

STATE OF MINNESOTA

EIGHTY-THIRD SESSION — 2003

 THIRTY-SECOND DAY

SAINT PAUL, MINNESOTA, WEDNESDAY, APRIL 2, 2003

The House of Representatives convened at 4:30 p.m. and was called to order by Steve Sviggum, Speaker of the House.

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

A quorum was present.

Dorn and Kelliher were excused.

Solberg was excused until 5:40 p.m.

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

PETITIONS AND COMMUNICATIONS

The following communications were received:

STATE OF MINNESOTA
OFFICE OF THE GOVERNOR
SAINT PAUL 55155

March 31, 2003

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

Dear Speaker Sviggum:

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

H. F. No. 95, relating to commerce; eliminating an archaic prohibition on misrepresenting the size of certain items.

H. F. No. 112, relating to real property; making various technical, clarifying, and conforming changes relating to registration of title, liens, and mortgages.

Sincerely,

TIM PAWLENTY
Governor

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

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2003 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

<i>S. F. No.</i>	<i>H. F. No.</i>	<i>Session Laws Chapter No.</i>	<i>Time and Date Approved 2003</i>	<i>Date Filed 2003</i>
	95	4	10:05 a.m. March 31	March 31
	112	5	10:30 a.m. March 31	March 31

Sincerely,

MARY KIFFMEYER
Secretary of State

REPORTS OF STANDING COMMITTEES

Smith from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 7, A bill for an act relating to public safety; providing that a public safety officer death benefit is paid to the officer's estate if there is no eligible spouse or dependent; amending Minnesota Statutes 2002, section 299A.44, subdivision 1.

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.

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

H. F. No. 30, A bill for an act relating to comprehensive local planning; reestablishing local control of comprehensive planning; repealing metropolitan land use planning and metropolitan council review of local comprehensive plans; making conforming changes; amending Minnesota Statutes 2002, sections 103B.231, subdivision 7; 103B.255, subdivision 8; 462.355, subdivision 1a; 473.146, subdivision 1; 473.1551, subdivision 1; 473.173, subdivisions 3, 4; 473.867, subdivisions 1, 6; 473.871; 473H.02, subdivisions 4, 7; repealing Minnesota Statutes 2002, sections 103B.205, subdivisions 6, 7, 10; 473.175; 473.851; 473.852; 473.853; 473.854; 473.856; 473.857; 473.858; 473.859; 473.86; 473.861; 473.862; 473.863; 473.864; 473.865; 473.866; 473.868; 473.869; 473.87.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 473.175, subdivision 1, is amended to read:

Subdivision 1. [FOR COMPATIBILITY, CONFORMITY.] The council shall review the comprehensive plans of local governmental units and the capital improvement programs of school districts, prepared and submitted pursuant to Laws 1976, chapter 127, sections 1 to 23, to determine their compatibility with each other and conformity with metropolitan system plans. The council shall review and comment on the apparent consistency of the comprehensive plans and capital improvement programs with adopted plans of the council. The council may require a local governmental unit to modify any comprehensive plan or part thereof which ~~may~~ will have a substantial, demonstrable, and adverse impact on ~~or contain a substantial departure from the infrastructure of a metropolitan system plans.~~

Sec. 2. [EFFECTIVE DATE; APPLICATION.]

Section 1 is effective the day following final enactment and applies in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington."

Delete the title and insert:

"A bill for an act relating to the metropolitan council; limiting the council to requiring a change of a local comprehensive plan only when the plan will have a substantial, demonstrable, and adverse impact on the infrastructure of a metropolitan system; amending Minnesota Statutes 2002, section 473.175, subdivision 1."

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

The report was adopted.

Smith from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 96, A bill for an act relating to law enforcement; modifying the policy for reimbursing public employers for certain officer and firefighter health insurance benefits; requiring the commissioner of public safety to reimburse certain claims from other available funds; amending Minnesota Statutes 2002, sections 299A.42; 299A.465, subdivision 4.

Reported the same back with the following amendments:

Page 1, line 20, delete "July 1, 2002" and insert "the day following final enactment"

Page 1, delete section 2 and insert:

"Sec. 2. Minnesota Statutes 2002, section 299A.465, subdivision 4, is amended to read:

Subd. 4. [PUBLIC EMPLOYER REIMBURSEMENT.] A public employer subject to this section may annually apply to the commissioner of public safety for reimbursement to help defray a portion of its costs of complying with this section. Applications must be submitted by August 1 for claims relating to the preceding fiscal year. The commissioner shall provide reimbursement to the public employer out of the public safety officer's benefit account. Reimbursement may be less than the total claim and may be prorated based on the number of eligible peace officers, firefighters, and qualifying dependents. An individual share must not exceed the actual cost to a public employer to provide coverage for an individual under this section.

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

Page 2, delete line 12

Page 2, line 13, delete "purpose"

Page 2, line 15, after "2002" insert "for claims submitted no later than December 31, 2002" and after the period, insert "Of that amount, up to \$200,000 may be reallocated from funds appropriated for the soft body armor reimbursement program under Minnesota Statutes, section 299A.38, in fiscal year 2003 and the remaining amount must come from general fund money appropriated to the commissioner for any other purpose."

Page 2, line 16, delete "July 1, 2002" and insert "the day following final enactment"

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.

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

H. F. No. 199, A bill for an act relating to economic development; authorizing the county of Koochiching to establish a port authority; authorizing political subdivisions to apply for foreign trade zone powers; proposing coding for new law in Minnesota Statutes, chapter 469.

