

## STATE OF MINNESOTA

## EIGHTY-THIRD SESSION — 2004

## SEVENTY-FIFTH DAY

SAINT PAUL, MINNESOTA, WEDNESDAY, MARCH 17, 2004

The House of Representatives convened at 12:00 noon and was called to order by Lynda Boudreau, Speaker pro tempore.

Prayer was offered by Dan Hall, Chaplain with Midwest Chaplains, Burnsville, Minnesota.

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

The roll was called and the following members were present:

Abeler	DeLaForest	Hilstrom	Lenczewski	Otto	Solberg
Abrams	Demmer	Hilty	Lesch	Ozment	Stang
Adolphson	Dempsey	Holberg	Lieder	Paulsen	Strachan
Anderson, B.	Dill	Hoppe	Lindner	Paymar	Swenson
Anderson, I.	Dorman	Hornstein	Lipman	Pelowski	Sykora
Anderson, J.	Dorn	Howes	Magnus	Penas	Thao
Atkins	Eastlund	Huntley	Mahoney	Peterson	Thissen
Beard	Eken	Jacobson	Mariani	Powell	Tingelstad
Bernardy	Ellison	Jaros	Marquart	Pugh	Urdahl
Biernat	Entenza	Johnson, J.	McNamara	Rhodes	Vandever
Blaine	Erhardt	Johnson, S.	Meslow	Rukavina	Wagenius
Borrell	Erickson	Juhnke	Mullery	Ruth	Walker
Boudreau	Finstad	Kahn	Murphy	Samuelson	Walz
Bradley	Fuller	Kelliher	Nelson, C.	Seagren	Wardlow
Brod	Gerlach	Klinzing	Nelson, M.	Seifert	Wasiluk
Buesgens	Goodwin	Knoblach	Nelson, P.	Sertich	Westerberg
Carlson	Greiling	Koenen	Nornes	Severson	Westrom
Clark	Gunther	Krinkie	Olsen, S.	Sieben	Wilkin
Cornish	Haas	Kuisle	Olson, M.	Simpson	Zellers
Cox	Hackbarth	Lanning	Opatz	Slawik	Spk. Sviggum
Davids	Hausman	Larson	Osterman	Smith	
Davnie	Heidgerken	Latz	Otremba	Soderstrom	

A quorum was present.

Harder, Kohls, Lindgren and Newman were excused.

The Chief Clerk proceeded to read the Journal of the preceding day. Carlson 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. 1748 and H. F. No. 1702, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Powell moved that S. F. No. 1748 be substituted for H. F. No. 1702 and that the House File be indefinitely postponed. The motion prevailed.

**REPORTS OF STANDING COMMITTEES**

Kuisle from the Committee on Transportation Finance to which was referred:

H. F. No. 804, A bill for an act relating to traffic regulations; regulating gross weights on vehicles and combinations hauling raw or unfinished forest products under certain circumstances; amending Minnesota Statutes 2003 Supplement, sections 168.013, subdivision 3; 169.86, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 169.

Reported the same back with the following amendments:

Page 5, line 5, delete everything after "products" and insert ", including wood chips."

Page 5, delete lines 6 and 7

Page 5, line 8, delete "pallets" and delete "from the place of production"

Page 9, delete line 8

Page 9, after line 11, insert:

"(j) \$300 for a motor vehicle described in section 169.8261."

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

The report was adopted.

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

H. F. No. 1437, A bill for an act relating to elections; requiring disclosures by certain persons conducting polls; proposing coding for new law in Minnesota Statutes, chapter 211B.

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

The report was adopted.

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

H. F. No. 1593, A bill for an act relating to animals; imposing limits on ownership and possession of certain animals; requiring registration; providing criminal penalties; 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. [346.155] [OWNING DANGEROUS ANIMALS.]

Subdivision 1. [DEFINITIONS.] (a) The definitions in this subdivision apply to this section.

(b) "Person" means a natural person, firm, partnership, corporation, or association, however organized.

(c) "Wildlife sanctuary" means a 501(c)(3) nonprofit organization that:

(1) operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced wildlife are provided care for their lifetime;

(2) does not conduct any commercial activity with respect to any animal of which the organization is an owner; and

(3) does not buy, sell, trade, auction, lease, loan, or breed any animal of which the organization is an owner, except as an integral part of the species survival plan of the American Zoo and Aquarium Association.

(d) "Possess" means to own, care for, have custody of, or control.

(e) "Regulated animal" means:

(1) all members of the Felidae family including, but not limited to, lions, tigers, cougars, leopards, cheetahs, ocelots, and servals, but not including domestic cats or cats recognized as a domestic breed, registered as a domestic breed, and shown as a domestic breed by a national or international multibreed cat registry association;

(2) bears; and

(3) all nonhuman primates, including, but not limited to, lemurs, monkeys, chimpanzees, gorillas, orangutans, marmosets, lorises, and tamarins.

"Regulated animal" includes any hybrid or cross between an animal listed in clause (1), (2), or (3) and a domestic animal and offspring from all subsequent generations of those crosses or hybrids.

(f) "Local animal control authority" means an agency of the state, county, municipality, or other governmental subdivision of the state that is responsible for animal control operations in its jurisdiction.

Subd. 2. [POSSESSION OF REGULATED ANIMALS.] (a) Except as provided in this section, it is unlawful for a person to possess a regulated animal.

(b) A person who possesses a regulated animal on the effective date of this section has 120 days to come into compliance with regulations promulgated by the United States Department of Agriculture for regulated animals under the Animal Welfare Act, Public Law 89-544, and its subsequent amendments, and the regulations adopted under that act relating to facilities and operations, animal health and husbandry, and veterinary care for regulated animals.

(c) Except as provided in paragraph (e), a person must not take possession of a regulated animal after the effective date of this section.

(d) Except as provided in paragraph (e), only a person who possesses a valid United States Department of Agriculture license is allowed to breed regulated animals after the effective date of this section.

(e) Except as provided in paragraph (g), a person who possesses a valid United States Department of Agriculture license or is registered with a local animal control authority under this section and is in compliance with the United States Department of Agriculture Animal Welfare Act regulations and standards on the effective date of this section may breed, purchase, or otherwise acquire new regulated animals after the effective date of this section in order to maintain their inventory, or to sell regulated animals to other United States Department of Agriculture licensed and compliant facilities, to persons registered under this section, or to exempt facilities under subdivision 7. For purposes of this paragraph, "maintain their inventory" includes adding additional regulated animals as necessary to maintain their operation up to 125 percent of the number of regulated animals at the time of registration.

(f) Except as provided in paragraph (g), a person who does not hold a United States Department of Agriculture license for regulated animals and is in compliance with this section may replace a tiger or lion possessed by the person on the effective date of this section if the animal dies, but may replace it only once.

(g) If a regulated animal dies of neglect or cruelty, is seized pursuant to subdivision 5, or if the person is involved in illegal activities, the person cannot acquire a replacement animal.

Subd. 3. [REGISTRATION.] (a) Within 60 days after the effective date of this section, a person who possesses a regulated animal must notify in writing the local animal control authority using a registration form approved by the Board of Animal Health. The notification must include the person's name, address, telephone number, and a complete inventory of each regulated animal that the person possesses. The inventory shall include the following information: number and species of each regulated animal; the microchip number and manufacturer for each regulated animal if available; the exact location where each regulated animal is kept; and age, sex, color, weight, scars, and any distinguishing marks of each regulated animal.

(b) If a person who possesses a regulated animal has a microchip implanted in the animal for identification, the name of the microchip manufacturer and the identification number of the microchip must be provided to the local animal control authority.

(c) If a local animal control authority performs an initial site inspection, a fee of up to \$50 may be charged. An annual fee of \$25 per animal to register regulated animals up to a maximum of \$100 annually per person may be charged. The local animal control authority may charge an additional site inspection fee of \$50 if the person acquires and possesses another type of regulated animal. A certificate of registration must be issued by the local animal control authority to the person upon payment of the fee.

Subd. 4. [REQUIREMENTS.] (a) A person who possesses a regulated animal must maintain health and ownership records on each animal and must maintain the records for five years.

(b) A person who possesses a regulated animal must maintain an ongoing program of veterinary care which includes a veterinary visit to the premises at least annually.

(c) A person who possesses a regulated animal must notify the local animal control authority in writing within ten days of a change in address or location where the regulated animal is kept.

(d) A person who possesses a regulated animal must prominently display a sign on the enclosure where the animal is housed indicating the presence of a regulated animal.

(e) A person who possesses a regulated animal must notify, as soon as practicable, local law enforcement officials of any escape of a regulated animal. The person who possesses the regulated animal is liable for any costs incurred by any person, city, county, or state agency resulting from the escape of a regulated animal unless the escape is due to a criminal act or a natural event.

(f) A person who possesses a regulated animal must maintain a written recovery plan in the event of the escape of a regulated animal. The person must maintain a tranquilizer gun, tranquilizers, live traps, or other equipment necessary to assist in the recovery of the regulated animal.

(g) If a person who possesses a regulated animal can no longer care for the animal, the person shall take steps to find long-term placement for the regulated animal.

Subd. 5. [SEIZURE.] (a) If the local animal control authority determines that a person who possesses one or more regulated animals is not in compliance with the requirements of this section, the local animal control authority shall provide written notice and warning to the person and commence appropriate actions to seize the animal or animals.

(b) A person notified by the local animal control authority under paragraph (a) may submit to the local animal control authority a written request for a temporary permit to retain custody of the animal or animals for up to 30 days, during which time the person shall take all necessary actions to come into compliance. During the 30-day period, the local animal control authority may inspect, at any reasonable time, the premises where a regulated animal is kept.

(c) If a person who possesses one or more regulated animals is not in compliance with this section following the 30-day period allowed in paragraph (b), the local animal control authority may seize the animal or animals on the premises. The local animal control authority must provide a notice of the seizure by delivering and mailing it to the owner, by posting a copy of it at the place where the animal is taken into custody, or by delivering it to a person residing on the property and informing the owner by telephone, if possible. The notice must include:

(1) a description of the animal or animals seized;

(2) the authority and purpose for the seizure;

(3) the time, place, and circumstances under which the animal or animals were seized; and

(4) a contact person and telephone number.

(d) The notice provided to the person from whom a regulated animal was seized must include statements that:

(1) the person may post a security deposit with the local animal control authority to prevent disposition or destruction of the animal or animals;

(2) the person may fill out a form provided with the notice to request a hearing concerning the seizure;

(3) failure to post a security deposit within five business days following the date of the seizure may result in disposal or other disposition of the animal; and

(4) the actual costs of care, keeping, and disposal or destruction of the regulated animal will be the responsibility of the person from whom the animal was seized, except to the extent that a court finds that the seizure or impoundment was not substantially justified under law.

(e) If a person from whom a regulated animal was seized makes a written request within five days of the seizure, a hearing to determine the validity of the seizure must be held within an additional five business days. The judge may order the return of the animal to the person from whom the animal was seized if the judge finds:

(1) the person can and will provide the care required by law for the regulated animal; and

(2) the regulated animal is physically fit.

(f) If the judge orders a permanent disposition of the regulated animal, the local animal control authority may place the animal with a wildlife sanctuary, persons authorized by the Department of Natural Resources, or an appropriate United States Department of Agriculture licensed facility. If no such facility is available for disposition of the animal, the local animal control authority may order that the animal be destroyed.

(g) A person from whom a regulated animal is seized is liable for all the actual costs of care, keeping, and disposal or destruction of the animal, except to the extent that a judge finds that the seizure was not substantially justified by law. The costs shall be paid in full or a mutually satisfactory arrangement for payment must be made between the local animal control authority and the person claiming an interest in the animal before return of the animal to the person.

(h) A person from whom a regulated animal has been seized under this subdivision may prevent disposition of the animal by posting security in the amount sufficient to provide for the actual costs of care and keeping of the animal. The security must be posted within five business days of the seizure, inclusive of the day of the seizure.

(i) If circumstances exist that threaten the life of a person or the life of another animal, local law enforcement or the local animal control authority may seize a regulated animal without providing prior notice, notice at the time of seizure, or the opportunity for a hearing or court order.

Subd. 6. [DISPOSAL OF ANIMALS.] Upon proper determination by a Minnesota licensed veterinarian, any regulated animal taken into custody under this section may be immediately disposed of when the regulated animal is suffering and is beyond cure through reasonable care and treatment. The authority taking custody of the regulated animal may recover all costs incurred under this section.

Subd. 7. [EXEMPTIONS.] This section does not apply to:

(1) institutions accredited by the American Zoo and Aquarium Association;

(2) a wildlife sanctuary;

(3) fur-bearing animals, as defined in section 97A.015, possessed by a game farm that is licensed under section 97A.105, or bears possessed by a game farm that is licensed under section 97A.105;

(4) the Department of Natural Resources, or a person authorized by permit issued by the commissioner of natural resources pursuant to section 97A.401, subdivision 3;

(5) a Minnesota licensed or accredited research or medical institution; or

(6) a circus, carnival, rodeo, or county fair.

Subd. 8. [REPORT TO THE BOARD OF ANIMAL HEALTH.] By July 1 each year, local animal control authorities shall report to the Board of Animal Health on regulated animals registered with the local animal control authorities. The report shall include all registration information submitted to the local animal control authority under subdivision 3, paragraph (a), and information on enforcement actions taken under this section.

Subd. 9. [PENALTY.] A person who knowingly violates subdivision 2, 3, or 4 is guilty of a misdemeanor."

Delete the title and insert:

"A bill for an act relating to animals; regulating certain bears, primates, and members of the Felidae family; imposing a penalty; proposing coding for new law in Minnesota Statutes, chapter 346."

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

The report was adopted.

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

H. F. No. 1710, A bill for an act relating to employee benefits; providing that Minnesota Humanities Commission employees are eligible for certain state benefit programs; amending Minnesota Statutes 2003 Supplement, section 43A.24, subdivision 2.

Reported the same back with the following amendments:

Page 4, after line 22, insert:

"Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

With the recommendation that when so amended the bill pass and be placed on the Consent Calendar.

The report was adopted.

Haas from the Committee on State Government Finance to which was referred:

H. F. No. 1798, A bill for an act relating to state government; the Office of the Secretary of State; simplifying filing procedures; eliminating certain filing requirements; requiring electronic registration after December 31, 2004; regulating notary appointments and commissions; appropriating money; amending Minnesota Statutes 2002, sections 184.30; 302A.821, subdivisions 1, 2, 4; 308A.995, subdivision 5; 317A.823, subdivision 1, by adding a

subdivision; 322B.960, subdivisions 1, 2, 5; 325A.06, subdivision 1; 326.40, subdivision 2; 326.48, subdivision 3; 330.01, subdivision 1; 330.08; 330.09; 336.9-525; 340A.416, subdivision 4; 359.01; 359.071; 398.10; Minnesota Statutes 2003 Supplement, section 308B.121, subdivision 5.

Reported the same back with the following amendments:

Page 15, line 1, delete "2005-2006" and insert "2006-2007"

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

The report was adopted.

Haas from the Committee on State Government Finance to which was referred:

H. F. No. 1806, A bill for an act relating to real property; the electronic real estate recording task force created by Laws 2000, chapter 391; amending uncoded laws relating to that task force; extending the period of existence of the task force and the surcharge on filings appropriated to the task force; appropriating money; amending Laws 2000, chapter 391, section 1, subdivision 2; Laws 2001, First Special Session chapter 10, article 2, section 77; Laws 2002, chapter 365, section 9; Laws 2003, First Special Session chapter 1, article 2, section 123.

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

The report was adopted.

Haas from the Committee on State Government Finance to which was referred:

H. F. No. 1868, A bill for an act relating to elections; providing for periodic uniform election days for state and local elections, other than special elections to fill a vacancy; amending Minnesota Statutes 2002, sections 126C.17, subdivision 11; 204C.05, by adding a subdivision; 205.10, subdivision 3; 205A.05, subdivision 1; 373.40, subdivision 2; 375.20; 458.40; 469.053, subdivision 5; 469.0724; 469.190, subdivision 5; 475.58, subdivisions 1, 1a; 475.59; Minnesota Statutes 2003 Supplement, sections 123B.63, subdivision 3; 465.82, subdivision 2; 465.84; 475.521, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 204D; 205; 205A; repealing Minnesota Statutes 2002, sections 204C.05, subdivisions 1a, 1b; 205.175; 205A.09.

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

The report was adopted.

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

H. F. No. 1896, A bill for an act relating to health; providing an exemption from the hospital construction moratorium; amending Minnesota Statutes 2003 Supplement, section 144.551, subdivision 1.

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

The report was adopted.



