close of the contested case hearing record. Within 30 days after receiving the report and any exceptions to it, the board shall issue a further order vacating, modifying, or making permanent the cease and desist order as the facts require.

Subd. 5. [FINALITY; EFFECT.] If no hearing is requested within 30 days of service of the order, the order becomes final and remains in effect until it is modified or vacated by the board.

Subd. 6. [DEFAULT PROCEEDING.] If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person is in default and the proceeding may be determined against that person upon consideration of the cease and desist order, the allegations of which may be considered to be true."

The motion prevailed and the amendment was adopted.

S. F. No. 333, A bill for an act relating to veterinary medicine; authorizing certain cease and desist orders; proposing coding for new law in Minnesota Statutes, chapter 156.

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

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

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

S. F. No. 1068 was reported to the House.

Holberg moved to amend S. F. No. 1068 as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 1898, the first engrossment:

"Section 1. Minnesota Statutes 2000, section 3.979, is amended by adding a subdivision to read:

Subd. 5. [COMMISSIONER'S OPINION; LEGISLATIVE AUDITOR ACCESS TO DATA.] If, after the commissioner of administration issues an opinion under section 13.072 that a person requesting access to data held by a state agency is entitled to that access, the state agency continues to refuse to provide the data or the person making the request is told that the data sought does not exist, the legislative audit commission may instruct the legislative auditor to review all state agency data related to the request. Following the review, the legislative auditor shall provide all public data obtained, if any, to the legislative audit commission.



Sec. 2. [8.37] [ACCESS TO HEALTH RECORDS.]

Notwithstanding section 13.384, subdivision 3; 13.46; 62D.145, subdivision 2; or 72A.502, or any other provision of law to the contrary, the attorney general must follow the procedure established in this section to obtain access to patient health records or any other individually identifiable medical data about a patient. To obtain access to patient health records or any other individually identifiable medical data about a patient, the attorney general must seek a court order authorizing release of the data. Before releasing the data, the court or the entity maintaining the data must contact all patients who are the subjects of the data, notify the patients that the attorney general has requested access to the data, and give the patients the opportunity to refuse to have their data released to the attorney general. The court shall not release any patient health records or other individually identifiable medical data, pursuant to a court order, if the patient who is the subject of the data has refused to consent to the release.

Sec. 3. Minnesota Statutes 2000, section 13.02, subdivision 11, is amended to read:

Subd. 11. [POLITICAL SUBDIVISION.] "Political subdivision" means any county, statutory or home rule charter city, school district, special district, metropolitan area town as described in section 368.01, subdivision 1 or 1a, and any board, commission, district or authority created pursuant to law, local ordinance or charter provision. It includes any nonprofit corporation which is a community action agency organized pursuant to the Economic Opportunity Act of 1964 (Public Law Number 88-452) as amended, to qualify for public funds, or any nonprofit social service agency which performs services under contract to any political subdivision, statewide system or state agency, to the extent that the nonprofit social service agency or nonprofit corporation collects, stores, disseminates, and uses data on individuals because of a contractual relationship with state agencies, political subdivisions or statewide systems.

Sec. 4. [13.15] [COMPUTER DATA.]

Subdivision 1. [DEFINITIONS.] As used in this section, the following terms have the meanings given.

(a) [ELECTRONIC ACCESS DATA.] "Electronic access data" means data created, collected, or maintained about a person's access to a government entity's computer for the purpose of:

- (1) gaining access to data or information;
- (2) transferring data or information; or
- (3) using government services.

(b) [COOKIE.] "Cookie" means any data that a government-operated computer electronically places on the computer of a person who has gained access to a government computer.

Subd. 2. [CLASSIFICATION OF DATA.] Electronic access data are private data on individuals or nonpublic data.

Subd. 3. [NOTICE.] A government entity that creates, collects, or maintains electronic access data or uses its computer to install a cookie on a person's computer must inform persons gaining access to the entity's computer of the creation, collection, or maintenance of electronic access data or the entity's use of cookies before requiring the person to provide any data about the person to the government entity. As part of that notice, the government entity must inform the person how the data will be used and disseminated, including the uses and disseminations in subdivision 4.

Subd. 4. [USE OF ELECTRONIC ACCESS DATA.] Electronic access data may be disseminated:

- (1) to the commissioner for the purpose of evaluating electronic government services;
- (2) to another government entity to prevent unlawful intrusions into government electronic systems; or
- (3) as otherwise provided by law.

Sec. 5. Minnesota Statutes 2000, section 13.32, is amended by adding a subdivision to read:

Subd. 5a. [MILITARY RECRUITMENT.] An educational agency or institution shall release to military recruiting officers the names, addresses, and home telephone numbers of students in grades 11 and 12 within 60 days after the date of the request, except as otherwise provided by this subdivision. An educational agency or institution shall give parents and students notice of the right to refuse release of this data to military recruiting officers. Notice may be given by any means reasonably likely to inform the parents and students of the right. Data released to military recruiting officers under this subdivision:

(1) may be used only for the purpose of providing information to students about military service, state and federal veterans' education benefits, and other career and educational opportunities provided by the military; and

(2) shall not be further disseminated to any other person except personnel of the recruiting services of the armed forces.