Reported the same back with the recommendation that 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. 343, A bill for an act relating to motor vehicles; allowing sales to other dealers by limited used vehicle dealers; exempting donations of vehicles to individuals by a licensed limited used vehicle dealer from motor vehicle sales tax; amending Minnesota Statutes 2002, sections 168.27, subdivision 4a; 297B.01, subdivision 7.

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

The report was adopted.

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

H. F. No. 551, A bill for an act relating to human services; expanding adult foster care license capacity; amending Minnesota Statutes 2002, section 245A.11, subdivision 2a.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

DEPARTMENT OF HUMAN SERVICES LICENSING

Section 1. Minnesota Statutes 2002, section 245A.04, subdivision 3, is amended to read:

Subd. 3. [BACKGROUND STUDY OF THE APPLICANT; DEFINITIONS.] (a) Individuals and organizations that are required in statute to initiate background studies under this section shall comply with the following requirements:

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

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

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

Upon receipt of the background study forms from the entities in clauses (1) to (3), the commissioner shall complete the background study as specified under this section and provide notices required in subdivision 3a. Unless otherwise specified, the subject of a background study may have direct contact with persons served by a program after the background study form is mailed or submitted to the commissioner pending notification of the study results under subdivision 3a. A county agency may accept a background study completed by the commissioner under this section in place of the background study required under section 245A.16, subdivision 3, in programs with joint licensure as home and community-based services and adult foster care for people with developmental disabilities when the license holder does not reside in the foster care residence and the subject of the study has been continuously affiliated with the license holder since the date of the commissioner's study.

(b) The definitions in this paragraph apply only to subdivisions 3 to 3e.

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

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

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

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

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

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

(c) The applicant, license holder, registrant under section 144A.71, subdivision 1, bureau of criminal apprehension, commissioner of health, and county agencies, after written notice to the individual who is the subject of the study, shall help with the study by giving the commissioner criminal conviction data and reports about the maltreatment of adults substantiated under section 626.557 and the maltreatment of minors in licensed programs substantiated under section 626.556. If a background study is initiated by an applicant or license holder and the applicant or license holder receives information about the possible criminal or maltreatment history of an individual who is the subject of the background study, the applicant or license holder must immediately provide the information to the commissioner. The individuals to be studied shall include:

(1) the applicant;

(2) persons age 13 and over living in the household where the licensed program will be provided;

(3) current employees or contractors of the applicant who will have direct contact with persons served by the facility, agency, or program;

(4) volunteers or student volunteers who have direct contact with persons served by the program to provide program services, if the contact is not under the continuous, direct supervision by an individual listed in clause (1) or (3);

(5) any person required under section 256B.0627 to have a background study completed under this section;

(6) persons ages 10 to 12 living in the household where the licensed services will be provided when the commissioner has reasonable cause; and

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

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

(e) Beginning August 1, 2001, the commissioner shall conduct all background studies required under this chapter and initiated by supplemental nursing services agencies registered under section 144A.71, subdivision 1. Studies for the agencies must be initiated annually by each agency. The commissioner shall conduct the background studies according to this chapter. The commissioner shall recover the cost of the background studies through a fee of no more than \$8 per study, charged to the supplemental nursing services agency. The fees collected under this paragraph are appropriated to the commissioner for the purpose of conducting background studies.

(f) For purposes of this section, a finding that a delinquency petition is proven in juvenile court shall be considered a conviction in state district court.

(g) A study of an individual in paragraph (c), clauses (1) to (7), shall be conducted at least upon application for initial license for all license types or registration under section 144A.71, subdivision 1, and at reapplication for a license for family child care, child foster care, and adult foster care. The commissioner is not required to conduct a study of an individual at the time of reapplication for a license or if the individual has been continuously affiliated with a foster care provider licensed by the commissioner of human services and registered under chapter 144D, other than a family day care or foster care license, if: (i) a study of the individual was conducted either at the time of initial licensure or when the individual became affiliated with the license holder; (ii) the individual has been continuously affiliated with the license holder since the last study was conducted; and (iii) the procedure described in paragraph (j) has been implemented and was in effect continuously since the last study was conducted. For the purposes of this section, a physician licensed under chapter 147 is considered to be continuously affiliated upon the license holder's receipt from the commissioner of health or human services of the physician's background study results. For individuals who are required to have background studies under paragraph (c) and who have been continuously affiliated with a foster care provider that is licensed in more than one county, criminal conviction data may be shared among those counties in which the foster care programs are licensed. A county agency's receipt of criminal conviction data from another county agency shall meet the criminal data background study requirements of this section.

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

(i) personnel pool agencies;

(ii) temporary personnel agencies;

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

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

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

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

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

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

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

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

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

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

(3) When a background study is being initiated by a licensed facility or a foster care provider that is also registered under chapter 144D, a study subject affiliated with multiple licensed facilities may attach to the background study form a cover letter indicating the additional facilities' names, addresses, and background study identification numbers. When the commissioner receives such notices, each facility identified by the background study subject shall be notified of the study results. The background study notice sent to the subsequent agencies shall satisfy those facilities' responsibilities for initiating a background study on that individual.

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

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

(l) For programs directly licensed by the commissioner, a study must include information related to names of substantiated perpetrators of maltreatment of vulnerable adults that has been received by the commissioner as required under section 626.557, subdivision 9c, paragraph (i), and the commissioner's records relating to the maltreatment of minors in licensed programs, information from juvenile courts as required in paragraph (c) for persons listed in paragraph (c), clauses (2), (6), and (7), and information from the bureau of criminal apprehension. For child foster care, adult foster care, and family day care homes, the study must include information from the county agency's record of substantiated maltreatment of adults, and the maltreatment of minors, information from juvenile courts as required in paragraph (c) for persons listed in paragraph (c), clauses (2), (6), and (7), and information from the bureau of criminal apprehension. The commissioner may also review arrest and investigative information from the bureau of criminal apprehension, the commissioner of health, a county attorney, county sheriff, county agency, local chief of police, other states, the courts, or the Federal Bureau of Investigation if the

commissioner has reasonable cause to believe the information is pertinent to the disqualification of an individual listed in paragraph (c), clauses (1) to (7). The commissioner is not required to conduct more than one review of a subject's records from the Federal Bureau of Investigation if a review of the subject's criminal history with the Federal Bureau of Investigation has already been completed by the commissioner and there has been no break in the subject's affiliation with the license holder who initiated the background study.