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

H. F. No. 2000, A bill for an act relating to the environment; clarifying analysis of water table level for purposes of individual sewage treatment design.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 115.55, subdivision 3, is amended to read:

Subd. 3. [RULES.] (a) The agency shall adopt rules containing minimum standards and criteria for the design, location, installation, use, and maintenance of individual sewage treatment systems. The rules must include:

- (1) how the agency will ensure compliance under subdivision 2;
  - (2) how local units of government shall enforce ordinances under subdivision 2, including requirements for permits and inspection programs;
  - (3) how the advisory committee will participate in review and implementation of the rules;
  - (4) provisions for alternative systems;
  - (5) provisions for handling and disposal of effluent;
  - (6) provisions for system abandonment; and
  - (7) procedures for variances, including the consideration of variances based on cost and variances that take into account proximity of a system to other systems.
- (b) The agency shall consult with the advisory committee before adopting rules under this subdivision.
- (c) Notwithstanding the repeal of the agency rule under which the commissioner has established a list of warrantied individual sewage treatment systems, the warranties for all systems so listed as of the effective date of the repeal shall continue to be valid for the remainder of the warranty period.

(d) In addition to the rules authorized in paragraph (a), redoximorphic features encountered in the individual sewage treatment system design analysis or compliance inspection process that are associated with a redoximorphic zone in conjunction with a water table or seasonally saturated zone should generally agree with the other hydrologic or biologic information available at the site. Where there is disagreement, the individual sewage treatment system designer or inspector shall determine if there are scattered redoximorphic inclusions or evidence of some other geologic event no longer representative of the current seasonally saturated zone and now located in the unsaturated zone. To accomplish the determination of scattered inclusions, a minimum of three borings per system is required when a boring tool is used. To fail an existing system under vertical separation compliance requirements, a minimum of three borings must be taken and logged. All soil borings taken and logged for design and compliance criteria must be submitted to the local unit of government and landowner with design and compliance inspection

reports. When two inspectors disagree on findings, a soil pit or pits are required to make a final determination of compliance. This clause applies only to sand plain areas as identified by mapping of the Minnesota Geological Survey."

Amend the title as follows:

Page 1, line 4, after "design" insert "; amending Minnesota Statutes 2002, section 115.55, subdivision 3"

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 2020, A bill for an act relating to child protection; modifying requirements for a relative search; amending Minnesota Statutes 2002, section 260C.212, subdivision 5.

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

The report was adopted.

Gunther from the Committee on Jobs and Economic Development Finance to which was referred:

H. F. No. 2044, A bill for an act relating to state government; transferring tourism functions from Department of Employment and Economic Development to Explore Minnesota Tourism; appropriating money; amending Minnesota Statutes 2002, sections 116J.01, subdivision 5; 160.276, subdivision 5; Minnesota Statutes 2003 Supplement, sections 15.057; 15.75, subdivision 5; 116J.011; 116J.60; 161.20, subdivision 3; 270B.14, subdivision 13; proposing coding for new law as Minnesota Statutes, chapter 116U; repealing Minnesota Statutes 2002, sections 116J.01, subdivision 4; 116J.036; 116J.615; 116J.616; 116J.63, subdivision 4.

Reported the same back with the following amendments:

Page 5, line 35, after "ex-officio" insert "nonvoting"

Page 7, line 1, after "contract" insert ", in accordance with section 16C.08,"

Page 7, line 19, delete "contracts and" and insert "joint powers or cooperative"

Page 7, delete line 24 and insert "organizations as necessary to perform the"

Page 8, line 1, after "into" insert "tourism promotion"

Page 8, delete lines 6 and 7 and insert:

"(c) Contracts for goods and nonprofessional technical services made under paragraph (b), clauses (3) and (9), are not subject to the provisions of sections 16C.03, subdivision 3, and 16C.06 concerning competitive bidding and section 16C.055 concerning barter arrangements. Unless otherwise determined by the commissioner of administration, all other provisions of chapter 16C apply to this section, including section 16C.08, relating to professional and technical services."

Page 8, line 12, delete "An" and insert "Policies on promotional expenses must be approved by the Explore Minnesota Tourism Council and the commissioner of administration. A policy for expenditures on food, lodging, and travel must be approved by the commissioner of employee relations. No"

Page 8, delete lines 13 and 14

Page 9, after line 2, insert:

"Revenue under this section is governed by section 116U.50."

Page 9, line 17, after the period, insert "The gift acceptance procedures of sections 16A.013 to 16A.016 do not apply to this section."

Page 9, line 21, before the period, insert "for the purposes of section 116U.55. Positions of existing state employees must not be transferred to a nonprofit corporation or foundation"

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

The report was adopted.

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

H. F. No. 2087, A bill for an act relating to government data practices; collection and dissemination of data; proposing classifications of data as private and nonpublic; amending Minnesota Statutes 2002, sections 13.3805, by adding a subdivision; 13.44, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 13.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [13.203] [SERVICE COOPERATIVE CLAIMS DATA.]

Claims experience and all related information received from carriers and claims administrators participating in a group health or dental plan, including any long-term disability plan, offered through the Minnesota service cooperatives to Minnesota school districts and other political subdivisions, and survey information collected from employees and employers participating in these plans and programs, except when the executive director of a Minnesota service cooperative determines that release of the data will not be detrimental to the plan or program, are classified as nonpublic data not on individuals.

Sec. 2. Minnesota Statutes 2002, section 13.3805, is amended by adding a subdivision to read:

Subd. 3. [OFFICE OF HEALTH FACILITY COMPLAINTS; INVESTIGATIVE DATA.] All investigative data maintained by the Department of Health's Office of Health Facility Complaints are subject to the provisions of and classified pursuant to section 626.557, subdivision 12b, paragraphs (b) and (c).

Sec. 3. Minnesota Statutes 2002, section 13.43, subdivision 2, is amended to read:

Subd. 2. [PUBLIC DATA.] (a) Except for employees described in subdivision 5 and the limitations described in subdivision 5a, the following personnel data on current and former employees, volunteers, and independent contractors of a state agency, statewide system, or political subdivision and members of advisory boards or commissions is public:

(1) name; employee identification number, which must not be the employee's Social Security number; actual gross salary; salary range; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; and the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary;

(2) job title and bargaining unit; job description; education and training background; and previous work experience;

(3) date of first and last employment;

(4) the existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in a disciplinary action;

(5) the final disposition of any disciplinary action together with the specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the public body;

(6) the terms of any agreement settling any dispute arising out of an employment relationship, including a buyout agreement as defined in section 123B.143, subdivision 2, paragraph (a); except that the agreement must include specific reasons for the agreement if it involves the payment of more than \$10,000 of public money;

(7) work location; a work telephone number; badge number; and honors and awards received; and

(8) payroll time sheets or other comparable data that are only used to account for employee's work time for payroll purposes, except to the extent that release of time sheet data would reveal the employee's reasons for the use of sick or other medical leave or other not public data; ~~and city and county of residence.~~

(b) For purposes of this subdivision, a final disposition occurs when the state agency, statewide system, or political subdivision makes its final decision about the disciplinary action, regardless of the possibility of any later proceedings or court proceedings. In the case of arbitration proceedings arising under collective bargaining agreements, a final disposition occurs at the conclusion of the arbitration proceedings, or upon the failure of the employee to elect arbitration within the time provided by the collective bargaining agreement. Final disposition includes a resignation by an individual when the resignation occurs after the final decision of the state agency, statewide system, political subdivision, or arbitrator.

(c) The state agency, statewide system, or political subdivision may display a photograph of a current or former employee to a prospective witness as part of the state agency's, statewide system's, or political subdivision's investigation of any complaint or charge against the employee.

(d) A complainant has access to a statement provided by the complainant to a state agency, statewide system, or political subdivision in connection with a complaint or charge against an employee.

(e) Notwithstanding paragraph (a), clause (5), upon completion of an investigation of a complaint or charge against a public official, or if a public official resigns or is terminated from employment while the complaint or charge is pending, all data relating to the complaint or charge are public, unless access to the data would jeopardize an active investigation or reveal confidential sources. For purposes of this paragraph, "public official" means:

- (1) the head of a state agency and deputy and assistant state agency heads;
- (2) members of boards or commissions required by law to be appointed by the governor or other elective officers; and
- (3) executive or administrative heads of departments, bureaus, divisions, or institutions.

Sec. 4. Minnesota Statutes 2002, section 13.43, is amended by adding a subdivision to read:

Subd. 5a. [LIMITATION ON DISCLOSURE OF CERTAIN PERSONNEL DATA.] Notwithstanding any other provision of this section, the following data relating to employees of a secure treatment facility defined in section 253B.02, subdivision 18a, employees of a state correctional facility, or employees of the Department of Corrections directly involved in supervision of offenders in the community, shall not be disclosed to facility patients, corrections inmates, or other individuals whom facility or correction administrators reasonably believe will use the information to harass, intimidate, or assault any such employees: city and county of residence; place where previous education or training occurred; place of prior employment; payroll timesheets or other comparable data, to the extent that such data may disclose future work assignments; home address or telephone number; the location of employees during nonwork hours; or the location of employees' immediate family members.

Sec. 5. Minnesota Statutes 2002, section 13.44, is amended by adding a subdivision to read:

Subd. 4. [PERSONAL AND INTANGIBLE PROPERTY; APPRAISAL DATA.] Preliminary and final market value appraisals, which are made by personnel of a city or by an independent appraiser acting on behalf of a city, of personal and intangible property owned by the city, are classified as nonpublic data not on individuals until either (1) a purchase agreement is entered into; or (2) the parties negotiating the transaction exchange appraisals.

Sec. 6. Minnesota Statutes 2002, section 13.46, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] As used in this section:

(a) "Individual" means an individual according to section 13.02, subdivision 8, but does not include a vendor of services.

(b) "Program" includes all programs for which authority is vested in a component of the welfare system according to statute or federal law, including, but not limited to, the aid to families with dependent children program formerly codified in sections 256.72 to 256.87, Minnesota family investment program, temporary assistance for needy families program, medical assistance, general assistance, general assistance medical care, child care assistance program, and child support collections.

(c) "Welfare system" includes the Department of Human Services, local social services agencies, county welfare agencies, private licensing agencies, the public authority responsible for child support enforcement, human services boards, community mental health center boards, state hospitals, state nursing homes, the ombudsman for mental health and mental retardation, and persons, agencies, institutions, organizations, and other entities under contract to any of the above agencies to the extent specified in the contract.

(d) "Mental health data" means data on individual clients and patients of community mental health centers, established under section 245.62, mental health divisions of counties and other providers under contract to deliver mental health services, or the ombudsman for mental health and mental retardation.

(e) "Fugitive felon" means a person who has been convicted of a felony and who has escaped from confinement or violated the terms of probation or parole for that offense.

(f) "Private licensing agency" means an agency licensed by the commissioner of human services under chapter 245A to perform the duties under section 245A.16.

Sec. 7. Minnesota Statutes 2003 Supplement, 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 verify an individual's identity; determine eligibility, amount of assistance, and the need to provide services ~~of additional programs to the~~ an individual or family across programs; evaluate the effectiveness of programs; and investigate suspected fraud;

(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 to the Department of Revenue to administer and evaluate tax refund or tax credit programs and to identify individuals who may benefit from these programs. The following information may be disclosed under this clause: an individual's and their dependent's names, dates of birth, 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 Tax refund or tax credit programs include, but are not limited to, the dependent care credit under section 290.067, the Minnesota working family credit under section 290.0671, the property tax refund and rental credit 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 the Minnesota education credit under section 290.0674;~~

(9) between the Department of Human Services, the Department of Education, and the Department of Employment and Economic Security Development 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 support, 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 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 support 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 support 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 support 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 Education for the purpose of matching Department of Education 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 Education, on recipients and former recipients of food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;

(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; or



(29) counties operating child care assistance programs under chapter 119B may disseminate data on program participants, applicants, and providers to the commissioner of education.

(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).

For the purposes of this subdivision, a request will be deemed to be made in writing if made through a computer interface system.

Sec. 8. Minnesota Statutes 2002, section 13.46, subdivision 7, is amended to read:

Subd. 7. [MENTAL HEALTH CENTER DATA.] (a) Mental health data are private data on individuals and shall not be disclosed, except:

(1) pursuant to section 13.05, as determined by the responsible authority for the community mental health center, mental health division, or provider;

(2) pursuant to court order;

(3) pursuant to a statute specifically authorizing access to or disclosure of mental health data or as otherwise provided by this subdivision; or

(4) with the consent of the client or patient.

(b) An agency of the welfare system may not require an individual to consent to the release of mental health data as a condition for receiving services or for reimbursing a community mental health center, mental health division of a county, or provider under contract to deliver mental health services.

(c) Notwithstanding section 245.69, subdivision 2, paragraph (f), or any other law to the contrary, the responsible authority for a community mental health center, mental health division of a county, or a mental health provider must disclose mental health data to a law enforcement agency if the law enforcement agency provides the name of a client or patient and communicates that the:

(1) client or patient is currently involved in an emergency interaction with the law enforcement agency; and

(2) data is necessary to protect the health or safety of the client or patient or of another person.

The scope of disclosure under this paragraph is limited to the minimum necessary for law enforcement to respond to the emergency and to protect the health and safety of the client or patient and other persons. Disclosure under this paragraph may include, but is not limited to, the name and telephone number of the psychiatrist, psychologist, therapist, mental health professional, practitioner, or case manager of the client or patient. A law enforcement agency that obtains mental health data under this paragraph shall maintain a record of the requestor, the provider of the information, and the client or patient name. The record maintained by the law enforcement agency is private data on individuals.

(d) In the event of a request under paragraph (a), clause (4), a community mental health center, county mental health division, or provider may release mental health data to criminal mental health court personnel in advance of receiving a copy of a consent if the criminal mental health court personnel communicate that the:

(1) client or patient is a defendant in a criminal case pending in the district court;

(2) data being requested is limited to information that is necessary to assess whether the defendant is eligible for participation in the criminal mental health court; and

(3) client or patient has consented to the release of the mental health data and a copy of the consent will be provided to the community mental health center, county mental health division, or provider within 72 hours of the release of the data.

For purposes of this paragraph, "criminal mental health court" refers to a specialty criminal calendar of the Hennepin County District Court for defendants with mental illness and brain injury where a primary goal of the calendar is to assess the treatment needs of the defendants and to incorporate those treatment needs into voluntary case disposition plans. This paragraph does not in any way limit the rights of the court to obtain the release of mental health data pursuant to court order or any other means allowed by law.

Sec. 9. Minnesota Statutes 2002, section 13.461, is amended by adding a subdivision to read:

Subd. 28. [CHILD CARE ASSISTANCE PROGRAM.] Data collected, maintained, used, or disseminated by the welfare system pertaining to persons selected as legal nonlicensed child care providers by families receiving child care assistance are classified under section 119B.02, subdivision 6.

Sec. 10. Minnesota Statutes 2002, section 13.47, subdivision 4, is amended to read:

Subd. 4. [DATA PREPARATION.] To produce data required to certify the eligibility of training service providers under ~~section 268.0122, subdivision 3, clause (7)~~, the Workforce Investment Act of 1998, United States Code, title 29, section 2801, or other studies required by law, the commissioner of ~~economic security, in consultation with the governor's Workforce Development Council~~, employment and economic development may:

(1) enter into a data exchange agreement with a training service provider whereby the commissioner of ~~economic security~~ employment and economic development shall furnish to the provider wage information under section 268.044 on individuals who have received training services from the provider. The provider shall use this wage information to prepare summary data determined necessary by the commissioner ~~in consultation with the governor's Workforce Development Council~~. The provider may use this wage information for conducting studies to improve instruction; or

(2) if there is no agreement under clause (1), require the training service provider to furnish employment and training data determined necessary by the commissioner ~~in consultation with the governor's Workforce Development Council~~.

Sec. 11. Minnesota Statutes 2002, section 13.51, subdivision 2, is amended to read:

Subd. 2. [INCOME PROPERTY ASSESSMENT DATA.] The following data collected by political subdivisions from individuals or business entities concerning income properties are classified as private or nonpublic data pursuant to section 13.02, subdivisions 9 and 12:

(a) detailed income and expense figures ~~for the current year plus the previous three years;~~

- (b) average vacancy factors ~~for the previous three years~~;
- (c) verified net rentable areas or net usable areas, whichever is appropriate;
- (d) anticipated income and expenses ~~for the current year~~;
- (e) projected vacancy ~~factor for the current year~~ factors; and
- (f) lease information.

Sec. 12. Minnesota Statutes 2002, section 13.598, as amended by Laws 2003, First Special Session chapter 4, section 1, is amended to read:

13.598 [EMPLOYMENT AND ECONOMIC DEVELOPMENT DATA CODED ELSEWHERE.]