Sec. 6. [13.3215] [EDVEST DATA.]

Account owner data, account data, and data on beneficiaries of accounts established under the Edvest savings program are classified as private data on individuals as defined in section 13.02, except that the names and addresses of the beneficiaries of accounts that receive grants are public.

Sec. 7. [13.5515] [HUMAN RIGHTS INTAKE FILE DATA.]

All data in intake files that identify potential charging parties, potential respondents, and witnesses are classified as confidential data on individuals and protected nonpublic data.

Sec. 8. Minnesota Statutes 2000, section 13.59, is amended to read:

13.59 [HOUSING AND REDEVELOPMENT DATA.]

Subdivision 1. [PRIVATE SURVEY DATA.] The following data collected in surveys of individuals conducted by cities and housing and redevelopment authorities for the purposes of planning, development, and redevelopment, are classified as private data pursuant to section 13.02, subdivision 12: the names and addresses of individuals and the legal descriptions of property owned by individuals.

Subd. 2. [NONPUBLIC SURVEY DATA.] The following data collected in surveys of businesses conducted by cities and housing and redevelopment authorities, for the purposes of planning, development, and redevelopment, are classified as nonpublic data pursuant to section 13.02, subdivision 9: the names, addresses, and legal descriptions of business properties and the commercial use of the property to the extent disclosure of the use would identify a particular business.

Subd. 3. [FINANCIAL ASSISTANCE DATA.] (a) The following data that are submitted to a housing and redevelopment authority by persons who are requesting financial assistance are private data on individuals or nonpublic data:

(1) financial statements;

(2) credit reports;

(3) business plans;

(4) income and expense projections;

(5) customer lists;

(6) balance sheets;

(7) income tax returns; and

(8) design, market, and feasibility studies not paid for with public funds.

(b) Data submitted to the authority under paragraph (a) become public data if the authority provides financial assistance to the person, except that the following data remain private or nonpublic:

(1) business plans;

(2) income and expense projections not related to the financial assistance provided;

(3) customer lists;

(4) income tax returns; and

(5) design, market, and feasibility studies not paid for with public funds.

Subd. 4. [DEFINITION.] For purposes of this section, "housing and redevelopment authority" has the meaning given in section 469.002, subdivision 2, and includes a government entity exercising powers under sections 469.001 to 469.047.

Sec. 9. [13.591] [BUSINESS DATA.]

Subdivision 1. [NOT PUBLIC DATA WHEN BENEFIT REQUESTED.] The following data, that are submitted to a government entity by a business requesting financial assistance or a benefit financed by public funds, are private or nonpublic data: the identity of the business and financial information about the business including, credit reports; financial statements; net worth calculations; business plans; income and expense projections; customer lists; income tax returns; and design, market, and feasibility studies not paid for with public funds.

Subd. 2. [PUBLIC DATA WHEN BENEFIT RECEIVED.] Data submitted to a government entity under subdivision 1 become public when public financial assistance is provided or the business receives a benefit from the government entity, except that the following data remain private or nonpublic: business plans; income and expense projections not related to the financial assistance provided; customer lists; income tax returns; and design, market, and feasibility studies not paid for with public funds.

Subd. 3. [BUSINESS AS VENDOR.] (a) Data submitted by a business to a government entity in response to a request for bids as defined in section 16C.02, subdivision 11, are private or nonpublic until the bids are opened. Once the bids are opened, the name of the bidder and the dollar amount specified in the response are read and become public. All other data in a bidder's response to a bid are private or nonpublic data until completion of the selection process. For purposes of this section, "completion of the selection process" means that the government entity has completed its evaluation and has ranked the responses. After a government entity has completed the selection process, all remaining data submitted by all bidders are public with the exception of trade secret data as defined and classified in section 13.37. A statement by a bidder that submitted data are copyrighted or otherwise protected does not prevent public access to the data contained in the bid.

If all responses to a request for bids are rejected prior to completion of the selection process, all data, other than that made public at the bid opening, remain private or nonpublic until a resolicitation of bids results in completion of the selection process or a determination is made to abandon the purchase. If the rejection occurs after the completion of the selection process, the data remain public. If a resolicitation of bids does not occur within one year of the bid opening date, the remaining data become public.

(b) Data submitted by a business to a government entity in response to a request for proposal, as defined in section 16C.02, subdivision 12, are private or nonpublic until the responses are opened. Once the responses are opened, the name of the responder is read and becomes public. All other data in a responder's response to a request for proposal are private or nonpublic data until completion of the evaluation process. For purposes of this section, "completion of the evaluation process" means that the government entity has completed negotiating the contract with the selected vendor. After a government entity has completed the evaluation process, all remaining data submitted by all responders are public with the exception of trade secret data as defined and classified in section 13.37. A statement by a responder that submitted data are copyrighted or otherwise protected does not prevent public access to the data contained in the response.