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

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

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

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

(n) The failure or refusal of an applicant, license holder, or registrant under section 144A.71, subdivision 1, to cooperate with the commissioner is reasonable cause to disqualify a subject, deny a license application or immediately suspend, suspend, or revoke a license or registration. Failure or refusal of an individual to cooperate with the study is just cause for denying or terminating employment of the individual if the individual's failure or refusal to cooperate could cause the applicant's application to be denied or the license holder's license to be immediately suspended, suspended, or revoked.

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

(p) No person in paragraph (c), clauses (1) to (7), who is disqualified as a result of this section may be retained by the agency in a position involving direct contact with persons served by the program and no person in paragraph (c), clauses (2), (6), and (7), or as provided elsewhere in statute who is disqualified as a result of this section may be allowed access to persons served by the program, unless the commissioner has provided written notice to the agency stating that:

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

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

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

(q) Termination of affiliation with persons in paragraph (c), clauses (1) to (7), made in good faith reliance on a notice of disqualification provided by the commissioner shall not subject the applicant or license holder to civil liability.

(r) The commissioner may establish records to fulfill the requirements of this section.

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

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

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

(v) County agencies shall have access to the criminal history data in the same manner as county licensing agencies under this chapter for purposes of background studies completed by county agencies on legal nonlicensed child care providers to determine eligibility for child care funds under chapter 119B.

Sec. 2. Minnesota Statutes 2002, section 245A.04, subdivision 3b, is amended to read:

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

The individual must submit the request for reconsideration to the commissioner in writing. A request for reconsideration for an individual who has been sent a notice of disqualification under subdivision 3a, paragraph (b), clause (1) or (2), must be submitted within 30 calendar days of the disqualified individual's receipt of the notice of disqualification. Upon showing that the information in clause (1) or (2) cannot be obtained within 30 days, the disqualified individual may request additional time, not to exceed 30 days, to obtain that information. A request for reconsideration for an individual who has been sent a notice of disqualification under subdivision 3a, paragraph (b), clause (3), must be submitted within 15 calendar days of the disqualified individual's receipt of the notice of disqualification. An individual who was determined to have maltreated a child under section 626.556 or a vulnerable adult under section 626.557, and who was disqualified under this section on the basis of serious or recurring maltreatment, may request reconsideration of both the maltreatment and the disqualification determinations. The request for reconsideration of the maltreatment determination and the disqualification must be submitted within 30 calendar days of the individual's receipt of the notice of disqualification. Removal of a disqualified individual from direct contact shall be ordered if the individual does not request reconsideration within the prescribed time, and for an individual who submits a timely request for reconsideration, if the disqualification is not set aside. The individual must present information showing that:

(1) the information the commissioner relied upon in determining that the underlying conduct giving rise to the disqualification occurred, and for maltreatment, that the maltreatment was serious or recurring, is incorrect; or

(2) the subject of the study does not pose a risk of harm to any person served by the applicant, license holder, or registrant under section 144A.71, subdivision 1.

(b) The commissioner shall rescind the disqualification if the commissioner finds that the information relied on to disqualify the subject is incorrect. The commissioner may set aside the disqualification under this section if the commissioner finds that the individual does not pose a risk of harm to any person served by the applicant, license holder, or registrant under section 144A.71, subdivision 1. In determining that an individual does not pose a risk of harm, the commissioner shall consider the nature, severity, and consequences of the event or events that lead to disqualification, whether there is more than one disqualifying event, the age and vulnerability of the victim at the time of the event, the harm suffered by the victim, the similarity between the victim and persons served by the program, the time elapsed without a repeat of the same or similar event, documentation of successful completion by the individual studied of training or rehabilitation pertinent to the event, and any other information relevant to reconsideration. In reviewing a disqualification under this section, the commissioner shall give preeminent weight to the safety of each person to be served by the license holder, applicant, or registrant under section 144A.71, subdivision 1, over the interests of the license holder, applicant, or registrant under section 144A.71, subdivision 1.

If the commissioner sets aside a disqualification under this section, the disqualified individual remains disqualified, but may hold a license and have direct contact with or access to persons receiving services. The commissioner's set aside of a disqualification is limited solely to the licensed program, applicant, or agency specified in the set aside notice, unless otherwise specified in the notice. The commissioner may rescind a previous set aside of a disqualification under this section based on new information that indicates the individual may pose a risk of harm to persons served by the applicant, license holder, or registrant.