Subdivision 1. [SCOPE.] The sections referred to in subdivisions ~~2~~ 2a to ~~6~~ 12 are codified outside this chapter and include classification of employment and economic development data as other than public, place restrictions on access to government data, or involve data sharing.

Subd. 2a. [COMMISSIONER OF EMPLOYMENT AND ECONOMIC DEVELOPMENT.] Data maintained by the commissioner of employment and economic development are classified under sections 268.19 and 469.154, subdivision 2.

Subd. 3. [MINNESOTA TECHNOLOGY, INC.] Data on a tape of a closed board meeting of Minnesota Technology, Inc. are classified under section 116O.03, subdivision 6. Certain data disclosed to the board or employees of Minnesota Technology, Inc. are classified under section 116O.03, subdivision 7.

Subd. 4. [AIRCRAFT FACILITIES.] Specified data about an airline submitted in connection with state financing of certain aircraft maintenance facilities are classified under section 116R.02, subdivision 3.

Subd. 5. [MINNESOTA BUSINESS FINANCE, INC.] Various data held by Minnesota Business Finance, Inc. are classified under section 116S.02, subdivision 8.

Subd. 6. [LOCAL ECONOMIC DEVELOPMENT DATA.] (a) [PRELIMINARY INFORMATION.] Access to preliminary information submitted to the commissioner of employment and economic development under sections 469.142 to 469.151 or sections 469.152 to 469.165 is limited under section 469.154, subdivision 2.

(b) [ENTERPRISE ZONES.] Data sharing between the commissioner of revenue and the commissioner of employment and economic development or a municipality receiving an enterprise zone designation is governed by section 469.173, subdivision 5.

(c) [TAX INCENTIVES.] Disclosure of data by the Department of Revenue to determine eligibility for tax incentives available under section 272.0212, 469.1732, or 469.1734, is governed by section 469.1733, subdivision 1.

Subd. 7. [PROGRAM DATA.] Program data collected on individuals are classified by section 268.0122, subdivision 7.

Subd. 8. [UNEMPLOYMENT INSURANCE HEARINGS.] Disclosure of unemployment insurance hearing data is governed by section 268.105, subdivision 5.

Subd. 9. [MINNESOTA YOUTH PROGRAM.] Data on individuals under the Minnesota youth program are classified under section 268.561, subdivision 7.

Subd. 10. [EMPLOYMENT AND TRAINING PROGRAMS; DATA SHARING.] Data sharing of employment and training program data between the commissioner of employment and economic development, the commissioner of human services, state agency personnel, and other users of the inventory, referral, and intake system, is governed by section 268.86, subdivision 10.

Subd. 11. [VOCATIONAL REHABILITATION DATA.] Disclosure of data obtained by the Department of Employment and Economic Development regarding the vocational rehabilitation of an injured or disabled employee is governed by section 268A.05.

Subd. 12. [EMPLOYER DATA.] The department may disseminate an employer's name, address, industry code, and the number of employees by ranges of not less than 100 for the purpose of assisting individuals using the Minnesota Workforce Center system in obtaining employment.

Sec. 13. Minnesota Statutes 2002, section 13.7931, is amended by adding a subdivision to read:

Subd. 1a. [SPECIFIC LOCATION DATA.] Specific location data are classified under section 84.0872.

Sec. 14. Minnesota Statutes 2002, section 13.82, subdivision 5, is amended to read:

Subd. 5. [DOMESTIC ABUSE DATA.] The written police report required by section 629.341, subdivision 4, of an alleged incident described in section 629.341, subdivision 1, and arrest data, request for service data, and response or incident data described in subdivision 2, 3, or 6 that arise out of this type of incident or out of an alleged violation of an order for protection must be released upon request at no cost to the victim of domestic abuse, the victim's attorney, or an organization designated by the Minnesota Center for Crime Victims Services, the Department of Corrections, or the Department of Public Safety as providing services to victims of domestic abuse. The executive director or the commissioner of the appropriate state agency shall develop written criteria for this designation in consultation with the Advisory Council on Battered Women and Domestic Abuse.

Sec. 15. Minnesota Statutes 2002, section 13.871, is amended by adding a subdivision to read:

Subd. 1a. [MENTAL HEALTH DATA RECEIVED BY LAW ENFORCEMENT.] Access to a record of certain mental health data received by law enforcement from health care providers is governed by section 144.335, subdivision 3a.

Sec. 16. [84.0872] [SPECIFIC LOCATION DATA.]

Subdivision 1. [DEFINITION; GENERAL CLASSIFICATION.] As used in this section, "specific location data" means data that would enable persons to locate the protected wild animal or endangered, threatened, or special concern plant or animal identified by the data. Specific location data are public data unless otherwise classified in this section.

Subd. 2. [NONPUBLIC DATA.] Specific location data procured by the Department of Natural Resources that identify protected wild animals, as defined under section 97A.015, subdivision 39, or species that are designated endangered, threatened, or of special concern under section 84.0895, subdivision 3, are classified as nonpublic data if disclosure is likely to:

(1) hinder management, propagation, or research;

(2) facilitate unfair chase or illegal taking, transport, or sale; or

(3) decrease the likelihood of establishing a protected wild animal or bringing an endangered, threatened, or special concern species to a point at which it is no longer endangered, threatened, or of special concern.

The commissioner upon request shall explain the basis for classifying specific location data as nonpublic data.

Subd. 3. [DISCLOSURE.] The commissioner may disclose data classified as nonpublic under subdivision 2 to a person, an agency, or the public if the commissioner determines that the disclosure will promote public benefit by:

(1) aiding the environmental review process;

(2) aiding research, education, or conservation planning; or

(3) providing information to landowners about locations occurring on the landowners' property, if provision of the information will promote protection of the resource.

Sec. 17. Minnesota Statutes 2002, section 119B.02, subdivision 6, is amended to read:

Subd. 6. [DATA.] ~~Data on individuals collected by the commissioner for purposes of administering this chapter are private data on individuals as defined in section 13.02.~~ Data collected, maintained, used, or disseminated by the welfare system pertaining to persons selected as legal nonlicensed child care providers by families receiving child care assistance shall be treated as licensing data as provided in section 13.46, subdivision 4.

Sec. 18. Minnesota Statutes 2002, section 144.2215, is amended to read:

144.2215 [BIRTH DEFECTS REGISTRY SYSTEM.]

The commissioner of health shall develop a statewide birth defects registry system to provide for the collection, analysis, and dissemination of birth defects information. The commissioner shall consult with representatives and experts in epidemiology, medicine, insurance, health maintenance organizations, genetics, consumers, and voluntary organizations in developing the system and may phase in the implementation of the system. Informed, separate parent consent is required prior to accessing medical record data or placing information in the birth defects registry system.

Sec. 19. Minnesota Statutes 2002, section 144.335, subdivision 3a, is amended to read:

Subd. 3a. [PATIENT CONSENT TO RELEASE OF RECORDS; LIABILITY.] (a) A provider, or a person who receives health records from a provider, may not release a patient's health records to a person without a signed and dated consent from the patient or the patient's legally authorized representative authorizing the release, unless the release is specifically authorized by law. Except as provided in paragraph (c) or (d), a consent is valid for one year or for a lesser period specified in the consent or for a different period provided by law.

(b) This subdivision does not prohibit the release of health records:

(1) for a medical emergency when the provider is unable to obtain the patient's consent due to the patient's condition or the nature of the medical emergency; or

(2) to other providers within related health care entities when necessary for the current treatment of the patient.

(c) Notwithstanding paragraph (a), if a patient explicitly gives informed consent to the release of health records for the purposes and pursuant to the restrictions in clauses (1) and (2), the consent does not expire after one year for:

(1) the release of health records to a provider who is being advised or consulted with in connection with the current treatment of the patient;

(2) the release of health records to an accident and health insurer, health service plan corporation, health maintenance organization, or third-party administrator for purposes of payment of claims, fraud investigation, or quality of care review and studies, provided that:

(i) the use or release of the records complies with sections 72A.49 to 72A.505;

(ii) further use or release of the records in individually identifiable form to a person other than the patient without the patient's consent is prohibited; and

(iii) the recipient establishes adequate safeguards to protect the records from unauthorized disclosure, including a procedure for removal or destruction of information that identifies the patient.

(d) Notwithstanding paragraph (a), health records may be released to an external researcher solely for purposes of medical or scientific research only as follows:

(1) health records generated before January 1, 1997, may be released if the patient has not objected or does not elect to object after that date;

(2) for health records generated on or after January 1, 1997, the provider must:

(i) disclose in writing to patients currently being treated by the provider that health records, regardless of when generated, may be released and that the patient may object, in which case the records will not be released; and

(ii) use reasonable efforts to obtain the patient's written general authorization that describes the release of records in item (i), which does not expire but may be revoked or limited in writing at any time by the patient or the patient's authorized representative;

(3) authorization may be established if an authorization is mailed at least two times to the patient's last known address with a postage prepaid return envelope and a conspicuous notice that the patient's medical records may be released if the patient does not object, and at least 60 days have expired since the second notice was sent; and the provider must advise the patient of the rights specified in clause (4); and

(4) the provider must, at the request of the patient, provide information on how the patient may contact an external researcher to whom the health record was released and the date it was released.

In making a release for research purposes the provider shall make a reasonable effort to determine that:

(i) the use or disclosure does not violate any limitations under which the record was collected;

(ii) the use or disclosure in individually identifiable form is necessary to accomplish the research or statistical purpose for which the use or disclosure is to be made;

(iii) the recipient has established and maintains adequate safeguards to protect the records from unauthorized disclosure, including a procedure for removal or destruction of information that identifies the patient; and

(iv) further use or release of the records in individually identifiable form to a person other than the patient without the patient's consent is prohibited.

(e) A person who negligently or intentionally releases a health record in violation of this subdivision, or who forges a signature on a consent form, or who obtains under false pretenses the consent form or health records of another person, or who, without the person's consent, alters a consent form, is liable to the patient for compensatory damages caused by an unauthorized release, plus costs and reasonable attorney's fees.

(f) Upon the written request of a spouse, parent, child, or sibling of a patient being evaluated for or diagnosed with mental illness, a provider shall inquire of a patient whether the patient wishes to authorize a specific individual to receive information regarding the patient's current and proposed course of treatment. If the patient so authorizes, the provider shall communicate to the designated individual the patient's current and proposed course of treatment. Paragraph (a) applies to consents given under this paragraph.

(g) Notwithstanding paragraph (a), a provider must disclose health records relating to a patient's mental health to a law enforcement agency if the law enforcement agency provides the name of the patient and communicates that the:

(1) patient is currently involved in an emergency interaction with the law enforcement agency; and

(2) disclosure of the records is necessary to protect the health or safety of the patient or of another person.

The scope of disclosure under this paragraph is limited to the minimum necessary for law enforcement to respond to the emergency and to protect the health and safety of the patient and other persons. A law enforcement agency that obtains health records under this paragraph shall maintain a record of the requestor, the provider of the information, and the patient's name. The record maintained by the law enforcement agency is private data on individuals, as defined in section 13.02.

(h) In cases where a provider releases health records without patient consent as authorized by law, the release must be documented in the patient's health record. In the case of a release under paragraph (g), the documentation must include the date and circumstances under which the release was made, the person or agency to whom the release was made, and the records that were released.

Sec. 20. Minnesota Statutes 2002, section 144.335, is amended by adding a subdivision to read:

Subd. 3d. [MINNESOTA PARTNERSHIP FOR BIOTECHNOLOGY AND MEDICAL GENOMICS.] A separate informed patient consent is required for medical research conducted through the Minnesota Partnership for Biotechnology and Medical Genomics.

Unless a family member objects, genetic research may be carried out on individuals who have died prior to the effective date of this section. A conspicuous notice of the right to object must be posted in public places at institutions participating in the Minnesota Partnership for Biotechnology and Medical Genomics.

Sec. 21. Minnesota Statutes 2003 Supplement, section 268.19, subdivision 1, is amended to read:

Subdivision 1. [USE OF DATA.] (a) Except as otherwise provided by this section, data gathered from any ~~employer or individual person~~ pursuant to the administration of the Minnesota Unemployment Insurance Law are private data on individuals or nonpublic data not on individuals as defined in section 13.02, subdivisions 9 and 12, and may not be disclosed except pursuant to a court order or section 13.05. A subpoena shall not be considered a court order. These data may be disseminated to and used by the following agencies without the consent of the subject of the data:

- (1) state and federal agencies specifically authorized access to the data by state or federal law;
- (2) any agency of ~~Minnesota or any other state~~; or any federal agency charged with the administration of an ~~employment security law or unemployment insurance program~~;
- (3) ~~any agency responsible for the maintenance of a system of public employment offices for the purpose of assisting individuals in obtaining employment~~;
- (~~3~~) (4) human rights agencies within Minnesota that have enforcement powers;
- (~~4~~) (5) the Department of Revenue ~~must have access to department private data on individuals and nonpublic data not on individuals~~ only to the extent necessary for enforcement of its duties under Minnesota tax laws;
- (~~5~~) (6) public and private agencies responsible for administering publicly financed assistance programs for the purpose of monitoring the eligibility of the program's recipients;
- (~~6~~) (7) the Department of Labor and Industry on an interchangeable basis with the department ~~subject to the following limitations and regardless of any law to the contrary~~:
  - (i) ~~the department must have access to private data on individuals and nonpublic data not on individuals for uses consistent with the administration of its duties under the Minnesota Unemployment Insurance Law; and~~
  - (ii) ~~the Department of Labor and Industry must have access to private data on individuals and nonpublic data not on individuals for uses consistent with the administration of its duties under Minnesota law;~~
- (~~7~~) the Department of Employment and Economic Development ~~may have access to private data on individual employers and nonpublic data not on individual employers for its internal use only; when received by the Department of Employment and Economic Development, the data remain private data on individuals or nonpublic data~~;
- (8) local and state welfare agencies for monitoring the eligibility of the data subject for assistance programs, or for any employment or training program administered by those agencies, whether alone, in combination with another welfare agency, or in conjunction with the department or to monitor and evaluate the statewide Minnesota family investment program by providing data on recipients and former recipients of food stamps or food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;
- (9) local, state, and federal law enforcement agencies for the sole purpose of ascertaining the last known address and employment location of ~~the data subject, provided the data subject~~ a person who is the subject of a criminal investigation;
- (10) the federal Immigration and Naturalization Service shall have access to data on specific individuals and specific employers provided the specific individual or specific employer is the subject of an investigation by that agency; and
- (11) the Department of Health ~~may have access to private data on individuals and nonpublic data not on individuals~~ solely for the purposes of epidemiologic investigations.
  - (b) Data on individuals and employers that are collected, maintained, or used by the department in an investigation pursuant to section 268.182 are confidential as to data on individuals and protected nonpublic data not on individuals as defined in section 13.02, subdivisions 3 and 13, and must not be disclosed except pursuant to statute or court order or to a party named in a criminal proceeding, administrative or judicial, for preparation of a defense.



~~(c) Tape recordings and transcripts of recordings of proceedings conducted in accordance with section 268.105 and exhibits received into evidence at those proceedings are private data on individuals and nonpublic data not on individuals and must be disclosed only pursuant to the administration of section 268.105, or pursuant to a court order.~~

~~(d) The department may disseminate an employer's name, address, industry code, occupations employed, and the number of employees by ranges of not less than 100 for the purpose of assisting individuals using the Minnesota Workforce Center system in obtaining employment.~~

~~(e) The general aptitude test battery and the nonverbal aptitude test battery as administered by the department are private data on individuals or nonpublic data.~~

~~(f) Data gathered by the department pursuant to the administration of the Minnesota unemployment insurance program and the job service must not be made the subject or the basis for any suit in any civil proceedings, administrative or judicial, unless the action is initiated by the department.~~

Sec. 22. Minnesota Statutes 2003 Supplement, section 268.19, subdivision 2, is amended to read:

Subd. 2. [EMPLOYER INFORMATION; ABSOLUTE PRIVILEGE.] (a) Regardless of any provision of law to the contrary, an employer may provide the commissioner with information on an applicant so that the commissioner can determine an applicant's entitlement to unemployment benefits under the Minnesota Unemployment Insurance Law.

(b) The commissioner may disseminate an employer's name and address and the name and address of any employer's unemployment insurance processing agent in order to administer the Minnesota unemployment insurance program.

(c) Information obtained pursuant to the Minnesota Unemployment Insurance Law, in order to determine an applicant's entitlement to unemployment benefits, shall be absolutely privileged and shall not be made the subject matter or the basis for any civil proceeding, administrative, or judicial.