If all responses to a request for proposal are rejected prior to completion of the evaluation process, all data, other than that made public at the response opening, remain private or nonpublic until a resolicitation of the requests for proposal results in completion of the evaluation process or a determination is made to abandon the purchase. If the rejection occurs after the completion of the evaluation process, the data remain public. If a resolicitation of proposals does not occur within one year of the proposal opening date, the remaining data become public.

Sec. 10. Minnesota Statutes 2000, section 13.594, is amended to read:

13.594 [ECONOMIC ASSISTANCE DATA.]

The following data collected by cities or counties in their administration of the city or county economic development assistance program are classified as nonpublic data:

(1) application data, except company names, addresses, and other data that identify the applicant, until the application is approved by the city or county;

(2) application data, except company names, addresses, and other data that identify the applicant, that pertain to companies whose applications have been disapproved;

(3) attachments to applications including but, not limited to, business and personal financial records, until the application is approved;

(4) income tax returns, either personal or corporate, that are filed by applicants; and

(5) correspondence between the program administrators and the applicant until the application has been approved or disapproved.

Sec. 11. Minnesota Statutes 2000, section 13.719, is amended by adding a subdivision to read:

Subd. 6. [AUTOMOBILE INSURANCE.] (a) [GROUP SELF-INSURANCE DATA.] Financial data relating to nonpublic companies that are submitted to the commissioner of commerce for the purpose of obtaining approval to self-insure liability for automobile coverage as a group are classified as nonpublic data.

(b) [SELF-INSURANCE; PLAN ADMINISTRATOR DATA.] Financial documents, including income statements, balance sheets, statements of change in financial positions, and supporting financial information submitted by nonpublic companies seeking to self-insure their automobile liability or to be licensed as self-insurance plan administrators are classified as nonpublic data.

Sec. 12. Minnesota Statutes 2000, section 138.17, subdivision 7, is amended to read:

Subd. 7. [RECORDS MANAGEMENT PROGRAM.] A records management program for the application of efficient and economical management methods to the creation, utilization, maintenance, retention, preservation, and disposal of official records shall be administered by the commissioner of administration with assistance from the director of the historical society. The state records center which stores and services state records not in state archives

shall be administered by the commissioner of administration. The commissioner of administration is empowered to (1) establish standards, procedures, and techniques for effective management of government records, (2) make continuing surveys of paper work operations, and (3) recommend improvements in current records management practices including the use of space, equipment, and supplies employed in creating, maintaining, preserving and disposing of government records. It shall be the duty of the head of each state agency and the governing body of each county, municipality, and other subdivision of government to cooperate with the commissioner in conducting surveys and to establish and maintain an active, continuing program for the economical and efficient management of the records of each agency, county, municipality, or other subdivision of government. When requested by the commissioner, public officials shall assist in the preparation of an inclusive inventory of records in their custody, to which shall be attached a schedule, approved by the head of the governmental unit or agency having custody of the records and the commissioner, establishing a time period for the retention or disposal of each series of records. When the schedule is unanimously approved by the records disposition panel, the head of the governmental unit or agency having custody of the records may dispose of the type of records listed in the schedule at a time and in a manner prescribed in the schedule for particular records which were created after the approval. A list of records disposed of pursuant to this subdivision shall be forwarded to the commissioner and the archivist maintained by the head of the governmental unit or agency. ~~The archivist shall maintain a list of all records destroyed.~~

Sec. 13. Minnesota Statutes 2000, section 182.659, subdivision 8, is amended to read:

Subd. 8. Neither the commissioner nor any employee of the department, including those employees of the department of health providing services to the department of labor and industry, pursuant to section 182.67, subdivision 1, is subject to subpoena for purposes of inquiry into any occupational safety and health inspection except in enforcement proceedings brought under this chapter. ~~All written information, documentation and reports gathered or prepared by the department pursuant to an occupational safety and health inspection are public information once the departmental inspection file is closed. Data that identify individuals who provide data to the department as part of an investigation conducted under this chapter shall be private.~~

Sec. 14. [611A.46] [CLASSIFICATION OF DATA.]

(a) Personal history information and other information collected, used, and maintained by a Minnesota center for crime victim services grantee from which the identity and location of any crime victim may be determined are private data on individuals as defined in section 13.02, subdivision 12, and the grantee shall maintain the data in accordance with the provisions of chapter 13.

(b) Personal history data and other information collected, used, and maintained by the Minnesota center for crime victim services from which the identity and location of any victim may be determined are private data on individuals as defined in section 13.02, subdivision 12.

(c) Internal auditing data shall be classified as provided by section 13.392.

Sec. 15. Laws 1997, First Special Session chapter 3, section 27, as amended by Laws 1999, chapter 243, article 5, section 45, is amended to read:

Sec. 27. [TAXPAYER'S PERSONAL INFORMATION; DISCLOSURE.]

(a) An owner of property in Washington ~~or Ramsey~~ county that is subject to property taxation must be informed in a clear and conspicuous manner in writing on a form sent to property taxpayers that the property owner's name, address, and other information may be used, rented, or sold for business purposes, including surveys, marketing, and solicitation.