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

(1) less than ten years have passed since the discharge of the sentence imposed for the offense; and the individual has been convicted of a violation of any offense listed in sections 609.165 (felon ineligible to possess firearm), criminal vehicular homicide under 609.21 (criminal vehicular homicide and injury), 609.215 (aiding suicide or aiding attempted suicide), felony violations under 609.223 or 609.2231 (assault in the third or fourth degree), 609.713 (terroristic threats), 609.235 (use of drugs to injure or to facilitate crime), 609.24 (simple robbery), 609.255 (false imprisonment), 609.562 (arson in the second degree), 609.71 (riot), 609.498, subdivision 1 or 1a (aggravated first degree or first degree tampering with a witness), burglary in the first or second degree under 609.582 (burglary), 609.66 (dangerous weapon), 609.665 (spring guns), 609.67 (machine guns and short-barreled shotguns), 609.749, subdivision 2 (gross misdemeanor harassment; stalking), 152.021 or 152.022 (controlled substance crime in the first or second degree), 152.023, subdivision 1, clause (3) or (4), or subdivision 2, clause (4) (controlled substance crime in the third degree), 152.024, subdivision 1, clause (2), (3), or (4) (controlled substance crime in the fourth degree), 609.224, subdivision 2, paragraph (c) (fifth-degree assault by a caregiver against a vulnerable adult), 609.23 (mistreatment of persons confined), 609.231 (mistreatment of residents or patients), 609.2325 (criminal abuse of a vulnerable adult), 609.233 (criminal neglect of a vulnerable adult), 609.2335 (financial exploitation of a vulnerable adult), 609.234 (failure to report), 609.265 (abduction), 609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree), 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree), 609.268 (injury or death of an unborn child in the commission of a crime), 617.293 (disseminating or displaying harmful material to minors), a felony level conviction involving alcohol or drug use, a gross misdemeanor offense under 609.324, subdivision 1 (other prohibited acts), a gross misdemeanor offense under 609.378 (neglect or endangerment of a child), a gross misdemeanor offense under 609.377 (malicious punishment of a child), 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state, the elements of which are substantially similar to the elements of any of the foregoing offenses;

(2) regardless of how much time has passed since the involuntary termination of parental rights under section 260C.301 or the discharge of the sentence imposed for the offense, the individual was convicted of a violation of any offense listed in sections 609.185 to 609.195 (murder in the first, second, or third degree), 609.20 (manslaughter in the first degree), 609.205 (manslaughter in the second degree), 609.245 (aggravated robbery), 609.25 (kidnapping), 609.561 (arson in the first degree), 609.749, subdivision 3, 4, or 5 (felony-level harassment; stalking), 609.228 (great bodily harm caused by distribution of drugs), 609.221 or 609.222 (assault in the first or second degree), 609.66, subdivision 1e (drive-by shooting), 609.855, subdivision 5 (shooting in or at a public transit vehicle or facility), 609.2661 to 609.2663 (murder of an unborn child in the first, second, or third degree), a felony offense under 609.377 (malicious punishment of a child), a felony offense under 609.324, subdivision 1 (other prohibited acts), a felony offense under 609.378 (neglect or endangerment of a child), 609.322 (solicitation, inducement, and promotion of prostitution), 609.342 to 609.345 (criminal sexual conduct in the first, second, third, or fourth degree), 609.352 (solicitation of children to engage in sexual conduct), 617.246 (use of minors in a sexual performance), 617.247 (possession of pictorial representations of a minor), 609.365 (incest), a felony offense under sections

609.2242 and 609.2243 (domestic assault), a felony offense of spousal abuse, a felony offense of child abuse or neglect, a felony offense of a crime against children, or an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes, or an offense in any other state, the elements of which are substantially similar to any of the foregoing offenses;

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

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

In the case of any ground for disqualification under clauses (1) to (4), if the act was committed by an individual other than the applicant, license holder, or registrant under section 144A.71, subdivision 1, residing in the applicant's or license holder's home, or the home of a registrant under section 144A.71, subdivision 1, the applicant, license holder, or registrant under section 144A.71, subdivision 1, may seek reconsideration when the individual who committed the act no longer resides in the home.

The disqualification periods provided under clauses (1), (3), and (4) are the minimum applicable disqualification periods. The commissioner may determine that an individual should continue to be disqualified from licensure or registration under section 144A.71, subdivision 1, because the license holder, applicant, or registrant under section 144A.71, subdivision 1, poses a risk of harm to a person served by that individual after the minimum disqualification period has passed.

(d) The commissioner shall respond in writing or by electronic transmission to all reconsideration requests for which the basis for the request is that the information relied upon by the commissioner to disqualify is incorrect or inaccurate within 30 working days of receipt of a request and all relevant information. If the basis for the request is that the individual does not pose a risk of harm, the commissioner shall respond to the request within 15 working days after receiving the request for reconsideration and all relevant information. If the request is based on both the correctness or accuracy of the information relied on to disqualify the individual and the risk of harm, the commissioner shall respond to the request within 45 working days after receiving the request for reconsideration and all relevant information. If the disqualification is set aside, the commissioner shall notify the applicant or license holder in writing or by electronic transmission of the decision.

(e) Except as provided in subdivision 3c, if a disqualification for which reconsideration was requested is not set aside or is not rescinded, an individual who was disqualified on the basis of a preponderance of evidence that the individual committed an act or acts that meet the definition of any of the crimes listed in subdivision 3d, paragraph (a), clauses (1) to (4); for a determination under section 626.556 or 626.557 of substantiated maltreatment that was serious or recurring under subdivision 3d, paragraph (a), clause (4); or for failure to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, pursuant to subdivision 3d, paragraph (a), clause (4), may request a fair hearing under section 256.045. Except as provided under subdivision 3c, the fair hearing is the only administrative appeal of the final agency determination for purposes of appeal by the disqualified individual, specifically, including a challenge to the accuracy and completeness of data under section 13.04. If the individual was disqualified based on a conviction or admission to any crimes listed in subdivision 3d, paragraph (a), clauses (1) to (4), the reconsideration decision under this subdivision is the final agency determination for purposes of appeal by the disqualified individual and is not subject to a hearing under section 256.045.