Sec. 23. Minnesota Statutes 2002, section 270B.14, subdivision 2, is amended to read:

Subd. 2. [DISCLOSURE TO DEPARTMENT OF EMPLOYMENT AND ECONOMIC SECURITY DEVELOPMENT.] (a) Data relating to individuals are treated as follows:

(1) Return information may be disclosed to the Department of Employment and Economic Security Development to the extent provided in clause (2) and for the purposes provided in clause (3).

(2) The data that may be disclosed is limited to the amount of gross income earned by an individual, the total amounts of earnings from each employer, and the employer's name.

(3) Data may be requested pertaining only to individuals who have claimed benefits under sections 268.03 to 268.23 and only if the individuals are the subject of investigations based on other information available to the Department of Employment and Economic Security Development. Data received may be used only as set forth in section 268.19, ~~clause (d) subdivision 1, paragraph (b).~~

(b) Data pertaining to corporations or other employing units may be disclosed to the Department of Employment and Economic Security Development to the extent necessary for the proper enforcement of chapter 268.

Sec. 24. Minnesota Statutes 2002, section 278.05, subdivision 3, is amended to read:

Subd. 3. [ASSESSOR'S RECORDS; EVIDENCE.] Assessor's records, including certificates of real estate value, assessor's field cards and property appraisal cards shall be made available to the petitioner for inspection and copying and may be offered at the trial subject to section 13.51, the applicable rules of evidence and rules governing pretrial discovery ~~and shall not be excluded from discovery or admissible evidence on the grounds that the documents and the information recorded thereon are confidential or classified as private data on individuals. Notwithstanding any provision of law to the contrary, pretrial discovery is not permitted of assessor's data which are classified as private or nonpublic under section 13.51 or by court order, of property which is not subject to the petition.~~ Evidence of comparable sales of other property shall, within the discretion of the court, be admitted at the trial.

Sec. 25. Minnesota Statutes 2002, section 629.341, subdivision 4, is amended to read:

Subd. 4. [REPORT REQUIRED.] Whenever a peace officer investigates an allegation that an incident described in subdivision 1 has occurred, whether or not an arrest is made, the officer shall make a written police report of the alleged incident. The report must contain at least the following information: the name, address and telephone number of the victim, if provided by the victim, a statement as to whether an arrest occurred, the name of the arrested person, and a brief summary of the incident. Data that identify a victim who has made a request under section 13.82, subdivision 17, paragraph (d), and that are private data under that subdivision, shall be private in the report required by this section. A copy of this report must be provided upon request, at no cost, to the victim of domestic abuse, the victim's attorney, or organizations designated by the Minnesota Crime Victims Services Center, the Department of Public Safety, or the commissioner of corrections that are providing services to victims of domestic abuse. The officer shall submit the report to the officer's supervisor or other person to whom the employer's rules or policies require reports of similar allegations of criminal activity to be made.

Sec. 26. [REPEALER.]

Minnesota Statutes 2002, sections 13.319, subdivision 7; and 13.475, are repealed.

Sec. 27. [EFFECTIVE DATE.]

Sections 14 and 25 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to data practices; providing for the classification and dissemination of various data; making clarifying, conforming, and technical changes; amending Minnesota Statutes 2002, sections 13.3805, by adding a subdivision; 13.43, subdivision 2, by adding a subdivision; 13.44, by adding a subdivision; 13.46, subdivisions 1, 7; 13.461, by adding a subdivision; 13.47, subdivision 4; 13.51, subdivision 2; 13.598, as amended; 13.7931, by adding a subdivision; 13.82, subdivision 5; 13.871, by adding a subdivision; 119B.02, subdivision 6; 144.2215; 144.335, subdivision 3a, by adding a subdivision; 270B.14, subdivision 2; 278.05, subdivision 3; 629.341, subdivision 4; Minnesota Statutes 2003 Supplement, sections 13.46, subdivision 2; 268.19, subdivisions 1, 2; proposing coding for new law in Minnesota Statutes, chapters 13; 84; repealing Minnesota Statutes 2002, sections 13.319, subdivision 7; 13.475."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 2095, A bill for an act relating to mortgage foreclosure; providing for a new law to regulate foreclosure reconveyance; establishing licensure for foreclosure purchasers; adding a notice to homeowners in foreclosure; amending Minnesota Statutes 2002, section 580.03; proposing coding for new law in Minnesota Statutes, chapters 325E; 580.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"FORECLOSURE CONSULTANTS

Section 1. [325N.01] [INTENT AND PURPOSE.]

(a) The legislature finds and declares that homeowners whose residences are in foreclosure are subject to fraud, deception, harassment, and unfair dealing by foreclosure consultants from the time of the beginning of foreclosure proceedings until the time of the foreclosure sale. Foreclosure consultants represent that they can assist homeowners who have defaulted on obligations secured by their residences. These foreclosure consultants, however, often charge high fees, the payment of which is often secured by a mortgage on the residence to be saved, and perform no service or essentially a worthless service. Homeowners, relying on the foreclosure consultants' promises of help, take no other action, are diverted from lawful businesses which could render beneficial services, and often lose their homes, sometimes to the foreclosure consultants who purchase homes at a fraction of their value before the sale.

(b) The legislature further finds and declares that foreclosure consultants have a significant impact on the economy of this state and on the welfare of its citizens.

(c) The intent and purposes of sections 325N.01 to 325N.10 are to require that foreclosure consultant service agreements be expressed in writing, to safeguard the public against deceit and financial hardship, to permit rescission of foreclosure consultation contracts, to prohibit representations that tend to mislead, and to encourage fair dealing in the rendition of foreclosure services.

(d) Sections 325N.01 to 325N.10 must be liberally construed to effectuate this intent and to achieve these purposes.

Sec. 2. [325N.02] [DEFINITIONS.]

The definitions in paragraphs (a) to (h) apply to sections 325N.01 to 325N.10.

(a) "Foreclosure consultant" means any person who, directly or indirectly, makes any solicitation, representation, or offer to any owner to perform for compensation or who, for compensation, performs any service which the person in any manner represents will in any manner do any of the following:

(1) stop or postpone the foreclosure sale;

(2) obtain any forbearance from any beneficiary or mortgagee;

(3) assist the owner to exercise the right or reinstatement provided in section 580.30;

(4) obtain any extension of the period within which the owner may reinstate the owner's obligation;

(5) obtain any waiver of an acceleration clause contained in any promissory note or contract secured by a mortgage on a residence in foreclosure or contained in the mortgage;

(6) assist the owner in foreclosure or loan default to obtain a loan or advance of funds;

(7) avoid or ameliorate the impairment of the owner's credit resulting from the recording of a notice of default or the conduct of a foreclosure sale; or

(8) save the owner's residence from foreclosure.

(b) A foreclosure consultant does not include any of the following:

(1) a person licensed to practice law in this state when the person renders service in the course of his or her practice as an attorney-at-law;

(2) a person licensed as a debt prorater under sections 332.12 to 332.29, when the person is acting as a debt prorater as defined in these sections;

(3) a person licensed as a real estate broker or salesperson under chapter 82 when the person engages in acts whose performance requires licensure under that chapter unless the person is engaged in offering services designed to, or purportedly designed to, enable the owner to retain possession of the residence in foreclosure;

(4) a person licensed as an accountant under chapter 326A when the person is acting in any capacity for which the person is licensed under those provisions;

(5) a person or the person's authorized agent acting under the express authority or written approval of the Department of Housing and Urban Development or other department or agency of the United States or this state to provide services;

(6) a person who holds or is owed an obligation secured by a lien on any residence in foreclosure when the person performs services in connection with this obligation or lien if the obligation or lien did not arise as the result of or as part of a proposed foreclosure reconveyance;

(7) any person or entity doing business under any law of this state, or of the United States relating to banks, trust companies, savings and loan associations, industrial loan and thrift companies, regulated lenders, credit unions, insurance companies, or a mortgagee which is a United States Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of these persons or entities, and any agent or employee of these persons or entities while engaged in the business of these persons or entities;

(8) a person licensed as a residential mortgage originator or servicer pursuant to chapter 58, when acting under the authority of that license or a foreclosure purchaser as defined in section 325N.12; and

(9) a nonprofit agency or organization that offers counseling or advice to an owner of a home in foreclosure or loan default if they do not contract for services with for-profit lenders or foreclosure purchasers.

(c) "Foreclosure reconveyance" means a transaction involving:

(1) the transfer of title to real property by a foreclosed homeowner during a foreclosure proceeding, either by transfer of interest from the foreclosed homeowner or by creation of a mortgage or other lien or encumbrance during the foreclosure process that allows the acquirer to obtain title to the property by redeeming the property as a junior lienholder; and

(2) the subsequent conveyance, or promise of a subsequent conveyance, of an interest back to the foreclosed homeowner by the acquirer or a person acting in participation with the acquirer that allows the foreclosed homeowner to possess the real property following the completion of the foreclosure proceeding, which interest includes, but is not limited to, an interest in a contract for deed, purchase agreement, option to purchase, or lease.

(d) "Person" means any individual, partnership, corporation, limited liability company, association, or other group, however organized.

(e) "Service" means and includes, but is not limited to, any of the following:

(1) debt, budget, or financial counseling of any type;

(2) receiving money for the purpose of distributing it to creditors in payment or partial payment of any obligation secured by a lien on a residence in foreclosure;

(3) contacting creditors on behalf of an owner of a residence in foreclosure;

(4) arranging or attempting to arrange for an extension of the period within which the owner of a residence in foreclosure may cure the owner's default and reinstate his or her obligation pursuant to section 580.30;

(5) arranging or attempting to arrange for any delay or postponement of the time of sale of the residence in foreclosure;

(6) advising the filing of any document or assisting in any manner in the preparation of any document for filing with any bankruptcy court; or

(7) giving any advice, explanation, or instruction to an owner of a residence in foreclosure, which in any manner relates to the cure of a default in or the reinstatement of an obligation secured by a lien on the residence in foreclosure, the full satisfaction of that obligation, or the postponement or avoidance of a sale of a residence in foreclosure, pursuant to a power of sale contained in any mortgage.

(f) "Residence in foreclosure" means residential real property consisting of one to four family dwelling units, one of which the owner occupies as his or her principal place of residence, and against which there is an outstanding notice of pendency of foreclosure, recorded pursuant to section 580.032, or against which a summons and complaint has been served under chapter 581.

(g) "Owner" means the record owner of the residential real property in foreclosure at the time the notice of pendency was recorded, or the summons and complaint served.

(h) "Contract" means any agreement, or any term in any agreement, between a foreclosure consultant and an owner for the rendition of any service as defined in paragraph (d).

### Sec. 3. [325N.03] [RESCISSION OF FORECLOSURE CONSULTANT CONTRACT.]

(a) In addition to any other right under law to rescind a contract, an owner has the right to cancel such a contract until midnight of the third business day after the day on which the owner signs a contract which complies with section 325N.04.

(b) Cancellation occurs when the owner gives written notice of cancellation to the foreclosure consultant at the address specified in the contract.

(c) Notice of cancellation, if given by mail, is effective when deposited in the mail properly addressed with postage prepaid.

(d) Notice of cancellation given by the owner need not take the particular form as provided with the contract and, however expressed, is effective if it indicates the intention of the owner not to be bound by the contract.

Sec. 4. [325N.04] [CONTRACT.]

(a) Every contract must be in writing and must fully disclose the exact nature of the foreclosure consultant's services and the total amount and terms of compensation.

(b) The following notice, printed in at least 14-point boldface type and completed with the name of the foreclosure consultant, must be printed immediately above the statement required by paragraph (c):

"NOTICE REQUIRED BY MINNESOTA LAW

..... (Name) or anyone working  
for him or her CANNOT:

(1) Take any money from you or ask you  
for money until ..... (Name)  
has completely finished doing everything  
he or she said he or she would do; and

(2) Ask you to sign or have you sign any  
lien, mortgage, or deed."

(c) The contract must be written in the same language as principally used by the foreclosure consultant to describe his or her services or to negotiate the contract, must be dated and signed by the owner, and must contain in immediate proximity to the space reserved for the owner's signature a conspicuous statement in a size equal to at least 10-point bold type, as follows:

"You, the owner, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."

(d) The contract must contain on the first page, in a type size no smaller than that generally used in the body of the document, each of the following:

(1) the name and address of the foreclosure consultant to which the notice of cancellation is to be mailed; and

(2) the date the owner signed the contract.

(e) The contract must be accompanied by a completed form in duplicate, captioned "notice of cancellation," which must be attached to the contract, must be easily detachable, and must contain in at least ten-point type the following statement written in the same language as used in the contract:

"NOTICE OF CANCELLATION

.....  
(Enter date of transaction) (Date)

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice

to .....  
(Name of foreclosure consultant)

at .....  
(Address of foreclosure consultant's place of business)

NOT LATER THAN MIDNIGHT OF .....  
(Date)

I hereby cancel this transaction .....  
(Date)

.....  
(Owner's signature)"

(f) The foreclosure consultant shall provide the owner with a copy of the contract and the attached notice of cancellation immediately upon execution of the contract.

(g) The three business days during which the owner may cancel the contract shall not begin to run until the foreclosure consultant has complied with this section.

Sec. 5. [325N.05] [VIOLATIONS.]

It is a violation for a foreclosure consultant to:

(1) claim, demand, charge, collect, or receive any compensation until after the foreclosure consultant has fully performed each and every service the foreclosure consultant contracted to perform or represented he or she would perform;

(2) claim, demand, charge, collect, or receive any fee, interest, or any other compensation for any reason which exceeds eight percent per annum of the amount of any loan which the foreclosure consultant may make to the owner;

(3) take any wage assignment, any lien of any type on real or personal property, or other security to secure the payment of compensation. Any such security is void and unenforceable;

(4) receive any consideration from any third party in connection with services rendered to an owner unless the consideration is first fully disclosed to the owner;

(5) acquire any interest, directly or indirectly, or by means of a subsidiary or affiliate in a residence in foreclosure from an owner with whom the foreclosure consultant has contracted;

(6) take any power of attorney from an owner for any purpose, except to inspect documents as provided by law; or

(7) induce or attempt to induce any owner to enter a contract which does not comply in all respects with sections 325N.03 and 325N.04.

Sec. 6. [325N.06] [WAIVER NOT ALLOWED.]

Any waiver by an owner of the provisions of sections 325N.01 to 325N.10 is void and unenforceable as contrary to public policy. Any attempt by a foreclosure consultant to induce an owner to waive the owner's rights is a violation of sections 325N.01 to 325N.10.

Sec. 7. [325N.07] [REMEDIES.]

(a) A violation of sections 325N.01 to 325N.10 is considered to be a violation of section 325F.69, and all remedies of section 8.31 are available for such an action. A private cause of action under section 8.31 by a foreclosed homeowner is in the public interest. An owner may bring an action against a foreclosure consultant for any violation of sections 325N.01 to 325N.10. Judgment must be entered for actual damages, reasonable attorney fees and costs, and appropriate equitable relief. The court also may, in its discretion, award exemplary damages and if the court determines that exemplary damages are appropriate it shall award exemplary damages equivalent to at least 1-1/2 times the compensation charged by the foreclosure consultant in violation of section 325N.05, paragraph (1), (2), or (4).

(b) The rights and remedies provided in paragraph (a) are cumulative to, and not a limitation of, any other rights and remedies provided by law. Any action brought pursuant to this section must be commenced within four years from the date of the alleged violation.

Sec. 8. [325N.08] [PENALTY.]

Any person who commits any violation described in section 325N.05 may, upon conviction, be fined not more than \$10,000 or imprisoned not more than one year or both. Prosecution or conviction for any violation described in section 325N.05 will not bar prosecution or conviction for any other offenses. These penalties are cumulative to any other remedies or penalties provided by law.

Sec. 9. [325N.09] [PROVISIONS SEVERABLE.]

If any provision of sections 325N.01 to 325N.10 or the application of any of these provisions to any person or circumstance is held to be unconstitutional and void, the remainder of sections 325N.01 to 325N.10 remains valid.

Sec. 10. [325N.10] [LIABILITY.]

(a) Any provision in a contract which attempts or purports to require arbitration of any dispute arising under sections 325N.01 to 325N.10 is void at the option of the owner.

(b) This section applies to any contract entered into on or after August 1, 2004.

#### FORECLOSURE PURCHASERS

Sec. 11. [325N.11] [INTENT AND PURPOSE.]

(a) The legislature finds and declares that homeowners whose residences are in foreclosure have been subjected to fraud, deception, and unfair dealing by people selling foreclosure reconveyance transactions. The recent rapid escalation of home values, particularly in the metropolitan areas, has resulted in a significant increase in home equities which are usually the greatest financial asset held by the homeowners of this state. During the foreclosure process, homeowners in financial distress are vulnerable to unfair practices by people who induce homeowners who possess equity in their homes to sell their homes for less than fair market value through the use of schemes that involve oral and written misrepresentations, deceit, and other unreasonable commercial practices.