(b) If the property owner so requests on the form provided, then any such list generated by the county and sold for business purposes must exclude the owner's name and address if the business purpose is conducting surveys, marketing, or solicitation.

(c) This section expires August 1, ~~2001~~ 2003.

## Sec. 16. [REPORT OF DATA LAWS.]

The responsible authority of each state agency shall prepare a list that identifies all data classification provisions relating to business that are within the jurisdiction of the agency, or that the agency has been given the statutory authority to ensure compliance with or enforce. The agency shall submit this list to the commissioner of administration no later than September 1, 2001.

## Sec. 17. [REPEALER.]

Minnesota Statutes 2000, sections 13.081; 13.592; 13.5921; 13.5922; 13.593; 13.594; 13.5951; 13.5952; 13.5953; 13.596; 13.5965; 13.643, subdivision 4; and 16C.06, subdivision 3, are repealed.

## Sec. 18. [EFFECTIVE DATE.]

Section 5 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to government data practices; providing for access to and maintenance of certain government data; classifying and defining certain government data; requiring a report to commissioner of administration; abolishing certain administrative remedies; amending Minnesota Statutes 2000, sections 3.979, by adding a subdivision; 13.02, subdivision 11; 13.32, by adding a subdivision; 13.59; 13.594; 13.719, by adding a subdivision; 138.17, subdivision 7; 182.659, subdivision 8; Laws 1997, First Special Session chapter 3, section 27, as amended; proposing coding for new law in Minnesota Statutes, chapters 8; 13; 611A; repealing Minnesota Statutes 2000, sections 13.081; 13.592; 13.5921; 13.5922; 13.593; 13.594; 13.5951; 13.5952; 13.5953; 13.596; 13.5965; 13.643, subdivision 4; 16C.06, subdivision 3."

The motion prevailed and the amendment was adopted.

Wilkin moved to amend S. F. No. 1068, as amended, as follows:

Page 2, line 2, before "Notwithstanding" insert "(a)"

Page 2, line 7, after the period, insert "This section does not apply to data protected from discovery or other disclosure by sections 144.053 to 144.658 or other similar law."

Page 2, line 10, after the period, insert "If the data sought are government data subject to chapter 13, the court must first use the standards specified in section 13.03, subdivision 6, to determine whether the data may be released after the actions required by this section have been taken."

Page 2, after line 19, insert:

"(b) This section does not apply in cases where the attorney general prosecutes a criminal matter in place of a county attorney."

The motion prevailed and the amendment was adopted.

Holberg and Kelliher moved to amend S. F. No. 1068, as amended, as follows:

Page 4, after line 21, insert:

"Sec. 7. Minnesota Statutes 2000, section 13.46, subdivision 2, is amended to read:

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

- (1) according to section 13.05;
- (2) according to court order;
- (3) according to a statute specifically authorizing access to the private data;
- (4) to an agent of the welfare system, including a law enforcement person, attorney, or investigator acting for it in the investigation or prosecution of a criminal or civil proceeding relating to the administration of a program;
- (5) to personnel of the welfare system who require the data to determine eligibility, amount of assistance, and the need to provide services of additional programs to the individual;
- (6) to administer federal funds or programs;
- (7) between personnel of the welfare system working in the same program;
- (8) the amounts of cash public assistance and relief paid to welfare recipients in this state, including their names, social security numbers, income, addresses, and other data as required, upon request by the department of revenue to administer the property tax refund law, supplemental housing allowance, early refund of refundable tax credits, and the income tax. "Refundable tax credits" means the dependent care credit under section 290.067, the Minnesota working family credit under section 290.0671, the property tax refund under section 290A.04, and, if the required federal waiver or waivers are granted, the federal earned income tax credit under section 32 of the Internal Revenue Code;
- (9) between the department of human services, the department of children, families, and learning, and the department of economic security for the purpose of monitoring the eligibility of the data subject for unemployment benefits, for any employment or training program administered, supervised, or certified by that agency, for the purpose of administering any rehabilitation program or child care assistance program, whether alone or in conjunction with the welfare system, or to monitor and evaluate the Minnesota family investment program by exchanging data on recipients and former recipients of food stamps, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;
- (10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons;
- (11) data maintained by residential programs as defined in section 245A.02 may be disclosed to the protection and advocacy system established in this state according to Part C of Public Law Number 98-527 to protect the legal and human rights of persons with mental retardation or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person;
- (12) to the county medical examiner or the county coroner for identifying or locating relatives or friends of a deceased person;
- (13) data on a child support obligor who makes payments to the public agency may be disclosed to the higher education services office to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5);

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

(15) the current address of a Minnesota family investment program participant may be disclosed to law enforcement officers who provide the name of the participant and notify the agency that:

(i) the participant:

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

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

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

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

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

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

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

(i) the member:

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

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

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

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

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

(19) the current address of a recipient of Minnesota family investment program, general assistance, general assistance medical care, or food stamps may be disclosed to law enforcement officers who, in writing, provide the name of the recipient and notify the agency that the recipient is a person required to register under section 243.166, but is not residing at the address at which the recipient is registered under section 243.166;

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



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

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

(23) to the department of children, families, and learning for the purpose of matching department of children, families, and learning student data with public assistance data to determine students eligible for free and reduced price meals, meal supplements, and free milk according to United States Code, title 42, sections 1758, 1761, 1766, 1766a, 1772, and 1773; to allocate federal and state funds that are distributed based on income of the student's family; and to verify receipt of energy assistance for the telephone assistance plan;

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

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

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

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

(28) to evaluate child support program performance and to identify and prevent fraud in the child support program by exchanging data between the department of human services, department of revenue under section 270B.14, subdivision 1, paragraphs (a) and (b), without regard to the limitation of use in paragraph (c), department of health, department of economic security, and other state agencies as is reasonably necessary to perform these functions.

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

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

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

(29) to evaluate noncustodial parent employment and support service programs by exchanging data on participants and former participants between the public authority responsible for child support enforcement and agencies administering the noncustodial parent employment and support service programs under contract with the department of human services.

For the purposes of this subdivision, a request will be deemed to be made in writing if made through a computer interface system."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

S. F. No. 1068, A bill for an act relating to government data; classifying data; codifying temporary classifications; including metropolitan area towns under the data practices act; clarifying effect of advisory opinions; modifying records management requirements; removing sunset on law governing access to juvenile records for gang investigations; extending authority for special law governing property taxpayer data; amending Minnesota Statutes 2000, sections 13.02, subdivision 11; 13.072, subdivision 2; 13.08, subdivision 4; 13.32, by adding a subdivision; 13.322, subdivision 3; 13.59; 13.594; 13.719, by adding a subdivision; 13.785, by adding a subdivision; 136A.243, by adding a subdivision; 138.17, subdivision 7; 182.659, subdivision 8; 260B.171, subdivision 1; 299C.095, subdivision 1; 299C.13; 299C.61, by adding a subdivision; 386.20, by adding a subdivision; 611A.19; Laws 1997, First Special Session chapter 3, section 27, as amended; repealing Minnesota Statutes 2000, sections 13.081; 13.5921.

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

The question was taken on the passage of the bill and the roll was called. There were 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

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

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

S. F. No. 1772, A bill for an act relating to highways; restricting outdoor advertising on C. Elmer Anderson Memorial Highway; amending Minnesota Statutes 2000, section 161.14, subdivision 45.

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 120 yeas and 11 nays as follows:

Those who voted in the affirmative were:

Abeler	Eastlund	Holsten	Lieder	Osthoff	Smith
Anderson, I.	Entenza	Howes	Lipman	Otremba	Solberg
Bernardy	Erhardt	Huntley	Luther	Ozment	Stanek
Biernat	Erickson	Jacobson	Mahoney	Paulsen	Stang
Bishop	Evans	Jaros	Mares	Pawlenty	Swapinski
Boudreau	Finseth	Jennings	Mariani	Paymar	Swenson
Bradley	Folliard	Johnson, J.	Marko	Pelowski	Sykora
Buesgens	Fuller	Johnson, R.	Marquart	Penas	Thompson
Carlson	Gleason	Johnson, S.	McElroy	Peterson	Tingelstad
Cassell	Goodno	Juhnke	McGuire	Pugh	Tuma
Clark, J.	Goodwin	Kahn	Milbert	Rhodes	Vandever
Clark, K.	Gray	Kelliher	Molnau	Rifenberg	Wagenius
Daggett	Greiling	Kielkucki	Mulder	Rukavina	Walz
Dauids	Gunther	Knoblach	Mullery	Ruth	Wasiluk
Davnie	Haas	Kubly	Murphy	Schumacher	Wenzel
Dawkins	Hackbarth	Kuisle	Ness	Seagren	Westrom
Dempsey	Harder	Larson	Nornes	Seifert	Winter
Dibble	Hausman	Leighton	Olson	Skoe	Wolf
Dorman	Hilstrom	Lenczewski	Opatz	Skoglund	Workman
Dorn	Hilty	Leppik	Osskopp	Slawik	Spk. Sviggum

Those who voted in the negative were:

Abrams	Dehler	Holberg	Koskinen	Lindner	Wilkin
Anderson, B.	Gerlach	Kalis	Krinkie	Westerberg	

The bill was passed and its title agreed to.

H. F. No. 980, A bill for an act relating to public construction and remodeling projects; increasing the construction cost limits under which capital projects are exempt from legislative notification and review; amending Minnesota Statutes 2000, section 16B.335, subdivision 1.