(f) Except as provided under subdivision 3c, if an individual was disqualified on the basis of a determination of maltreatment under section 626.556 or 626.557, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under section 626.556, subdivision 10i, or 626.557, subdivision 9d, and also requested reconsideration of the disqualification under this subdivision, reconsideration of the maltreatment determination and reconsideration of the disqualification shall be consolidated into a single reconsideration. For maltreatment and disqualification determinations made by county agencies, the consolidated reconsideration shall be conducted by the county agency. If the county agency has disqualified an individual on multiple bases, one of which is a county maltreatment determination for which the individual has a right to request reconsideration, the county shall conduct the reconsideration of all disqualifications. Except as provided under subdivision 3c, if an individual who was disqualified on the basis of serious or recurring maltreatment requests a fair hearing on the maltreatment determination under section 626.556, subdivision 10i, or 626.557, subdivision 9d, and requests a fair hearing on the disqualification, which has not been set aside or rescinded under this subdivision, the scope of the fair hearing under section 256.045 shall include the maltreatment determination and the disqualification. Except as provided under subdivision 3c, a fair hearing is the only administrative appeal of the final agency determination, specifically, including a challenge to the accuracy and completeness of data under section 13.04.

(g) In the notice from the commissioner that a disqualification has been set aside, the license holder must be informed that information about the nature of the disqualification and which factors under paragraph (b) were the bases of the decision to set aside the disqualification is available to the license holder upon request without consent of the background study subject. With the written consent of a background study subject, the commissioner may release to the license holder copies of all information related to the background study subject's disqualification and the commissioner's decision to set aside the disqualification as specified in the written consent.

Sec. 3. Minnesota Statutes 2002, section 245A.09, subdivision 7, is amended to read:

Subd. 7. [REGULATORY METHODS.] (a) Where appropriate and feasible the commissioner shall identify and implement alternative methods of regulation and enforcement to the extent authorized in this subdivision. These methods shall include:

(1) expansion of the types and categories of licenses that may be granted;

(2) when the standards of another state or federal governmental agency or an independent accreditation body have been shown to ~~predict compliance with the rules~~ require the same standards, methods, or alternative methods to achieve substantially the same intended outcomes as the licensing standards, the commissioner shall consider compliance with the governmental or accreditation standards to be equivalent to partial compliance with the ~~rules licensing standards~~; and

(3) use of an abbreviated inspection that employs key standards that have been shown to predict full compliance with the rules.

(b) If the commissioner accepts accreditation as documentation of compliance with a licensing standard under paragraph (a), the commissioner shall continue to investigate complaints related to noncompliance with all licensing standards. The commissioner may take a licensing action for noncompliance under this chapter and shall recognize all existing appeal rights regarding any licensing actions taken under this chapter.

(c) The commissioner shall work with the commissioners of health, public safety, administration, and children, families, and learning in consolidating duplicative licensing and certification rules and standards if the commissioner determines that consolidation is administratively feasible, would significantly reduce the cost of licensing, and

would not reduce the protection given to persons receiving services in licensed programs. Where administratively feasible and appropriate, the commissioner shall work with the commissioners of health, public safety, administration, and children, families, and learning in conducting joint agency inspections of programs.

(e) (d) The commissioner shall work with the commissioners of health, public safety, administration, and children, families, and learning in establishing a single point of application for applicants who are required to obtain concurrent licensure from more than one of the commissioners listed in this clause.

(d) (e) Unless otherwise specified in statute, the commissioner may specify in rule periods of licensure up to two years conduct routine inspections biennially.

Sec. 4. Minnesota Statutes 2002, section 245A.11, subdivision 2a, is amended to read:

Subd. 2a. [ADULT FOSTER CARE LICENSE CAPACITY.] (a) An adult foster care license holder may have a maximum license capacity of five if all persons in care are age 55 or over and do not have a serious and persistent mental illness or a developmental disability.

(b) The commissioner may grant variances to paragraph (a) to allow a foster care provider with a licensed capacity of five persons to admit an individual under the age of 55 if the variance complies with section 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed foster care provider is located.

(c) The commissioner may grant variances to paragraph (a) to allow the use of a fifth bed for emergency crisis services for a person with serious and persistent mental illness or a developmental disability, regardless of age, if the variance complies with section 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed foster care provider is located.

(d) Notwithstanding paragraph (a), the commissioner may issue an adult foster care license with a capacity of five adults when the capacity is recommended by the county licensing agency of the county in which the facility is located and if the recommendation verifies that:

(1) the facility meets the physical environment requirements in the adult foster care licensing rule;

(2) the five-bed living arrangement is specified for each resident in the resident's (i) individualized plan of care; (ii) individual service plan under section 256B.092, subdivision 1b, if required; or (iii) individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required;

(3) the license holder obtains written and signed informed consent from each resident or resident's legal representative documenting the resident's informed choice to living in the home and that the resident's refusal to consent would not have resulted in service termination; and

(4) the facility was licensed for adult foster care before March 1, 2003.

(e) The commissioner shall not issue a new adult foster care license under paragraph (d) after June 30, 2005. The commissioner shall allow a facility with an adult foster care license issued under paragraph (d) before June 30, 2005, to continue with a capacity of five adults if the license holder continues to comply with the requirements in paragraph (d).