(b) The legislature declares that it is the express policy of the state to preserve and guard the precious asset of home equity, as well as the social and economic value of homeownership.

(c) The legislature further finds that foreclosure purchasers have a significant impact upon the economy and well-being of this state and its local communities, and the provisions of sections 325N.11 to 325N.19 are necessary to promote the public welfare.

(d) The intent and purposes of sections 325N.11 to 325N.19 are to provide each homeowner with information necessary to make an informed and intelligent decision regarding the sale of his or her home to a foreclosure purchaser; to require that the sales agreement be expressed in writing; to safeguard the public against deceit and financial hardship; to insure, foster, and encourage fair dealing in the sale and purchase of homes in foreclosure; to prohibit representations that tend to mislead; to prohibit or restrict unfair contract terms; to afford homeowners a reasonable and meaningful opportunity to rescind sales to foreclosure purchasers; and to preserve and protect home equities for the homeowners of this state.

(e) Sections 325N.11 to 325N.19 must be liberally construed effectuate this intent and to achieve these purposes.

Sec. 12. [325N.12] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For the purposes of sections 325N.12 to 325N.19, the terms defined in this section have the meanings given them.

Subd. 2. [FORECLOSED HOMEOWNER.] "Foreclosed homeowner" means an owner of residential real property, including a condominium, that is the primary residence of the owner and whose mortgage on the real property is or was in foreclosure.

Subd. 3. [FORECLOSURE RECONVEYANCE.] "Foreclosure reconveyance" means a transaction involving:

(1) the transfer of title to real property by a foreclosed homeowner during a foreclosure proceeding, either by transfer of interest from the foreclosed homeowner or by creation of a mortgage or other lien or encumbrance during the foreclosure process that allows the acquirer to obtain title to the property by redeeming the property as a junior lienholder; and

(2) the subsequent conveyance, or promise of a subsequent conveyance, of an interest back to the foreclosed homeowner by the acquirer or a person acting in participation with the acquirer that allows the foreclosed homeowner to possess the real property following the completion of the foreclosure proceeding, which interest includes, but is not limited to, an interest in a contract for deed, purchase agreement, option to purchase, or lease.

Subd. 4. [FORECLOSURE PURCHASER.] "Foreclosure purchaser" means a person that has acted as the acquirer in more than one foreclosure reconveyance during any 24-month period. Foreclosure purchaser also includes a person that has acted in joint venture or joint enterprise with one or more acquirers in more than one foreclosure reconveyance during any 24-month period. A federal or state chartered bank, savings bank, thrift, or credit union is not a foreclosure purchaser.

Sec. 13. [325N.13] [CONTRACT REQUIREMENT; FORM AND LANGUAGE.]

A foreclosure purchaser shall enter into every foreclosure reconveyance in the form of a written contract. Every contract must be written in letters of a size equal to at least 12-point boldface type, in the same language principally used by the foreclosure purchaser and foreclosed homeowner to negotiate the sale of the residence in foreclosure and must be fully completed and signed and dated by the foreclosed homeowner and foreclosure purchaser before the execution of any instrument of conveyance of the residence in foreclosure.

Sec. 14. [325N.14] [CONTRACT TERMS.]

Every contract required by section 325N.13 must contain the entire agreement of the parties and must include the following terms:

- (1) the name, business address, and the telephone number of the foreclosure purchaser;
- (2) the address of the residence in foreclosure;
- (3) the total consideration to be given by the foreclosure purchaser in connection with or incident to the sale;
- (4) a complete description of the terms of payment or other consideration including, but not limited to, any services of any nature that the foreclosure purchaser represents he or she will perform for the foreclosed homeowner before or after the sale;
- (5) the time at which possession is to be transferred to the foreclosure purchaser;
- (6) a complete description of the terms of any related agreement designed to allow the foreclosed homeowner to remain in the home, such as a rental agreement, repurchase agreement, contract for deed, or lease with option to buy;
- (7) a notice of cancellation as provided in section 325N.16, paragraph (b); and
- (8) the following notice in at least 14-point boldface type, if the contract is printed or in capital letters if the contract is typed, and completed with the name of the foreclosure purchaser, immediately above the statement required by section 325N.16, paragraph (a):

"NOTICE REQUIRED BY MINNESOTA LAW

Until your right to cancel this contract has ended, ..... (Name) or anyone working for ..... (Name) CANNOT ask you to sign or have you sign any deed or any other document."

The contract required by this section survives delivery of any instrument of conveyance of the residence in foreclosure, and has no effect on persons other than the parties to the contract.

Sec. 15. [325N.15] [CONTRACT CANCELLATION.]

(a) In addition to any other right of rescission, the foreclosed homeowner has the right to cancel any contract with a foreclosure purchaser until midnight of the fifth business day following the day on which the foreclosed homeowner signs a contract that complies with sections 325N.11 to 325N.17 or until 8:00 a.m. on the last day of the period during which the foreclosed homeowner has a right of redemption, whichever occurs first.

(b) Cancellation occurs when the foreclosed homeowner delivers, by any means, written notice of cancellation to the address specified in the contract.

(c) A notice of cancellation given by the foreclosed homeowner need not take the particular form as provided with the contract and, however express, is effective if it indicates the intention of the foreclosed homeowner not to be bound by the contract.

(d) Within ten days following receipt of a notice of cancellation given in accordance with this section, the foreclosure purchaser shall return without condition any original contract and any other documents signed by the foreclosed homeowner.

Sec. 16. [325N.16] [NOTICE OF CANCELLATION.]

(a) The contract must contain in immediate proximity to the space reserved for the foreclosed homeowner's signature a conspicuous statement in a size equal to at least 14-point boldface type, if the contract is printed, or in capital letters, if the contract is typed, as follows:

"You may cancel this contract for the sale of your house without any penalty or obligation at any time before

.....  
(Date and time of day)

See the attached notice of cancellation form for an explanation of this right."

The foreclosure purchaser shall accurately enter the date and time of day on which the cancellation right ends.

(b) The contract must be accompanied by a completed form in duplicate, captioned "notice of cancellation" in a size equal to a 12-point boldface type if the contract is printed, or in capital letters, if the contract is typed, followed by a space in which the foreclosure purchaser shall enter the date on which the foreclosed homeowner executes any contract. This form must be attached to the contract, must be easily detachable, and must contain in type of at least 10 points, if the contract is printed or in capital letters if the contract is typed, the following statement written in the same language as used in the contract:

"NOTICE OF CANCELLATION

.....  
(Enter date contract signed)

You may cancel this contract for the sale of your house, without any penalty or obligation, at any time before

.....  
(Enter date and time of day)

To cancel this transaction, personally deliver a signed and dated copy of this cancellation notice to

.....  
(Name of purchaser)

at .....  
(Street address of purchaser's place of business)

NOT LATER THAN .....  
(Enter date and time of day)

I hereby cancel this transaction .....  
(Date)

.....  
(Seller's signature)"

(c) The foreclosure purchaser shall provide the foreclosed homeowner with a copy of the contract and the attached notice of cancellation at the time the contract is executed by all parties.

(d) The five business days during which the foreclosed homeowner may cancel the contract must not begin to run until all parties to the contract have executed the contract and the foreclosure purchaser has complied with this section.

Sec. 17. [325N.17] [WAIVER.]

Any waiver of the provisions of sections 325N.11 to 315N.19 is void and unenforceable as contrary to public policy except a consumer may waive the five-day right to cancel provided in section 325N.15 if the property is subject to a foreclosure sale within the five business days, and the foreclosed homeowner agrees to waive his or her right to cancel in a handwritten statement signed by all parties holding title to the foreclosed property.

Sec. 18. [325N.175] [LIABILITY.]

(a) Any provision in a contract which attempts or purports to require arbitration of any dispute arising under sections 325N.11 to 325N.19 is void at the option of the owner.

(b) This section applies to any contract entered into on or after August 1, 2004.

Sec. 19. [325N.18] [PROHIBITED PRACTICES.]

A foreclosure purchaser shall not:

(a) enter into, or attempt to enter into, a foreclosure reconveyance with a foreclosed homeowner unless:

(1) the foreclosure purchaser verifies and can demonstrate that the foreclosed homeowner has a reasonable ability to pay for the subsequent conveyance of an interest back to the foreclosed homeowner. In the case of a lease with an option to purchase, payment ability also includes the reasonable ability to make the lease payments and purchase the property within the term of the option to purchase. There is a rebuttable presumption that the foreclosure purchaser has not verified reasonable payment ability if the foreclosure purchaser has not obtained documents other than a statement by the foreclosed homeowner of assets, liabilities, and income;

(2) the foreclosure purchaser and the foreclosed homeowner complete a closing for any foreclosure reconveyance in which the foreclosure purchaser obtains a deed or mortgage from a foreclosed homeowner. For purposes of this section, "closing" means an in-person meeting to complete final documents incident to the sale of the real property or creation of a mortgage on the real property conducted by a closing agent, as defined in section 82.17, who is not employed by or an affiliate of the foreclosure purchaser;

(3) the foreclosure purchaser obtains the written consent of the foreclosed homeowner to a grant by the foreclosure purchaser of any interest in the property during such times as the foreclosed homeowner maintains any interest in the property; and

(4) the foreclosure purchaser complies with the requirements of the federal Home Ownership Equity Protection Act, United States Code, title 15, section 1639, or its implementing regulation, Code of Federal Regulations, title 12, sections 226.31 to 226.34, for any foreclosure reconveyance in which the foreclosed homeowner obtains a vendee interest in a contract for deed;

(b) fail to either:

(1) ensure that title to the subject dwelling has been reconveyed to the foreclosed homeowner; or

(2) make a payment to the foreclosed homeowner such that the foreclosed homeowner has received consideration in an amount of at least 85 percent of the fair market value of the property within 120 days of either the eviction or voluntary relinquishment of possession of the dwelling by the foreclosed homeowner. For purposes of this provision, the following applies:

(i) there is a rebuttable presumption that an appraisal by a person licensed or certified by an agency of the federal government or this state to appraise real estate constitutes the fair market value of the property;

(ii) the fair market value amount shall be determined at the time of the execution of the foreclosure reconveyance contract; and

(iii) "consideration" shall mean any payment or thing of value provided to the foreclosed homeowner, including unpaid rent or contract for deed payments owed by the foreclosed homeowner, reasonable costs paid to third parties necessary to complete the foreclosure reconveyance transaction, payment of money to satisfy a debt or legal obligation of the foreclosed homeowner, or the reasonable cost of repairs for damage to the dwelling caused by the foreclosed homeowner; but

(iv) "consideration" shall not include amounts imputed as a downpayment or fee to the foreclosure purchaser, or a person acting in participation with the foreclosure purchaser, incident to a contract for deed, lease, or option to purchase entered into as part of the foreclosure reconveyance, except for reasonable costs paid to third parties necessary to complete the foreclosure reconveyance;

(c) enter into repurchase or lease terms as part of the subsequent conveyance that are unfair or commercially unreasonable, or engages in any other unfair conduct;

(d) represent, directly or indirectly, that:

(1) the foreclosure purchaser is acting as an advisor or a consultant, or in any other manner represents that the foreclosure purchaser is acting on behalf of the homeowner;

(2) the foreclosure purchaser has certification or licensure that the foreclosure purchaser does not have, or that the foreclosure purchaser is not a member of a licensed profession if that is untrue;

(3) the foreclosure purchaser is assisting the foreclosed homeowner to "save the house" or substantially similar phrase; or

(4) the foreclosure purchaser is assisting the foreclosed homeowner in preventing a completed foreclosure if the result of the transaction is that the foreclosed homeowner will not complete a redemption of the property;

(e) make any other statements, directly or by implication, or engage in any other conduct that is false, deceptive, or misleading, or that has the likelihood to cause confusion or misunderstanding, including, but not limited to, statements regarding the value of the residence in foreclosure, the amount of proceeds the foreclosed homeowner will receive after a foreclosure sale, any contract term, or the foreclosed homeowner's rights or obligations incident to or arising out of the foreclosure reconveyance; or

(f) do any of the following until the time during which the foreclosed homeowner may cancel the transaction has fully elapsed:

(1) accept from any foreclosed homeowner an execution of, or induce any foreclosed homeowner to execute, any instrument of conveyance of any interest in the residence in foreclosure;

(2) record with the county recorder or file with the registrar of titles any document, including but not limited to, any instrument of conveyance, signed by the foreclosed homeowner;

(3) transfer or encumber or purport to transfer or encumber any interest in the residence in foreclosure to any third party, provided no grant of any interest or encumbrance is defeated or affected as against a bona fide purchaser or encumbrance for value and without notice of a violation of sections 325N.11 to 325N.19, and knowledge on the part of any such person or entity that the property was "residential real property in foreclosure" does not constitute notice of a violation of sections 325N.11 to 325N.19. This section does not abrogate any duty of inquiry which exists as to rights or interests of persons in possession of the residential real property in foreclosure; or

(4) pay the foreclosed homeowner any consideration.

Sec. 20. [325N.19] [ENFORCEMENT.]

Subdivision 1. [REMEDIES.] A violation of sections 325N.12 to 325N.18 is considered to be a violation of section 325F.69, and all the remedies of section 8.31 are available for such an action. A private right of action under section 8.31 by a foreclosed homeowner is in the public interest.

Subd. 2. [EXEMPLARY DAMAGES.] In a private right of action under section 8.31 for a violation of section 325N.18, the court may award exemplary damages of any amount. In the event the court determines that an award of exemplary damages is appropriate, the amount of exemplary damages awarded shall not be less than 1-1/2 times the foreclosed homeowner's actual damages. Any claim for exemplary damages brought pursuant to this section must be commenced within four years after the date of the alleged violation.

Subd. 3. [REMEDIES CUMULATIVE.] The remedies provided in this section are cumulative and do not restrict any remedy that is otherwise available. The provisions of sections 325N.11 to 325N.19 are not exclusive and are in addition to any other requirements, rights, remedies, and penalties provided by law. No action under this section shall affect the rights in the foreclosed property held by a good faith purchaser for value under sections 507.34, 508.48, 508A.48, or other applicable law.

Subd. 4. [CRIMINAL PENALTY.] Any foreclosure purchaser who violates any provision of section 325N.18, or who engages in any practice which would operate as a fraud or deceit upon a foreclosed homeowner may, upon conviction, be fined not more than \$100,000 or imprisoned not more than one year, or both. Prosecution or conviction for any one of the violations does not bar prosecution or conviction for any other offenses.

Sec. 21. Minnesota Statutes 2002, section 580.03, is amended to read:

580.03 [NOTICE OF SALE; SERVICE ON OCCUPANT.]

Six weeks' published notice shall be given that such mortgage will be foreclosed by sale of the mortgaged premises or some part thereof, and at least four weeks before the appointed time of sale a copy of such notice shall be served in like manner as a summons in a civil action in the district court upon the person in possession of the mortgaged premises, if the same are actually occupied. If there be a building on such premises used by a church or religious corporation, for its usual meetings, service upon any officer or trustee of such corporation shall be a sufficient service upon it. The notice required by section 580.041 must be served simultaneously with the notice of foreclosure required by this section.

Sec. 22. [580.041] [FORECLOSURE ADVICE NOTICE.]

Subdivision 1. [FORM AND DELIVERY OF NOTICE.] The notice required by this section must be in 14-point boldface type and must be printed on colored paper that is other than the color of the notice of foreclosure and that

does not obscure or overshadow the content of the notice. The title of the notice must be in 20-point boldface type. The notice must be on its own page. The notice required by this section must be delivered with the notice of foreclosure required by sections 580.03 and 580.04. The notice required by this section also must be delivered with each subsequent written communication regarding the foreclosure mailed to the mortgagor by the foreclosing party up to the day of redemption. A foreclosing mortgagee will be deemed to have complied with this section if it sends the notice required by this section at least once every 60 days during the period of the foreclosure process. The notice required by this section must not be published.

Subd. 2. [CONTENT OF NOTICE.] The notice required by this section must appear substantially as follows:

"Help For Homeowners in Foreclosure

Minnesota law requires that we send you this notice about the foreclosure process. Please read it carefully.

Mortgage foreclosure is a complex process. Some people may approach you about "saving" your home. You should be careful about any such promises.

The state encourages you to become informed about your options in foreclosure before entering into any agreements with anyone in connection with the foreclosure of your home. There are government agencies and nonprofit organizations that you may contact for helpful information about the foreclosure process. For the name and telephone number of an organization near you please call the Minnesota Home Finance Agency (MHFA) at (insert telephone number). The state does not guarantee the advice of these agencies.

Do not delay dealing with the foreclosure because your options may become more limited as time passes."