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	Anderson, I.	Bishop	Buesgens	Clark, J.	Dauids
Abrams	Bernardy	Boudreau	Carlson	Clark, K.	Davnie
Anderson, B.	Biernat	Bradley	Cassell	Daggett	Dawkins

Dehler	Gunther	Kalis	Marko	Paymar	Stang
Dempsey	Haas	Kelliher	Marquart	Pelowski	Swapinski
Dibble	Hackbarth	Kielkucki	McElroy	Penas	Swenson
Dorman	Harder	Knoblach	McGuire	Peterson	Sykora
Dorn	Hausman	Koskinen	Milbert	Pugh	Thompson
Eastlund	Hilstrom	Krinkie	Molnau	Rhodes	Tingelstad
Entenza	Hilty	Kubly	Mulder	Rifenberg	Tuma
Erhardt	Holberg	Kuisle	Mullery	Rukavina	Vandever
Erickson	Holsten	Larson	Murphy	Ruth	Wagenius
Evans	Howes	Leighton	Ness	Schumacher	Walz
Finseth	Huntley	Lenczewski	Nornes	Seagren	Wasiluk
Folliard	Jacobson	Leppik	Olson	Seifert	Wenzel
Fuller	Jaros	Lieder	Opatz	Sertich	Westerberg
Gerlach	Jennings	Lindner	Osskopp	Skoe	Westrom
Gleason	Johnson, J.	Lipman	Osthoff	Skoglund	Wilkin
Goodno	Johnson, R.	Luther	Otremba	Slawik	Winter
Goodwin	Johnson, S.	Mahoney	Ozment	Smith	Wolf
Gray	Juhnke	Mares	Paulsen	Solberg	Workman
Greiling	Kahn	Mariani	Pawlenty	Stanek	Spk. Sviggum

The bill was passed and its title agreed to.

S. F. No. 520, A bill for an act relating to state observances; designating Combat Wounded Veterans Day; proposing coding for new law in Minnesota Statutes, chapter 10.

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

The bill was passed and its title agreed to.

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

There being no objection, the order of business reverted to Reports of Standing Committees.

## REPORTS OF STANDING COMMITTEES

Finseth from the Committee on Agriculture Policy to which was referred:

H. F. No. 2514, A bill for an act relating to agriculture; expanding emergency authority of the board of animal health to eradicate any dangerous, infectious, or communicable disease affecting domestic animals in the state; amending Minnesota Statutes 2000, section 35.09, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 35.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [35.0661] [TEMPORARY EMERGENCY RESTRICTIONS ON MOVEMENT OF PEOPLE, LIVESTOCK, MACHINERY, AND OTHER PERSONAL PROPERTY.]

Subdivision 1. [DISASTROUS ANIMAL DISEASE OUTBREAKS; DECLARATION OF EMERGENCY.] If the board determines that a confirmed case of a disease in this state presents a substantial and imminent threat to the state's domestic animal population, it shall certify the case to the governor. The governor then may declare an emergency under this section for purposes of allowing the board to establish quarantine zones of control to protect the health of domestic animals from animal diseases of potentially disastrous proportions. The governor may declare an emergency under this section without declaring a peacetime emergency under section 12.31. A declaration under this section may specify that it applies to all or certain units of state or local government, must specify the time period for which it applies, and must be filed with the secretary of state. This section is in addition to and does not limit authority granted to the governor or local government officials by chapter 12 or other law.

Subd. 2. [QUARANTINE ZONES.] Upon an emergency declaration by the governor under subdivision 1, the board or any licensed veterinarian designated by the board may establish quarantine zones of control in any area where a specific animal is deemed by a licensed veterinarian as likely to be infected with the disease based on an actual veterinary examination or laboratory testing. Quarantine zones of control must be the smallest size practicable to prevent the spread of disease and must exist for the shortest duration consistent with effective disease control. A quarantine zone of control must not extend beyond a radius of three miles from an animal deemed as likely to be infected with the disease, unless the board has adopted a rule regarding a specific disease requiring a larger quarantine zone of control.

Subd. 3. [RESTRICTIONS ON MOVEMENT OUT OF QUARANTINE ZONES.] (a) The board may issue orders restricting the movement of persons, livestock, machinery, and personal property out of zones designated by the board as quarantined under subdivision 1. The executive director of the board or any licensed veterinarian designated by the board may issue the orders. An order may be issued upon a determination that reasonable cause exists to believe that the movement of persons or personal property out of a quarantine zone will reasonably threaten to transport a dangerous, infectious, or communicable disease outside of the quarantine zone.

(b) The order must be served upon any person subject to the order. The restrictions sought by the board on movement out of a quarantine zone must be limited to the greatest extent possible consistent with the paramount disease control objectives as determined by the board. An order under this section may be served on any day at any time.

(c) No person may be restricted by an order under this subdivision for longer than 72 hours, exclusive of Saturdays, Sundays, and legal holidays, so long as the person agrees to abide by the disease control measures established by the board. The person shall sign an acknowledgment form prepared by the board evidencing the person's agreement to abide by the disease control measures established by the board.

(d) A person whose movements are restricted by an order under this subdivision may seek a district court hearing on the order at any time after it is served on the person. The hearing may be held by telephone as soon as possible. The subject of the order may:

- (1) contest imposition of the order on grounds that it is an abuse of the board's discretion under this section; or
- (2) seek a variance from it to allow movement of a person inconsistent with the order, upon a showing that the person would otherwise suffer irreparable harm.