Sec. 5. Minnesota Statutes 2002, section 245A.11, is amended by adding a subdivision to read:

Subd. 7. [ADULT FOSTER CARE; VARIANCE FOR ALTERNATE OVERNIGHT SUPERVISION.] (a) The commissioner may grant a variance under section 245A.04, subdivision 9, to rule parts requiring a caregiver to be present in an adult foster care home during normal sleeping hours to allow for alternative methods of overnight supervision. The commissioner may grant the variance if the local county licensing agency recommends the variance and the county recommendation includes documentation verifying that:

(1) the county has approved the license holder's plan for alternative methods of providing overnight supervision and determined the plan protects the residents' health, safety, and rights;

(2) the license holder has obtained written and signed informed consent from each resident or each resident's legal representative documenting the resident's or legal representative's agreement with the alternative method of overnight supervision; and

(3) the alternative method of providing overnight supervision is specified for each resident in the resident's: (i) individualized plan of care; (ii) individual service plan under section 256B.092, subdivision 1b, if required; or (iii) individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required.

(b) To be eligible for a variance under paragraph (a), the adult foster care license holder must not have had a licensing action under section 245A.06 or 245A.07 during the prior 24 months based on failure to provide adequate supervision, health care services, or resident safety in the adult foster care home.

Sec. 6. Minnesota Statutes 2002, 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 chapter 245B 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.

(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.

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

(~~f~~) (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.

(~~g~~) (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.

Sec. 7. Minnesota Statutes 2002, section 245B.03, is amended by adding a subdivision to read:

Subd. 3. [CONTINUITY OF CARE.] (a) When a consumer changes service to the same type of service provided under a different license held by the same license holder and the policies and procedures under section 245B.07, subdivision 8, are substantially similar, the license holder is exempt from the requirements in sections 245B.06, subdivisions 2, paragraphs (e) and (f), and 4; and 245B.07, subdivision 9, clause (2).

(b) When a direct service staff person begins providing direct service under one or more licenses other than the license for which the staff person initially received the staff orientation requirements under section 245B.07, subdivision 5, the license holder is exempt from all staff orientation requirements under section 245B.07, subdivision 5, except that:

(1) if the service provision location changes, the staff person must receive orientation regarding any policies or procedures under section 245B.07, subdivision 8, that are specific to the service provision location; and

(2) if the staff person provides direct service to one or more consumers to whom the staff person has not previously provided direct service, the staff person must review each consumer's: (i) service plans and risk management plan in accordance with section 245B.07, subdivision 5, paragraph (b), clause (1); and (ii) medication administration in accordance with section 245B.07, subdivision 5, paragraph (b), clause (6).

Sec. 8. Minnesota Statutes 2002, section 245B.04, subdivision 2, is amended to read:

Subd. 2. [SERVICE-RELATED RIGHTS.] A consumer's service-related rights include the right to:

(1) refuse or terminate services and be informed of the consequences of refusing or terminating services;

(2) know, in advance, limits to the services available from the license holder;

(3) know conditions and terms governing the provision of services, including those related to initiation and termination;

(4) know what the charges are for services, regardless of who will be paying for the services, and be notified upon request of changes in those charges;

(5) know, in advance, whether services are covered by insurance, government funding, or other sources, and be told of any charges the consumer or other private party may have to pay; and

(6) receive licensed services from individuals who are competent and trained, who have professional certification or licensure, as required, and who meet additional qualifications identified in the individual service plan.

Sec. 9. Minnesota Statutes 2002, section 245B.06, subdivision 2, is amended to read:

Subd. 2. [RISK MANAGEMENT PLAN.] (a) ~~The license holder must develop and document in writing, and implement a risk management plan that incorporates the individual abuse prevention plan as required in section 245A.65 meets the requirements of this subdivision. License holders licensed under this chapter are exempt from sections 245A.65, subdivision 2, and 626.557, subdivision 14, if the requirements of this subdivision are met.~~

(b) The risk management plan must identify areas in which the consumer is vulnerable, based on an assessment, at a minimum, of the following areas:

(1) an adult consumer's susceptibility to physical, emotional, and sexual abuse as defined in section 626.5572, subdivision 2, and financial exploitation as defined in section 626.5572, subdivision 9; a minor consumer's susceptibility to sexual and physical abuse as defined in section 626.556, subdivision 2; and a consumer's susceptibility to self-abuse, regardless of age;

(2) the consumer's health needs, considering the consumer's physical disabilities; allergies; sensory impairments; seizures; diet; need for medications; and ability to obtain medical treatment;

(3) the consumer's safety needs, considering the consumer's ability to take reasonable safety precautions; community survival skills; water survival skills; ability to seek assistance or provide medical care; and access to toxic substances or dangerous items;

(4) environmental issues, considering the program's location in a particular neighborhood or community; the type of grounds and terrain surrounding the building; and the consumer's ability to respond to weather-related conditions, open locked doors, and remain alone in any environment; and

(5) the consumer's behavior, including behaviors that may increase the likelihood of physical aggression between consumers or sexual activity between consumers involving force or coercion, as defined under section 245B.02, subdivision 10, clauses (6) and (7).

(c) When assessing a consumer's vulnerability, the license holder must consider only the consumer's skills and abilities, independent of staffing patterns, supervision plans, the environment, or other situational elements.

(d) License holders jointly providing services to a consumer shall coordinate and use the resulting assessment of risk areas for the development of this each license holder's risk management or the shared risk management plan. Upon initiation of services, the license holder will have in place an initial risk management plan that identifies areas in which the consumer is vulnerable, including health, safety, and environmental issues and the supports the provider will have in place to protect the consumer and to minimize these risks. The plan must be changed based on the needs of the individual consumer and reviewed at least annually. The license holder's plan must include the specific actions a staff person will take to protect the consumer and minimize risks for the identified vulnerability areas. The specific actions must include the proactive measures being taken, training being provided, or a detailed description of actions a staff person will take when intervention is needed.

(e) Prior to or upon initiating services, a license holder must develop an initial risk management plan that is, at a minimum, verbally approved by the consumer or consumer's legal representative and case manager. The license holder must document the date the license holder receives the consumer's or consumer's legal representative's and case manager's verbal approval of the initial plan.