Sec. 23. [PROVISIONS SEVERABLE.]

If any provision of this act, or if any application of this act to any person or circumstances is held unconstitutional and void, the remainder of this act remains valid."

Delete the title and insert:

"A bill for an act relating to mortgage foreclosure; providing for rescission of foreclosure consultant contracts; regulating foreclosure consultant contracts; providing remedies for foreclosure violations; requiring foreclosure purchasers to enter foreclosure reconveyances in the form of written contracts; regulating foreclosure contracts; prohibiting certain foreclosure purchaser practices; providing enforcement remedies; requiring certain foreclosure notices; imposing criminal penalties; amending Minnesota Statutes 2002, section 580.03; proposing coding for new law in Minnesota Statutes, chapter 580; proposing coding for new law as Minnesota Statutes, chapter 325N."

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

The report was adopted.

Seagren from the Committee on Education Finance to which was referred:

H. F. No. 2116, A bill for an act relating to education finance; authorizing the sale of a school facility; forgiving any remaining balance on the maximum effort capital loan issued to former Independent School District No. 566, Askov.

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

The report was adopted.

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

H. F. No. 2175, A bill for an act relating to health; modifying requirements for various public health occupations; prescribing authority of speech-language pathology assistants; modifying requirements for physician assistants, acupuncture practitioners, licensed professional counselors, alcohol and drug counselors, dentists, dental hygienists, dental assistants, and podiatrists; modifying provisions for designating essential community providers; modifying certain immunization provisions; amending Minnesota Statutes 2002, sections 147A.02; 147A.20; 147B.01, by adding a subdivision; 147B.06, subdivision 4; 148.211, subdivision 1; 148.284; 148.512, subdivisions 9, 19, by adding a subdivision; 148.6402, by adding a subdivision; 148.6403, subdivision 5; 148.6405; 148.6428; 148.6443, subdivisions 1, 5; 150A.06, as amended; 150A.08, subdivision 1; 150A.09, subdivision 4; 153.01, subdivision 2; 153.16, subdivisions 1, 2; 153.19, subdivision 1; 153.24, subdivision 4; 153.25, subdivision 1; Minnesota Statutes 2003 Supplement, sections 62Q.19, subdivision 2; 121A.15, subdivisions 3a, 12; 147A.09, subdivision 2; 148.212, subdivision 1; 148.511; 148.512, subdivisions 12, 13; 148.513, subdivisions 1, 2; 148.5161, subdivisions 1, 4, 6; 148.5175; 148.518; 148.5193, subdivisions 1, 6a; 148.5195, subdivision 3; 148.5196, subdivision 3; 148B.52; 148B.53, subdivisions 1, 3; 148B.54; 148B.55; 148B.59; 148C.04, subdivision 6; 148C.075, subdivision 2, by adding a subdivision; 148C.11, subdivision 6, by adding a subdivision; 148C.12, subdivisions 2, 3; proposing coding for new law in Minnesota Statutes, chapters 148; 148B; repealing Minnesota Statutes 2002, section 147B.02, subdivision 5; Minnesota Rules, parts 6900.0020, subparts 3, 3a, 9, 10; 6900.0400.

Reported the same back with the following amendments:

Page 41, line 36, after "less" insert "or more"

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

The report was adopted.

Haas from the Committee on State Government Finance to which was referred:

H. F. No. 2199, A bill for an act relating to the State Lottery; amending provisions relating to the director; providing for review and approval of lottery budget; creating a task force and requiring a report; amending Minnesota Statutes 2002, sections 349A.02, subdivision 1; 349A.10, subdivision 6; 349A.15; Laws 2003, First Special Session chapter 1, article 1, section 23; proposing coding for new law in Minnesota Statutes, chapter 349A; repealing Minnesota Statutes 2002, section 349A.02, subdivision 2.

Reported the same back with the following amendments:



Page 1, delete sections 1 and 2 and insert:

"Section 1. Minnesota Statutes 2002, section 15A.081, subdivision 8, is amended to read:

Subd. 8. [EXPENSE ALLOWANCE.] Notwithstanding any law to the contrary, positions listed in section 15A.0815, subdivisions 2 and 3, constitutional officers, ~~and~~ the commissioner of Iron Range resources and rehabilitation, and the director of the state lottery are authorized an annual expense allowance not to exceed \$1,500 for necessary expenses in the normal performance of their duties for which no other reimbursement is provided. The expenditures under this subdivision are subject to any laws and rules relating to budgeting, allotment and encumbrance, preaudit and postaudit. The commissioner of finance may adopt rules to assure the proper expenditure of these funds and to provide for reimbursement."

Page 2, line 6, before "budget" insert "biannual" and delete "in compliance with the rules."

Page 2, line 7, delete "format, and instructions established by" and insert "plan to"

Page 2, line 8, delete "under sections 16A.095 and 16A.10"

Page 2, line 9, delete "a budget" and insert "the maximum amount available"

Page 2, line 10, before "amount" insert "maximum"

Page 2, lines 16 and 17, delete "game lottery tickets" and insert "lottery games"

Page 2, line 35, after "organization" insert "and profitability"

Page 3, line 12, before "The" insert "(a)"

Page 3, after line 19, insert:

"(b) The task force shall also examine the feasibility and desirability of establishing measurable performance goals for lottery proceeds and operations."

Page 3, line 20, before "The" insert "(c)"

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

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 6, after "sections" insert "15A.081, subdivision 8;"

Page 1, line 8, delete everything after the semicolon

Page 1, line 9, delete everything before "repealing"

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

The report was adopted.

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

H. F. No. 2217, A bill for an act relating to traffic regulations; requiring vehicles to wait at railroad crossings until roadway is clear; amending Minnesota Statutes 2002, section 169.26, subdivision 1; Minnesota Statutes 2003 Supplement, section 169.28, subdivision 1.

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

The report was adopted.

Gunther from the Committee on Jobs and Economic Development Finance to which was referred:

H. F. No. 2316, A bill for an act relating to job opportunity building zones; limiting tax incentives for certain retailers; amending Minnesota Statutes 2003 Supplement, section 469.310, subdivision 11.

Reported the same back with the following amendments:

Page 2, line 10, delete the colon and insert a comma

Page 2, line 11, delete the paragraph coding and delete "(1)"

Page 2, line 13, delete "; and" and insert a period

Page 2, delete lines 14 to 17

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

The report was adopted.

Kuisle from the Committee on Transportation Finance to which was referred:

H. F. No. 2331, A bill for an act relating to drivers' licenses; reallocating fees to motorcycle safety fund and removing funding cap; amending Minnesota Statutes 2002, section 171.06, subdivision 2a.

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

The report was adopted.

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

H. F. No. 2436, A bill for an act relating to health; providing for public health emergencies; amending Minnesota Statutes 2002, sections 12.03, subdivision 4d; 12.39, subdivision 2; 144.419, subdivision 1; 144.4195, subdivisions 1, 2, 3, 5; Minnesota Statutes 2003 Supplement, section 13.37, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 12; 144.

Reported the same back with the following amendments:

Page 4, after line 18, insert:

"(e) For any action brought under this section, the doctrine of vicarious official immunity shall not apply."

Page 4, line 19, delete "GOOD SAMARITAN" and insert "RESPONDER"

Page 5, line 1, delete everything after "order" and insert a period

Page 5, delete lines 2 to 4

Page 13, delete section 17 and insert:

"Sec. 17. [REPEALER.]

Laws 2002, chapter 402, section 21, is repealed.

Sec. 18. [EXPIRATION.]

(a) Minnesota Statutes 2002, sections 12.03, subdivisions 1c, 4d, 6a, 9a; 12.311; 12.312; 12.381; 12.39; 13.3806, subdivisions 1a and 10a; 144.419; and 144.4195; and sections 3 to 7, and 14, expire August 1, 2008.

(b) The amendments to Minnesota Statutes, by Laws 2002, chapter 402, sections 6 to 9, 12, and 13, to sections 12.21, subdivision 3; 12.31, subdivisions 1, 2, and 3; 12.32; 12.34, subdivision 1, and the amendments in sections 2 and 8 expire August 1, 2008."

Page 13, line 21, delete "18" and insert "19"

Amend the title as follows:

Page 1, line 8, before the period, insert "; repealing Laws 2002, chapter 402, section 21"

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

The report was adopted.

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

H. F. No. 2453, A bill for an act relating to civil actions; authorizing the recovery of attorney fees by funeral providers in actions to recover costs of services; proposing coding for new law in Minnesota Statutes, chapter 149A.

Reported the same back with the following amendments:

Page 1, line 9, delete "funeral provider" and insert "party"

Page 1, line 10, delete "is"

Page 1, line 11, delete "entitled to" and insert "may be awarded"

Page 1, line 12, delete the second "the" and insert "a" and after "provider" insert "who prevails may recover only if the funeral provider"

With the recommendation that when so amended the bill pass.

The report was adopted.

Kuisle from the Committee on Transportation Finance to which was referred:

H. F. No. 2492, A bill for an act relating to economic development; providing a bidding exception for certain federally subsidized transit facilities; amending Minnesota Statutes 2002, section 469.015, subdivision 4.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Local Government and Metropolitan Affairs.

The report was adopted.

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

H. F. No. 2575, A bill for an act relating to human services; limiting child mental health screening to available appropriation; amending Minnesota Statutes 2003 Supplement, section 245.4874.

Reported the same back with the following amendments:

Page 3, lines 6 and 7, delete the new language and insert "consistent with section 245.486."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 2636, A bill for an act relating to human services; appropriating money for assistive technology.

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

The report was adopted.

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

H. F. No. 2641, A bill for an act relating to marriage; changing certain administrative responsibilities; requiring a report; amending Minnesota Statutes 2002, sections 517.07; 517.08, by adding a subdivision; 517.10; 517.13; 517.18, subdivision 1; Minnesota Statutes 2003 Supplement, section 517.08, subdivisions 1b, 1c; proposing coding for new law in Minnesota Statutes, chapter 517.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [256.742] [MINNESOTA HEALTHY MARRIAGE AND RESPONSIBLE FATHERHOOD INITIATIVE.]

Subdivision 1. [ESTABLISHMENT.] The commissioner shall develop and implement a Minnesota Healthy Marriage and Responsible Fatherhood Initiative, as provided for in this section. The commissioner may administer the initiative with federal grants, state appropriations, and in-kind services received for this purpose.

Subd. 2. [PURPOSE.] The purpose of the Minnesota Healthy Marriage and Responsible Fatherhood Initiative is to develop a community-based collaborative project that will test and evaluate a comprehensive strategy for promoting marriage and responsible fatherhood among unmarried urban parents who are expecting or have recently had a child. The initiative objectives are to:

(1) encourage stable family formation among unmarried new parents in urban communities;

(2) promote healthy marriages among unmarried new parents who want to be a couple and indicate that marriage is a goal for their relationship;

(3) increase paternity establishment and enhance related child support performance indicators;

(4) promote responsible fathering;

(5) enhance the well-being of children; and

(6) encourage and facilitate community support for marriage and family formation among unmarried parents.

Subd. 3. [IMPLEMENTATION.] The target population for the initiative is unmarried new parent couples whose babies are born in urban hospitals in Minneapolis and St. Paul. The initiative may be implemented through the University of Minnesota and community-based programs and organizations. The commissioner shall:

(1) enter into contracts or manage a grant process for implementation of the initiative;

(2) provide technical assistance; and

(3) develop and implement an evaluation component for the initiative.

Sec. 2. [517.001] [DEFINITION.]

As used in this chapter, "local registrar" has the meaning given in section 144.212, subdivision 10.

Sec. 3. Minnesota Statutes 2002, section 517.07, is amended to read:

517.07 [LICENSE.]

Before any persons are joined in marriage, a license shall be obtained from the ~~court administrator of the district court~~ local registrar of any county. The marriage need not take place in the county where the license is obtained.

Sec. 4. Minnesota Statutes 2003 Supplement, section 517.08, subdivision 1b, is amended to read:

Subd. 1b. [TERM OF LICENSE; FEE; PREMARITAL EDUCATION.] (a) The ~~court administrator~~ local registrar shall examine upon oath the party applying for a license relative to the legality of the contemplated marriage. If at the expiration of a five-day period, on being satisfied that there is no legal impediment to it, including the restriction contained in section 259.13, the ~~court administrator~~ local registrar shall issue the license, containing the full names of the parties before and after marriage, and county and state of residence, with the ~~district court~~ county seal attached, and make a record of the date of issuance. The license shall be valid for a period of six months. In case of emergency or extraordinary circumstances, a judge of the district court of the county in which the application is made, may authorize the license to be issued at any time before the expiration of the five days. Except as provided in paragraph (b), the ~~court administrator~~ local registrar shall collect from the applicant a fee of \$80 for administering the oath, issuing, recording, and filing all papers required, and preparing and transmitting to the state registrar of vital statistics the reports of marriage required by this section. If the license should not be used within the period of six months due to illness or other extenuating circumstances, it may be surrendered to the ~~court administrator~~ local registrar for cancellation, and in that case a new license shall issue upon request of the parties of the original license without fee. A ~~court administrator~~ local registrar who knowingly issues or signs a marriage license in any manner other than as provided in this section shall pay to the parties aggrieved an amount not to exceed \$1,000.

(b) The marriage license fee for parties who have completed at least 12 hours of premarital education is \$20. In order to qualify for the reduced fee, the parties must submit a signed and dated statement from the person who provided the premarital education confirming that it was received. The premarital education must be provided by a licensed or ordained minister or the minister's designee, a person authorized to solemnize marriages under section 517.18, or a person authorized to practice marriage and family therapy under section 148B.33. The education must include the use of a premarital inventory and the teaching of communication and conflict management skills.

(c) The statement from the person who provided the premarital education under paragraph (b) must be in the following form:

"I, (name of educator), confirm that (names of both parties) received at least 12 hours of premarital education that included the use of a premarital inventory and the teaching of communication and conflict management skills. I am a licensed or ordained minister, a person authorized to solemnize marriages under Minnesota Statutes, section 517.18, or a person licensed to practice marriage and family therapy under Minnesota Statutes, section 148B.33."

The names of the parties in the educator's statement must be identical to the legal names of the parties as they appear in the marriage license application. Notwithstanding section 138.17, the educator's statement must be retained for seven years, after which time it may be destroyed.

(d) If section 259.13 applies to the request for a marriage license, the ~~court administrator~~ local registrar shall grant the marriage license without the requested name change. Alternatively, the ~~court administrator~~ local registrar may delay the granting of the marriage license until the party with the conviction:

(1) certifies under oath that 30 days have passed since service of the notice for a name change upon the prosecuting authority and, if applicable, the attorney general and no objection has been filed under section 259.13; or

(2) provides a certified copy of the court order granting it. The parties seeking the marriage license shall have the right to choose to have the license granted without the name change or to delay its granting pending further action on the name change request.

Sec. 5. Minnesota Statutes 2003 Supplement, section 517.08, subdivision 1c, is amended to read:

Subd. 1c. [DISPOSITION OF LICENSE FEE.] (a) Of the marriage license fee collected pursuant to subdivision 1b, paragraph (a), ~~\$15~~ \$20 must be retained by the county. The ~~court administrator~~ local registrar must pay ~~\$65~~ \$60 to the commissioner of finance to be deposited as follows:

(1) ~~\$50~~ \$40 in the general fund;

(2) \$3 in the special revenue fund to be appropriated to the commissioner of education for parenting time centers under section 119A.37;

(3) \$2 in the special revenue fund to be appropriated to the commissioner of health for developing and implementing the MN ENABL program under section 145.9255; ~~and~~

(4) \$10 in the special revenue fund to be appropriated to the commissioner of economic security for the displaced homemaker program under section 268.96; and

(5) \$5 in the special revenue fund to be appropriated to the commissioner of human services for the Minnesota Healthy Marriage and Responsible Fatherhood Initiative under section 256.742.

(b) Of the \$20 fee under subdivision 1b, paragraph (b), \$15 must be retained by the county. The ~~state court administrator~~ local registrar must pay \$5 to the commissioner of finance to be distributed as provided in paragraph (a), clauses (2) and (3).

Sec. 6. Minnesota Statutes 2002, section 517.08, is amended by adding a subdivision to read:

Subd. 4. [REPORT.] The local registrar of each county shall annually report to the Department of Health the number of marriage licenses issued in the county for which the fee in subdivision 1b, paragraph (a), was paid and the number for which the fee in subdivision 1b, paragraph (b), was paid.

Sec. 7. Minnesota Statutes 2002, section 517.10, is amended to read:

517.10 [CERTIFICATE; WITNESSES.]