Sec. 2. [35.0662] [TEMPORARY EMERGENCY RESTRICTIONS HEARING.]

Subdivision 1. [GROUNDS.] If the board determines that a person is not reasonably likely to abide by the disease control measures established by the board, the board may request a court hearing to determine if the emergency temporary restrictions should continue. The court shall schedule the hearing as expeditiously as possible. When the board requests a court hearing under this section, restrictions under section 35.0661, subdivision 3, continue to apply to the person until the court has held the temporary emergency restrictions hearing and issues an order.

Subd. 2. [TIME OF NOTICE.] If the board requests a court hearing pursuant to this section, notice of the hearing must be served upon the person or persons to be restricted at least 24 hours before the hearing.

Subd. 3. [CONTENTS OF NOTICE.] The notice must contain the following information:

- (1) the time, date, and place of the hearing;
- (2) the grounds and underlying facts upon which continued restrictions are sought;
- (3) the person's right to appear telephonically at the hearing and the right to have a representative appear in person at the hearing;
- (4) the person's right to present and cross-examine witnesses; and
- (5) the person's right to counsel, including the right, if the person is indigent, to representation by counsel designated by the court or county of venue.

Subd. 4. [ORDER FOR CONTINUED TEMPORARY RESTRICTIONS.] The court may order the continued restriction on the movement of the person if it finds, by a preponderance of the evidence, that travel outside of the quarantine zone by the person would pose an imminent threat of transporting a dangerous, infectious, or communicable disease outside of the boundaries of the quarantine zone. Unless the person refuses to sign and comply with the acknowledgment form referred to in section 35.0661, subdivision 3, the temporary restrictions must not continue longer than 30 days. Refusal by the person to sign and comply with the acknowledgment form constitutes a knowing violation of section 35.0661 and subjects the person to the penalties specified in section 35.96.

Sec. 3. Minnesota Statutes 2000, section 35.09, subdivision 3, is amended to read:

Subd. 3. [EMERGENCIES.] (a) When it is determined by the board that it is necessary to eradicate any dangerous, infectious, communicable disease among domestic animals in the state, the presence of which constitutes an emergency declared by resolution of the board, order of the governor, or by the United States Department of Agriculture, the board may take reasonable and necessary steps to suppress and eradicate the disease. ~~If the emergency is declared by the United States Department of Agriculture;~~ The board may cooperate with the animal

and plant health inspection service of the United States Department of Agriculture, federally recognized Indian tribes, state or local government agencies, or any other private or public entity in the suppression and eradication of the disease.

(b) When an emergency has been declared, the board may appraise and destroy animals affected with, or which have been exposed to the disease, ~~and or which are highly susceptible to exposure to the disease because of proximity to diseased animals,~~ appraise and destroy personal property in order to remove the infection and complete the cleaning and disinfection of the premises, condemn real property for the purpose of disposing of animals, and do any act and incur any other expense reasonably necessary to suppress the disease. The board may accept, on behalf of the state, the rules adopted by the animal and plant health inspection service of the United States Department of Agriculture pertaining to the disease, authorized under an act of Congress, or the portion of the regulations deemed necessary, suitable, or applicable, and cooperate with the animal and plant health inspection service of the United States Department of Agriculture, in the enforcement of those rules. Alternatively, the board may follow the procedure only as to quarantine, inspection, condemnation, appraisal, compensation, destruction, burial of animals, disinfection, or other acts the board considers reasonably necessary for the suppression of the disease, as agreed upon and adopted by the board and representatives or authorized agents of the animal and plant health inspection service of the United States Department of Agriculture. ~~If the procedures have been followed under an emergency declared by the United States Department of Agriculture, the total expense must be shared equally between the state and federal governments.~~

(c) Appraisals of animals ~~affected with, or exposed to, the disease, or contact animals,~~ or personal property destroyed in order to remove the infection and complete the cleaning and disinfection of premises where the animals are found, must be made by an appraisal board consisting of a representative of the board, a representative of the animal and plant health inspection service of the United States Department of Agriculture, and the owner of the animals or the owner's representative. Notwithstanding any law to the contrary, when, in the judgment of the board, physical appraisal of the animals to be killed or personal property to be destroyed poses a disease threat, appraisals may be conducted after the animals are killed based on documents, testimony, or other relevant evidence. Appraisals must be in writing and signed by the appraisers, and must be made at the true market value of all animals and personal property appraised, unless otherwise provided by applicable federal law or regulation when compensation is paid by federal funds.