(f) As part of the meeting held within 45 days of initiating service, as required under section 245B.06, subdivision 4, the license holder must review the initial risk management plan for accuracy and revise the plan if necessary. The license holder must give the consumer or consumer's legal representative and case manager an opportunity to participate in this plan review. If the license holder revises the plan, or if the consumer or consumer's legal representative and case manager have not previously signed and dated the plan, the license holder must obtain dated signatures to document the plan's approval.

(g) After plan approval, the license holder must review the plan at least annually and update the plan based on the individual consumer's needs and changes to the environment. The license holder must give the consumer or consumer's legal representative and case manager an opportunity to participate in the ongoing plan development. The license holder shall obtain dated signatures from the consumer or consumer's legal representative and case manager to document completion of the annual review and approval of plan changes.

Sec. 10. Minnesota Statutes 2002, section 245B.06, subdivision 5, is amended to read:

Subd. 5. [PROGRESS REVIEWS.] The license holder must participate in progress review meetings following stated time lines established in the consumer's individual service plan or as requested in writing by the consumer, the consumer's legal representative, or the case manager, at a minimum of once a year. The license holder must summarize the progress toward achieving the desired outcomes and make recommendations in a written report sent to the consumer or the consumer's legal representative and case manager prior to the review meeting. ~~For consumers under public guardianship, the license holder is required to provide quarterly written progress review reports to the consumer, designated family member, and case manager.~~

Sec. 11. Minnesota Statutes 2002, section 245B.07, subdivision 6, is amended to read:

Subd. 6. [STAFF TRAINING.] (a) The license holder shall ensure that direct service staff annually complete hours of training equal to two percent of the number of hours the staff person worked or one percent for license holders providing semi-independent living services. Direct service staff who have worked for the license holder for an average of at least 30 hours per week for 24 or more months must annually complete hours of training equal to one percent of the number of hours the staff person worked. If direct service staff has received training from a license holder licensed under a program rule identified in this chapter or completed course work regarding disability-related issues from a post-secondary educational institute, that training may also count toward training requirements for other services and for other license holders.

(b) The license holder must document the training completed by each employee.

(c) Training shall address staff competencies necessary to address the consumer needs as identified in the consumer's individual service plan and ensure consumer health, safety, and protection of rights. Training may also include other areas identified by the license holder.

(d) For consumers requiring a 24-hour plan of care, the license holder shall provide training in cardiopulmonary resuscitation, from a qualified source determined by the commissioner, if the consumer's health needs as determined by the consumer's physician indicate trained staff would be necessary to the consumer.

Sec. 12. Minnesota Statutes 2002, section 245B.07, subdivision 9, is amended to read:

Subd. 9. [AVAILABILITY OF CURRENT WRITTEN POLICIES AND PROCEDURES.] The license holder shall:

(1) review and update, as needed, the written policies and procedures in this chapter ~~and inform all consumers or the consumer's legal representatives, case managers, and employees of the revised policies and procedures when they affect the service provision;~~

(2) inform consumers or the consumer's legal representatives of the written policies and procedures in this chapter upon service initiation. Copies must be available to consumers or the consumer's legal representatives, case managers, the county where services are located, and the commissioner upon request; ~~and~~

(3) provide all consumers or the consumers' legal representatives and case managers a copy and explanation of revisions to policies and procedures that affect consumers' service-related or protection-related rights under section 245B.04. Unless there is reasonable cause, the license holder must provide this notice at least 30 days before implementing the revised policy and procedure. The license holder must document the reason for not providing the notice at least 30 days before implementing the revisions;

(4) annually notify all consumers or the consumers' legal representatives and case managers of any revised policies and procedures under this chapter, other than those in clause (3). Upon request, the license holder must provide the consumer or consumer's legal representative and case manager copies of the revised policies and procedures;

(5) before implementing revisions to policies and procedures under this chapter, inform all employees of the revised policies and procedures; and

(6) document and maintain relevant information related to the policies and procedures in this chapter.

Sec. 13. Minnesota Statutes 2002, section 245B.08, subdivision 1, is amended to read:

Subdivision 1. [ALTERNATIVE METHODS OF DETERMINING COMPLIANCE.] (a) In addition to methods specified in chapter 245A, the commissioner may use alternative methods and new regulatory strategies to determine compliance with this section. The commissioner may use sampling techniques to ensure compliance with this section. Notwithstanding section 245A.09, subdivision 7, paragraph ~~(d)~~ (e), the commissioner may also extend periods of licensure, not to exceed five years, for license holders who have demonstrated substantial and consistent compliance with sections 245B.02 to 245B.07 and have consistently maintained the health and safety of consumers and have demonstrated by alternative methods in paragraph (b) that they meet or exceed the requirements of this section. For purposes of this section, "substantial and consistent compliance" means that during the current licensing period:

(1) the license holder's license has not been made conditional, suspended, or revoked;

(2) there have been no substantiated allegations of maltreatment against the license holder;

(3) there have been no program deficiencies that have been identified that would jeopardize the health or safety of consumers being served; and

(4) the license holder is in substantial compliance with the other requirements of chapter 245A and other applicable laws and rules.

(b) To determine the length of a license, the commissioner shall consider:

(1) information from affected consumers, and the license holder's responsiveness to consumers' concerns and recommendations;

(2) self assessments and peer reviews of the standards of this section, corrective actions taken by the license holder, and sharing the results of the inspections with consumers, the consumers' families, and others, as requested;

(3) length of accreditation by an independent accreditation body, if applicable;

(4) information from the county where the license holder is located; and

(5) information from the license holder demonstrating performance that meets or exceeds the minimum standards of this chapter.