The person solemnizing a marriage shall prepare and sign three certificates thereof. Each certificate shall contain the full names before and after marriage and county and state of residences of the parties and the date and place of the marriage. Each certificate shall also contain the signatures of at least two of the witnesses present at the marriage who shall be at least 16 years of age. The person solemnizing the marriage shall give each of the parties one such certificate, and shall immediately make a record of such marriage, and file one such certificate with the ~~court administrator~~ local registrar of the district court of the county in which the license was issued within five days after the ceremony. The ~~court administrator~~ local registrar shall record such certificate in a book kept for that purpose.

Sec. 8. Minnesota Statutes 2002, section 517.13, is amended to read:

517.13 [PENALTY FOR FAILURE TO DELIVER AND FILE CERTIFICATE.]

Every person solemnizing a marriage who neglects to deliver to the ~~court administrator~~ local registrar a certificate within the time set forth in section 517.10 shall forfeit a sum not exceeding \$100, and every ~~court administrator~~ local registrar who neglects to record a certificate shall forfeit a like sum.

Sec. 9. Minnesota Statutes 2002, section 517.18, subdivision 1, is amended to read:

Subdivision 1. All marriages solemnized among the people called Friends or Quakers, in the form heretofore practiced and in use in their meetings, shall be valid and not affected by any of the foregoing provisions. The clerk of the meeting in which such marriage is solemnized, within one month after any such marriage, shall deliver a certificate of the same to the ~~court administrator of the district court~~ local registrar of the county where the marriage took place, under penalty of not more than \$100. Such certificate shall be filed and recorded by the court administrator under a like penalty. If such marriage does not take place in such meeting, such certificate shall be signed by the parties and at least six witnesses present, and shall be filed and recorded as above provided under a like penalty.

Sec. 10. [APPROPRIATION.]

\$100,000 is appropriated in fiscal year 2005 from the general fund to the commissioner of human services for the Minnesota Healthy Marriage and Responsible Fatherhood Initiative under Minnesota Statutes, section 517.08, subdivision 1c, paragraph (a), clause (5). The first \$100,000 collected under Minnesota Statutes, section 517.08, subdivision 1c, paragraph (a), clause (5), must be deposited in the general fund.

Sec. 11. [EFFECTIVE DATE.]

This act is effective July 1, 2004.

Amend the title as follows:

Page 1, line 2, after the semicolon, insert "requiring the commissioner of human services to develop a Minnesota Healthy Marriage and Responsible Fatherhood Initiative;"

Page 1, line 3, after the second semicolon, insert "appropriating money;"

Page 1, line 8, delete "chapter" and insert "chapters 256;"

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

The report was adopted.

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

H. F. No. 2666, A bill for an act relating to state government; authorizing a pilot project under which the State Board of Investment may make certain additional investments in Minnesota financial institutions rated outstanding under the Federal Community Reinvestment Act.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [INVESTMENT PILOT PROJECT.]

In addition to investments authorized by Minnesota Statutes, section 11A.24, subdivision 4, paragraph (a), the State Board of Investment may invest in repurchase agreements issued by United States banks and savings institutions having a home office or detached facility in Minnesota whose most recent rating under the Federal



Community Reinvestment Act is "outstanding." Notwithstanding Minnesota Statutes, section 11A.24, subdivision 4, paragraph (a), clause (5), for investments under this section, the State Board of Investment must require collateral. The state board may not have total outstanding investments, at any one time, of more than \$50,000,000 under authority of this section. This limit does not apply to investments that meet the criteria in Minnesota Statutes, section 11A.24, subdivision 4, paragraph (a). If the state board invests in repurchase agreements under authority of this section in an institution rated "outstanding," and the institution later receives a different rating, the state board may retain the investment for the term of the repurchase agreement, but may not renew the repurchase agreement or invest in new repurchase agreements from the institution under authority of this section until the institution receives an "outstanding" rating. This section expires June 30, 2006.

[EFFECTIVE DATE.] This section is effective the day following final enactment."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 2691, A bill for an act relating to human services; council on disability; permitting the council to meet by telephone or electronic means if certain conditions are met; amending Minnesota Statutes 2002, section 256.482, by adding a subdivision.

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

The report was adopted.

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

H. F. No. 2706, A bill for an act relating to environment; extending certain environmental advisory councils; amending Minnesota Statutes 2002, section 115A.12; Minnesota Statutes 2003 Supplement, section 115A.072, subdivision 1.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Rules and Legislative Administration.

The report was adopted.

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

H. F. No. 2724, A bill for an act relating to human services; making changes affecting counties, human services policy, child care, assistance programs, adoption and child placement, child welfare, economic support, mental health, and continuing care for the elderly; amending Minnesota Statutes 2002, sections 119B.02, subdivision 4; 119B.03, subdivision 6; 119B.09, subdivision 4; 119B.21, subdivision 5; 144A.071, subdivision 1a; 245.462, subdivision 18; 245.464, by adding a subdivision; 256.01, by adding a subdivision; 256B.431, subdivision 37; 256B.5012, by adding a subdivision; 256D.02, subdivision 17; 256D.06, subdivision 5; 256J.67, subdivisions 1, 3; 257.85, subdivisions 2, 3; 259.23, subdivisions 1, 2; 259.41, subdivision 3; 259.79, subdivision 1; 260C.001, subdivision 3; 260C.007, subdivisions 7, 8, 18, 22, 27; 260C.151, subdivision 6; 260C.178; 260C.201, subdivisions

1, 2, 6, 10, 11; 260C.312; 260C.317, subdivision 3; 626.556, subdivisions 1, 10f, 11c, by adding subdivisions; Minnesota Statutes 2003 Supplement, sections 119B.025, subdivision 1; 119B.125, subdivisions 1, 2; 256.01, subdivision 2; 256B.0622, subdivision 8; 256B.431, subdivision 38; 256J.40; 256J.425, subdivision 7; 256J.46, subdivision 1; 256J.521, subdivision 2; 256J.626, subdivisions 6, 7; 256J.95, subdivisions 10, 12; 260.012; 626.556, subdivisions 2, 3, 10, 10b, 10e, 10i, 11; repealing Minnesota Statutes 2002, sections 626.5551, subdivisions 1, 2, 3, 4, 5; Laws 2001, First Special Session chapter 9, article 9, section 52; Laws 2003, First Special Session chapter 14, article 3, section 56; Minnesota Rules, part 9560.0220, subpart 6, item B.

Reported the same back with the following amendments:

Page 11, after line 21, insert:

"Section 1. Minnesota Statutes 2003 Supplement, section 245B.03, subdivision 2, is amended to read:

Subd. 2. [RELATIONSHIP TO OTHER STANDARDS GOVERNING SERVICES FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.] (a) ICFs/MR are exempt from:

(1) section 245B.04;

(2) section 245B.06, subdivisions 4 and 6; and

(3) section 245B.07, subdivisions 4, paragraphs (b) and (c); 7; and 8, paragraphs (1), clause (iv), and (2).

(b) License holders also licensed under chapter 144 as a supervised living facility are exempt from section 245B.04.

(c) Residential service sites controlled by license holders licensed under this chapter for home and community-based waived services for four or fewer adults are exempt from compliance with Minnesota Rules, parts 9543.0040, subpart 2, item C; 9555.5505; 9555.5515, items B and G; 9555.5605; 9555.5705; 9555.6125, subparts 3, item C, subitem (2), and 4 to 6; 9555.6185; 9555.6225, subpart 8; 9555.6245; 9555.6255; and 9555.6265; and as provided under section 245B.06, subdivision 2, the license holder is exempt from the program abuse prevention plans and individual abuse prevention plans otherwise required under sections 245A.65, subdivision 2, and 626.557, subdivision 14. The commissioner may approve alternative methods of providing overnight supervision using the process and criteria for granting a variance in section 245A.04, subdivision 9. This chapter does not apply to foster care homes that do not provide residential habilitation services funded under the home and community-based waiver programs defined in section 256B.092.

(d) Residential service sites controlled by license holders licensed under this chapter for home and community-based waived services for four or fewer children are exempt from compliance with Minnesota Rules, parts ~~9545.0130; 9545.0140; 9545.0150; 9545.0170; 9545.0220, subparts 1, items C, F, and I, and 3; and 9545.0230 2960.3060, subpart 3, items B and C; 2960.3070; 2960.3100, subpart 1, items C, F, and I; and 2960.3210.~~

(e) The commissioner may exempt license holders from applicable standards of this chapter when the license holder meets the standards under section 245A.09, subdivision 7. License holders that are accredited by an independent accreditation body shall continue to be licensed under this chapter.

(f) License holders governed by sections 245B.02 to 245B.07 must also meet the licensure requirements in chapter 245A.

(g) Nothing in this chapter prohibits license holders from concurrently serving consumers with and without mental retardation or related conditions provided this chapter's standards are met as well as other relevant standards.

(h) The documentation that sections 245B.02 to 245B.07 require of the license holder meets the individual program plan required in section 256B.092 or successor provisions."

Page 49, after line 33, insert:

"Sec. 22. Minnesota Statutes 2002, section 260C.212, subdivision 5, is amended to read:

Subd. 5. [RELATIVE SEARCH; NATURE.] (a) In implementing the requirement that the responsible social services agency must consider placement with a relative under subdivision 2 ~~as soon as possible~~ immediately after identifying the need for placement of the child in foster care, the responsible social services agency shall identify relatives of the child and notify them of the need for a foster care home for the child and of the possibility of the need for a permanent out-of-home placement of the child. The relative search required by this section shall be reasonable and comprehensive in scope and may last up to six months or until a fit and willing relative is identified. ~~Relatives should be notified that a decision not to be a placement resource at the beginning of the case may affect the relative being considered for placement of the child with that relative later~~ The relative search required by this section shall include both maternal relatives of the child and paternal relatives of the child, if paternity is adjudicated. The relatives must be notified that they must keep the responsible social services agency informed of their current address in order to receive notice that a permanent placement is being sought for the child. A relative who fails to provide a current address to the responsible social services agency forfeits the right to notice of the possibility of permanent placement. A decision by a relative not to be a placement resource at the beginning of the case shall not affect whether the relative is considered for placement of the child with that relative later.

(b) A responsible social services agency may disclose private or confidential data, as defined in section 13.02, to relatives of the child for the purpose of locating a suitable placement. The agency shall disclose only data that is necessary to facilitate possible placement with relatives. If the child's parent refuses to give the responsible social services agency information sufficient to identify the maternal and paternal relatives of the child, the agency shall ~~determine whether the parent's refusal is in the child's best interests. If the agency determines the parent's refusal is not in the child's best interests, the agency shall file a petition under section 260C.141, and shall~~ ask the juvenile court to order the parent to provide the necessary information. If a parent makes an explicit request that relatives or a specific relative not be contacted or considered for placement, the agency shall bring the parent's request to the attention of the court to determine whether the parent's request is consistent with the best interests of the child and the agency shall not contact relatives or a specific relative unless authorized to do so by the juvenile court.

(c) When the placing agency determines that a permanent placement hearing is necessary because there is a likelihood that the child will not return to a parent's care, the agency may send the notice provided in paragraph (d), may ask the court to modify the requirements of the agency under this paragraph, or may ask the court to completely relieve the agency of the requirements of this paragraph. The relative notification requirements of this paragraph do not apply when the child is placed with an appropriate relative or a foster home that has committed to being the permanent legal placement for the child and the agency approves of that foster home for permanent placement of the child. The actions ordered by the court under this section must be consistent with the best interests, safety, and welfare of the child.

(d) Unless required under the Indian Child Welfare Act or relieved of this duty by the court under paragraph (c), when the agency determines that it is necessary to prepare for the permanent placement determination hearing, or in anticipation of filing a termination of parental rights petition, the agency shall send notice to the relatives, any adult with whom the child is currently residing, any adult with whom the child has resided for one year or longer in the past, and any adults who have maintained a relationship or exercised visitation with the child as identified in the agency case plan. The notice must state that a permanent home is sought for the child and that the individuals receiving the notice may indicate to the agency their interest in providing a permanent home. The notice must state

that within 30 days of receipt of the notice an individual receiving the notice must indicate to the agency the individual's interest in providing a permanent home for the child or that the individual may lose the opportunity to be considered for a permanent placement.

(e) The Department of Human Services shall develop a best practices guide and specialized staff training to assist the responsible social services agency in performing and complying with the relative search requirements under this subdivision."

Page 124, after line 34, insert:

"ARTICLE 7

HEALTH CARE

Section 1. Minnesota Statutes 2002, section 256B.02, subdivision 12, is amended to read:

Subd. 12. "Third-party payer" means a person, entity, or agency or government program that has a probable obligation to pay all or part of the costs of a medical assistance recipient's health services. Third-party payer includes an entity under contract with the recipient to cover all or part of the recipient's medical costs.

Sec. 2. Minnesota Statutes 2002, section 256B.056, is amended by adding a subdivision to read:

Subd. 8a. [NOTICE.] The state agency must be given notice of monetary claims against a person, entity, or corporation that may be liable to pay all or part of all of the cost of medical care when the state agency has paid or becomes liable for the cost of that care. Notice must be given as follows:

(a) An applicant for medical assistance shall notify the state or local agency of any possible claims when the applicant submits the application. A recipient of medical assistance shall notify the state or local agency of any possible claims when those claims arise.

(b) A person providing medical care services to a recipient of medical assistance shall notify the state agency when the person has reason to believe that a third party may be liable for payment of the cost of medical care.

(c) A party to a claim that may be assigned to the state agency under this section shall notify the state agency of its potential assignment claim in writing at each of the following stages of a claim:

(1) when a claim is filed;

(2) when an action is commenced; and

(3) when a claim is concluded by payment, award, judgment, settlement, or otherwise.

Every party involved in any stage of a claim under this subdivision is required to provide notice to the state agency at that stage of the claim. However, when one of the parties to the claim provides notice at that stage, every other party to the claim is deemed to have provided the required notice for that stage of the claim. If the required notice under this paragraph is not provided to the state agency, all parties to the claim are deemed to have failed to provide the required notice. A party to the claim includes the injured person or the person's legal representative, the plaintiff, the defendants, or persons alleged to be responsible for compensating the injured person or plaintiff, and any other party to the cause of action or claim, regardless of whether the party knows the state agency has a potential or actual assignment claim.

Sec. 3. Minnesota Statutes 2002, section 256B.056, is amended by adding a subdivision to read:

Subd. 8b. [JOINDER OF STATE IN ACTIONS AGAINST THIRD PARTIES.] Any medical assistance recipient or the recipient's legal representative asserting a claim against a third party potentially liable for all or part of the recipient's medical costs shall join the state agency as a party to the claim.

Sec. 4. Minnesota Statutes 2002, section 256B.056, is amended by adding a subdivision to read:

Subd. 8c. [SETTLEMENT.] Pursuant to United States Code, title 42, section 1396k(b), no judgment, award, or settlement of any action or claim by or on behalf of a medical assistance recipient to recover damages from a third party potentially liable for all or part of the recipient's medical costs shall be acceded to or satisfied by the recipient or the recipient's legal representative or approved by the court without granting the state agency first recovery from the liable third party to the full extent of its medical expenditures, minus pro rata costs and attorney fees, regardless of whether the recipient has been fully compensated.

Sec. 5. Minnesota Statutes 2002, section 256L.04, subdivision 2, is amended to read:

Subd. 2. [COOPERATION IN ESTABLISHING THIRD-PARTY LIABILITY, PATERNITY, AND OTHER MEDICAL SUPPORT.] (a) To be eligible for MinnesotaCare, individuals and families must cooperate with the state agency to identify potentially liable third-party payers and assist the state in obtaining third-party payments. "Cooperation" includes, but is not limited to, complying with the notice and settlement requirements in section 256B.056, subdivisions 8a and 8c, identifying any third party who may be liable for care and services provided under MinnesotaCare to the enrollee, providing relevant information to assist the state in pursuing a potentially liable third party, and completing forms necessary to recover third-party payments.

(b) A parent, guardian, relative caretaker, or child enrolled in the MinnesotaCare program must cooperate with the Department of Human Services and the local agency in establishing the paternity of an enrolled child and in obtaining medical care support and payments for the child and any other person for whom the person can legally assign rights, in accordance with applicable laws and rules governing the medical assistance program. A child shall not be ineligible for or disenrolled from the MinnesotaCare program solely because the child's parent, relative caretaker, or guardian fails to cooperate in establishing paternity or obtaining medical support.

Sec. 6. Minnesota Statutes 2002, section 549.02, is amended by adding a subdivision to read:

Subd. 3. [LIMITATION.] Notwithstanding subdivisions 1 and 2, where the state agency is joined as a party according to section 256B.056, subdivision 8b, or brings an independent action to enforce its rights under section 256B.056, it shall not be liable for costs to any prevailing defendant.