(d) Upon destruction of animals or personal property, ~~or both or condemnation of real property,~~ and burial or other disposition of the carcasses of the animals in accordance with the law and rules of the board and the animal and plant health inspection service of the United States Department of Agriculture, and the completion of the cleaning and disinfection of the premises, the board shall certify the appraisal to the commissioner of finance, who shall draw a warrant on the state treasurer for the proper amount payable to the owner from appropriations made available for this purpose. ~~If the appraisal is made in respect to animals or other property destroyed under an emergency declared by the United States Department of Agriculture, the commissioner of finance shall draw a warrant on the state treasurer for one-half of the amount of the appraisal payable to the owner, and the remaining one-half of the appraisal must be paid by the federal government under the cooperative arrangement. If the disease is of a nature that any part of the carcasses of the diseased or exposed animals may be salvaged for human food or other purposes, the net amount of the salvage paid to the owner must be deducted from the appraisal, and the remainder must be paid to the owner by the state or by the state and federal government pursuant to this section."~~

Delete the title and insert:

"A bill for an act relating to agriculture; expanding emergency authority of the board of animal health to eradicate any dangerous, infectious, or communicable disease affecting domestic animals in the state; amending Minnesota Statutes 2000, section 35.09, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 35."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Rules and Legislative Administration.

The report was adopted.

**MOTIONS AND RESOLUTIONS**

Mares moved that the name of Milbert be added as an author on H. F. No. 2513. The motion prevailed.

Finseth moved that the name of Juhnke be added as an author on H. F. No. 2514. The motion prevailed.

House Resolution No. 16 was reported to the House.

**HOUSE RESOLUTION NO. 16**

A house resolution congratulating the Southwest Christian High School boys basketball team on its third successive victory in the State High School Class A Boys Basketball Tournament.

*Whereas*, the Southwest Christian High School boys basketball team was the first team in the history of Minnesota to win the Class A championship three years in a row; and

*Whereas*, 8,000 people from Edgerton, Minnesota, watched their championship game at the Xcel Energy Center in downtown St. Paul, Minnesota, on March 24, 2001; and

*Whereas*, the senior players, Reed Mesman, Kyle Van Dyke, Justin Snyder, Nick Bork, and Tony Schnyders, proudly displayed the school's black and gold colors at the game; and

*Whereas*, Andrew Tinklenberg, Ross Reitsma, Kyle De Graff, Daniel DeWitt, Jeff Schaap, and Michael Van Otterloo also played on the team and helped the Eagles reach this milestone; and

*Whereas*, even though last year's coach, Cal Hoekstra, was not coaching, he contributed to this year's victories in coaching last years' games; and

*Whereas*, head coach Dan Broekhuis and assistant coach Howard Schaap, along with student managers Matt Brink and Adam Ryswyk, and statisticians Jordan Gaiser, Brian Vander Lugt, Josh Fey, and Melissa Veldhuizen, also contributed greatly to the team's success; and

*Whereas*, cheerleaders Carrie Bleyenbergh, Renee Bosma, Brittany Bouma, Luann Jasper, Sheila Tinklenberg, Sonya Blom, Lindsey Den Herder, and Tara Brons did a fantastic job along with their coach, Tricia Tinklenberg, in invigorating the team and the crowd to help win the game; and

*Whereas*, band director Sheila Schnyders, athletic director Darrel Ulferts, and principal and superintendent Henry Kramer were also in attendance and helped cheer on the team; and

*Whereas*, their wins during the season included victories over Russell-Tyler-Ruthton, Adrian, Fulda, Marshall, Hills-Beaver Creek, Luverne, Sioux Valley-Round Lake-Brewster, Southwest Star Concept, Worthington, Ellsworth, Windom Area, Edgerton, Sioux Falls Christian, Westbrook-Walnut Grove, and Red Rock Central, with only three nonconference losses to large schools; and

*Whereas*, in the play-off game they succeeded in winning over Hills-Beaver Creek, Adrian, Edgerton, Lincoln HI, Rushford-Peterson, Cass Lake-Bena, and in the championship game over Christ's Household of Faith, 65-55; and

*Whereas*, Reed Mesman, Justin Snyder, and Jeff Schaap were named to the 2001 Class A Minnesota State Boy's Basketball All-Tournament team; *Now, Therefore*,



*Be It Resolved* by the House of Representatives of the State of Minnesota that it congratulates the Southwest Christian High School Boys Basketball Team from Edgerton, Minnesota, as the first team to win the Class A championship three years in a row in the history of state basketball.

*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 principal of Southwest Christian High School.

Mulder moved that House Resolution No. 16 be now adopted. The motion prevailed and House Resolution No. 16 was adopted.

#### ANNOUNCEMENTS BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 1752:

Stang, Davids and Entenza.

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 1968:

Mullery, Smith and Ozment.

#### FISCAL CALENDAR ANNOUNCEMENT

Pursuant to rule 1.22, Bishop announced his intention to place S. F. No. 2361 on the Fiscal Calendar for Thursday, May 10, 2001.

#### ADJOURNMENT

Pawlenty moved that when the House adjourns today it adjourn until 9:00 a.m., Thursday, May 10, 2001. The motion prevailed.

Pawlenty moved that the House adjourn. The motion prevailed, and Speaker pro tempore Abrams declared the House stands adjourned until 9:00 a.m., Thursday, May 10, 2001.

EDWARD A. BURDICK, Chief Clerk, House of Representatives