Sec. 7. Minnesota Statutes 2002, section 549.04, is amended to read:

549.04 [DISBURSEMENTS; TAXATION AND ALLOWANCE.]

Subdivision 1. [GENERALLY.] In every action in a district court, the prevailing party, including any public employee who prevails in an action for wrongfully denied or withheld employment benefits or rights, shall be allowed reasonable disbursements paid or incurred, including fees and mileage paid for service of process by the sheriff or by a private person.

Subd. 2. [LIMITATION.] Notwithstanding subdivision 1, where the state agency is joined as a party according to section 256B.056, subdivision 8b, or brings an independent action to enforce its rights under section 256B.056, it shall not be liable for disbursements to any prevailing defendant."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 11, after the second semicolon, insert "256B.02, subdivision 12; 256B.056, by adding subdivisions;"

Page 1, line 14, after "3;" insert "256L.04, subdivision 2;"

Page 1, line 19, after "11;" insert "260C.212, subdivision 5;"

Page 1, line 20, after "3;" insert "549.02, by adding a subdivision; 549.04;"

Page 1, line 23, after the first semicolon, insert "245B.03, subdivision 2;"

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

The report was adopted.

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

H. F. No. 2737, A bill for an act relating to municipal airports; prohibiting closure without approval of the legislature; proposing coding for new law in Minnesota Statutes, chapter 360.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [360.046] [REQUIREMENTS FOR CLOSURE OF MUNICIPAL AIRPORT.]

Subdivision 1. [DEFINITION OF MUNICIPAL AIRPORT.] For the purposes of this section, "municipal airport" is an airport owned by a county, city, town, or joint powers board within the meaning of section 360.042, exclusive of an airport formed and operated by the Metropolitan Airports Commission pursuant to sections 473.601 to 473.680.

Subd. 2. [NOTICE OF INTENT TO CLOSE PROVIDED TO COMMISSIONER.] The owner of a municipal airport shall provide written notice to the commissioner of intent to close the airport. Notice must be provided to the commissioner before or immediately upon cessation of operations at the airport.

Subd. 3. [PRESERVATION OF AIRPORT PROPERTY; PENALTY.] For 120 days following receipt by the commissioner of the notice described in subdivision 2, the municipality may not abandon, significantly alter, demolish, or convey airport property. A municipality in violation must be assessed a civil penalty of \$1,000 for each day of the 120-day period that it remains in violation. Proceeds of the penalty must be deposited in the state airports fund.

Subd. 4. [PUBLIC NOTICE AND HEARING.] The owner of a municipal airport shall schedule a public hearing to take place within 60 days following the giving of notice to the commissioner of intent to close. The owner of the airport shall provide public notice within the municipality served by the airport a minimum of 21 days before the hearing. At the hearing, the municipality shall present information concerning the airport closing, and the public must have the opportunity to comment.

Subd. 5. [IMPACT EVALUATION.] Before the public hearing, the commissioner shall prepare a written evaluation of the impact on the airport system of the closure of the municipal airport. The commissioner shall make the evaluation available to the municipality and to the public in advance of the hearing."

Delete the title and insert:

"A bill for an act relating to municipal airports; requiring notice to commissioner of transportation and public notice and hearing before final closure of municipal airport; proposing coding for new law in Minnesota Statutes, chapter 360."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Local Government and Metropolitan Affairs.

The report was adopted.

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

H. F. No. 2855, A bill for an act relating to water; extending expiration of shoreland protection program; amending Minnesota Statutes 2002, section 103F.225, subdivision 5.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 103F.225, subdivision 5, is amended to read:

Subd. 5. [EXPIRATION.] This section expires June 30, ~~2004~~ 2008.

**[EFFECTIVE DATE.]** This section is effective June 30, 2004.

Sec. 2. [103G.407] [WATER LEVEL CONTROLS FOR PUBLIC WATERS WITH AN OUTLET.]

(a) The commissioner, upon due consideration of recommendations and objections as provided in paragraph (c), may issue a public waters work permit to establish a control elevation for a public water with an outlet that is different than any previously existing or established control level when:

(1) all of the property abutting the ordinary high water mark of the public water is in public ownership or the public entity has obtained permanent flowage easements; and

(2) the commissioner finds that the proposed change in the control level is in the public interest and causes minimal adverse environmental impact.

(b) In addition to the requirements in section 103G.301, subdivision 6, if the proposed control elevation differs from any historical control level, the permit applicant shall serve a copy of the application on each county and municipality within which any portion of the lake is located and on the lake improvement district, if one exists.

(c) A county, municipality, watershed district, or lake improvement district required to be served under paragraph (b) or section 103G.301, subdivision 6, may file a written recommendation for the issuance of the permit or an objection to the issuance of the permit with the commissioner within 30 days after receiving a copy of the application."

Delete the title and insert:

"A bill for an act relating to water; extending expiration of shoreland protection program; providing for establishment of water level controls for public waters with an outlet; amending Minnesota Statutes 2002, section 103F.225, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 103G."

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

The report was adopted.

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

H. F. No. 2878, A bill for an act relating to state observances; designating Dr. Norman E. Borlaug World Food Prize Day; proposing coding for new law in Minnesota Statutes, chapter 10.

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

The report was adopted.

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

H. F. No. 2936, A bill for an act relating to local government; authorizing the city of St. Paul to participate in the creation of, and to contract with, a nonprofit organization for management and operation of the RiverCentre complex.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Governmental Operations and Veterans Affairs Policy.

The report was adopted.

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

S. F. No. 1192, A bill for an act relating to drivers' licenses; requiring department of public safety to forward information about certain driver's license and identification card applicants to selective service system; amending Minnesota Statutes 2002, section 171.06, by adding a subdivision.

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

The report was adopted.

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

S. F. No. 2065, A bill for an act relating to municipal tort liability; providing immunity from tort liability for a limited partnership in which a community action agency is a general partner; amending Minnesota Statutes 2003 Supplement, section 466.01, subdivision 1.

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

The report was adopted.



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

S. F. No. 2498, A bill for an act relating to domestic abuse; providing that ex parte orders for protection and temporary restraining orders are effective upon a referee's signature; amending Minnesota Statutes 2002, section 518B.01, subdivision 7; Minnesota Statutes 2003 Supplement, section 609.748, subdivision 4.

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

The report was adopted.

### **SECOND READING OF HOUSE BILLS**

H. F. Nos. 1437, 1710, 1868, 1896, 2000, 2020, 2087, 2217, 2453, 2575, 2666, 2691 and 2878 were read for the second time.

### **SECOND READING OF SENATE BILLS**

S. F. Nos. 1748, 1192, 2065 and 2498 were read for the second time.

### **INTRODUCTION AND FIRST READING OF HOUSE BILLS**

The following House Files were introduced:

Paymar introduced:

H. F. No. 3060, A bill for an act relating to human services; limiting medical assistance liens and claims against certain joint tenancies; amending Minnesota Statutes 2003 Supplement, sections 256B.15, subdivision 1; 514.981, subdivision 6; 514.992, subdivision 6.

The bill was read for the first time and referred to the Committee on Civil Law.

Osterman, Magnus, Mahoney and Gunther introduced:

H. F. No. 3061, A bill for an act relating to the State Board of Investment; authorizing increased State Board of Investment participation in venture capital investments; classifying data related to certain venture capital investments; appropriating money in the event of certain venture capital investment shortfalls; amending Minnesota Statutes 2002, sections 11A.24, subdivision 6, by adding a subdivision; 13.635, by adding a subdivision.

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

Sykora and Seagren introduced:

H. F. No. 3062, A bill for an act relating to education; requiring highly qualified teachers to teach students in core academic subjects; amending Minnesota Statutes 2002, section 122A.16.

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

Pugh introduced:

H. F. No. 3063, A bill for an act relating to historic places; designating Pilot Knob/Oheyawahi as a historic place; amending Minnesota Statutes 2002, section 138.664, by adding a subdivision.

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

Haas introduced:

H. F. No. 3064, A bill for an act relating to state government; requiring the commissioner of administration to rent out space in the state-owned building at 168 Aurora Avenue in St. Paul.

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

Pugh introduced:

H. F. No. 3065, A bill for an act relating to human rights; prohibiting discrimination based on familial status by employers; modifying the definition of familial status; amending Minnesota Statutes 2002, sections 363.01, subdivision 19; 363.03, subdivision 1.

The bill was read for the first time and referred to the Committee on Civil Law.

Osterman introduced:

H. F. No. 3066, A bill for an act relating to professions; changing interior designer certification to licensure; amending Minnesota Statutes 2002, sections 326.02, subdivisions 1, 3a, 4b, 5; 326.03, subdivisions 1, 4; 326.031; 326.04; 326.05; 326.09; 326.10, subdivisions 1, 2a; 326.105; 326.107, subdivision 1; 326.11, subdivision 1; 326.111; 326.12; 326.13; 326.14; Minnesota Statutes 2003 Supplement, section 326.10, subdivisions 8, 9.

The bill was read for the first time and referred to the Committee on Commerce, Jobs and Economic Development.

Holberg introduced:

H. F. No. 3067, A bill for an act relating to domestic abuse; authorizing an additional extension of the domestic fatality review team pilot project in the fourth judicial district; amending Laws 2002, chapter 266, section 1.

The bill was read for the first time and referred to the Committee on Civil Law.

Bradley introduced:

H. F. No. 3068, A bill for an act relating to human services; changing provisions for nursing facility reimbursement; establishing a nursing facility reimbursement system effective in 2005; amending Minnesota Statutes 2002, sections 256B.431, subdivisions 28, 29, 30, 35; 256B.432, subdivisions 1, 2, 5, by adding subdivisions; 256B.434, subdivisions 4a, 4b, 4c, 4d, by adding a subdivision; Minnesota Statutes 2003 Supplement, section 256B.47, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 256B.

The bill was read for the first time and referred to the Committee on Health and Human Services Finance.

Eken and Lieder introduced:

H. F. No. 3069, A bill for an act relating to state lands; authorizing the public sale of certain tax-forfeited land that borders public water in Mahnommen County.

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

Anderson, I., and Penas, by request, introduced:

H. F. No. 3070, A bill for an act relating to taxation; providing for use of the proceeds of a lodging tax in Lake of the Woods County.

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

Solberg introduced:

H. F. No. 3071, A bill for an act relating to occupations; providing that certain traffic escorts are exempt from the experience requirements of a protective agent license; amending Minnesota Statutes 2002, section 326.3382, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Commerce, Jobs and Economic Development.

Solberg and Howes introduced:

H. F. No. 3072, A bill for an act relating to crime prevention and public safety; repealing certain restrictions relating to part-time peace officers; amending Minnesota Statutes 2002, section 626.8465, subdivision 2; repealing Minnesota Statutes 2002, section 626.8465, subdivision 3; Minnesota Statutes 2003 Supplement, section 626.8468, subdivision 1.

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

Rukavina and Sertich introduced:

H. F. No. 3073, A bill for an act relating to sales and use tax; exempting charitable donations of meals from sales tax; amending Minnesota Statutes 2002, section 297A.70, by adding a subdivision.

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

Davids introduced:

H. F. No. 3074, A bill for an act relating to economic development; regulating business subsidies; amending Minnesota Statutes 2002, section 116J.994, by adding a subdivision; Minnesota Statutes 2003 Supplement, section 116J.994, subdivisions 4, 9.

The bill was read for the first time and referred to the Committee on Jobs and Economic Development Finance.

Eken, Otremba, Lieder, Huntley, Peterson, Koenen and Goodwin introduced:

H. F. No. 3075, A bill for an act relating to nursing home funding; providing a credit for nursing home residents; reducing the nursing home surcharge; modeling income tax rates; appropriating money; amending Minnesota Statutes 2002, section 290.06, subdivision 2d; Minnesota Statutes 2003 Supplement, sections 256.9657, subdivision 1; 290.06, subdivision 2c; proposing coding for new law in Minnesota Statutes, chapter 290.

The bill was read for the first time and referred to the Committee on Health and Human Services Finance.

Davnie introduced:

H. F. No. 3076, A bill for an act relating to education finance; expanding the definition of net debt limit for school districts; amending Minnesota Statutes 2002, section 128D.11, subdivision 9.

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

Strachan and Murphy introduced:

H. F. No. 3077, A bill for an act relating to public safety; providing grants to counties for additional probation officers to supervise sex offenders; appropriating money.

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

Solberg and Dill introduced:

H. F. No. 3078, A bill for an act relating to economic development; providing funding for commercial application of e-learning in rural Minnesota; appropriating money.

The bill was read for the first time and referred to the Committee on Jobs and Economic Development Finance.

Eken introduced:

H. F. No. 3079, A bill for an act relating to human services; authorizing a planned closure rate adjustment for a nursing facility in Becker County; amending Minnesota Statutes 2002, section 256B.437, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Health and Human Services Finance.

Nelson, C., introduced:

H. F. No. 3080, A bill for an act relating to education; allowing certain limited English proficiency pupils to receive limited English proficiency programs and instruction for up to seven years; amending Minnesota Statutes 2003 Supplement, sections 124D.59, subdivision 2; 124D.65, subdivision 5.

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

### **CONSENT CALENDAR**

Paulsen moved that the Consent Calendar be continued. The motion prevailed.

The Speaker assumed the Chair.

### **MOTIONS AND RESOLUTIONS**

Knoblach moved that the name of Samuelson be added as an author on H. F. No. 1535. The motion prevailed.

Harder moved that the name of Ruth be added as an author on H. F. No. 1732. The motion prevailed.

Slawik moved that the name of Samuelson be added as an author on H. F. No. 1778. The motion prevailed.

Fuller moved that the name of Nelson, C., be added as an author on H. F. No. 1989. The motion prevailed.

Greiling moved that the name of Walker be added as an author on H. F. No. 2068. The motion prevailed.

Cox moved that the name of Brod be added as an author on H. F. No. 2073. The motion prevailed.

Cox moved that the name of Brod be added as an author on H. F. No. 2188. The motion prevailed.

Howes moved that the name of Nelson, P., be added as an author on H. F. No. 2334. The motion prevailed.

Abeler moved that the name of Osterman be added as an author on H. F. No. 2402. The motion prevailed.

Latz moved that the name of Samuelson be added as an author on H. F. No. 2411. The motion prevailed.

Bradley moved that the name of Nelson, C., be added as an author on H. F. No. 2533. The motion prevailed.

Sieben moved that her name be stricken as an author on H. F. No. 2534. The motion prevailed.

Nelson, P., moved that the name of Hoppe be added as an author on H. F. No. 2712. The motion prevailed.

Ozment moved that the name of Demmer be added as an author on H. F. No. 2767. The motion prevailed.

Johnson, J., moved that the name of Kohls be added as an author on H. F. No. 2832. The motion prevailed.

Seagren moved that the name of Samuelson be added as an author on H. F. No. 2860. The motion prevailed.

Knoblach moved that the name of Samuelson be added as an author on H. F. No. 2867. The motion prevailed.

Vandever moved that the names of Osterman, Rhodes, Otto, Murphy, Westerberg, Beard and Tingelstad be added as authors on H. F. No. 2930. The motion prevailed.

Seifert moved that the name of Abeler be added as an author on H. F. No. 2945. The motion prevailed.

Slawik moved that the name of Clark be added as an author on H. F. No. 2956. The motion prevailed.

Kelliher moved that the name of Clark be added as an author on H. F. No. 2960. The motion prevailed.

Seagren moved that the name of Erhardt be added as an author on H. F. No. 3016. The motion prevailed.

Otremba moved that the name of Lenczewski be added as an author on H. F. No. 3019. The motion prevailed.

Davnie moved that the name of Lenczewski be added as an author on H. F. No. 3028. The motion prevailed.

Meslow moved that the names of Paymar and Kelliher be added as authors on H. F. No. 3057. The motion prevailed.

Meslow moved that H. F. No. 2217, now on the General Register, be re-referred to the Committee on Judiciary Policy and Finance. The motion prevailed.

Howes moved that H. F. No. 2653, now on the General Register, be re-referred to the Committee on Governmental Operations and Veterans Affairs Policy. The motion prevailed.

Paulsen moved that the House recess subject to the call of the Chair. The motion prevailed.

#### RECESS

A traditional "Irish Jig" and "When Irish Eyes are Smiling" were performed on the uilleann pipe by Tom Klein, an Irish musician from St. Paul, Minnesota, in celebration of St. Patrick's Day.

#### RECONVENED

The House reconvened and was called to order by the Speaker.

#### ADJOURNMENT

Paulsen moved that when the House adjourns today it adjourn until 3:00 p.m., Thursday, March 18, 2004. The motion prevailed.

Paulsen moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 3:00 p.m., Thursday, March 18, 2004.

EDWARD A. BURDICK, Chief Clerk, House of Representatives