(c) The commissioner may reduce the length of the license if the license holder fails to meet the criteria in paragraph (a) and the conditions specified in paragraph (b).

ARTICLE 2

CONTINUING CARE

Section 1. Minnesota Statutes 2002, section 256B.0621, subdivision 4, is amended to read:

Subd. 4. [RELOCATION TARGETED CASE MANAGEMENT PROVIDER QUALIFICATIONS.] ~~The following qualifications and certification standards must be met by providers of relocation targeted case management:~~

~~(a) The commissioner must certify each provider of relocation targeted case management before enrollment. The certification process shall examine the provider's ability to meet the requirements in this subdivision and other federal and state requirements of this service. A certified relocation targeted case management provider may subcontract with another provider to deliver relocation targeted case management services. Subcontracted providers must demonstrate the ability to provide the services outlined in subdivision 6.~~

~~(b)~~ (a) A relocation targeted case management provider is an enrolled medical assistance provider who is determined by the commissioner to have all of the following characteristics:

(1) the legal authority to provide public welfare under sections 393.01, subdivision 7; and 393.07; or a federally recognized Indian tribe;

(2) the demonstrated capacity and experience to provide the components of case management to coordinate and link community resources needed by the eligible population;

(3) the administrative capacity and experience to serve the target population for whom it will provide services and ensure quality of services under state and federal requirements;

(4) the legal authority to provide complete investigative and protective services under section 626.556, subdivision 10; and child welfare and foster care services under section 393.07, subdivisions 1 and 2; or a federally recognized Indian tribe;

(5) a financial management system that provides accurate documentation of services and costs under state and federal requirements; and

(6) the capacity to document and maintain individual case records under state and federal requirements.

(b) A provider of targeted case management under section 256B.0625, subdivision 20, may be deemed a certified provider of relocation targeted case management.

(c) A relocation targeted case management provider may subcontract with another provider to deliver relocation targeted case management services. Subcontracted providers must demonstrate the ability to provide the services outlined in subdivision 6, and have a procedure in place that notifies the recipient and the recipient's legal representative of any conflict of interest if the contracted targeted case management provider also provides, or will provide, the recipient's services and supports. Contracted providers must provide information on all conflicts of interest and obtain the recipient's informed consent or provide the recipient with alternatives.

Sec. 2. Minnesota Statutes 2002, section 256B.0623, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] For purposes of this section, the following terms have the meanings given them.

(a) "Adult rehabilitative mental health services" means mental health services which are rehabilitative and enable the recipient to develop and enhance psychiatric stability, social competencies, personal and emotional adjustment, and independent living and community skills, when these abilities are impaired by the symptoms of mental illness. Adult rehabilitative mental health services are also appropriate when provided to enable a recipient to retain stability and functioning, if the recipient would be at risk of significant functional decompensation or more restrictive service settings without these services.

(1) Adult rehabilitative mental health services instruct, assist, and support the recipient in areas such as: interpersonal communication skills, community resource utilization and integration skills, crisis assistance, relapse prevention skills, health care directives, budgeting and shopping skills, healthy lifestyle skills and practices, cooking and nutrition skills, transportation skills, medication education and monitoring, mental illness symptom management skills, household management skills, employment-related skills, and transition to community living services.

(2) These services shall be provided to the recipient on a one-to-one basis in the recipient's home or another community setting or in groups.

(b) "Medication education services" means services provided individually or in groups which focus on educating the recipient about mental illness and symptoms; the role and effects of medications in treating symptoms of mental illness; and the side effects of medications. Medication education is coordinated with medication management services and does not duplicate it. Medication education services are provided by physicians, pharmacists, physician's assistants, or registered nurses.

(c) "Transition to community living services" means services which maintain continuity of contact between the rehabilitation services provider and the recipient and which facilitate discharge from a hospital, residential treatment program under Minnesota Rules, chapter 9505, board and lodging facility, or nursing home. Transition to community living services are not intended to provide other areas of adult rehabilitative mental health services.

Sec. 3. Minnesota Statutes 2002, section 256B.0623, subdivision 4, is amended to read:

Subd. 4. [PROVIDER ENTITY STANDARDS.] (a) The provider entity must be:

~~(1) a county operated entity certified by the state; or~~

~~(2) a noncounty entity certified by the entity's host county~~ certified by the state following the certification process and procedures developed by the commissioner.

(b) The certification process is a determination as to whether the entity meets the standards in this subdivision. The certification must specify which adult rehabilitative mental health services the entity is qualified to provide.

~~(c) If an entity seeks to provide services outside its host county, it~~ A noncounty provider entity must obtain additional certification from each county in which it will provide services. The additional certification must be based on the adequacy of the entity's knowledge of that county's local health and human service system, and the ability of the entity to coordinate its services with the other services available in that county. A county-operated entity must obtain this additional certification from any other county in which it will provide services.

(d) Recertification must occur at least every ~~two~~ three years.

(e) The commissioner may intervene at any time and decertify providers with cause. The decertification is subject to appeal to the state. A county board may recommend that the state decertify a provider for cause.

(f) The adult rehabilitative mental health services provider entity must meet the following standards:

(1) have capacity to recruit, hire, manage, and train mental health professionals, mental health practitioners, and mental health rehabilitation workers;

(2) have adequate administrative ability to ensure availability of services;

(3) ensure adequate preservice and inservice and ongoing training for staff;

(4) ensure that mental health professionals, mental health practitioners, and mental health rehabilitation workers are skilled in the delivery of the specific adult rehabilitative mental health services provided to the individual eligible recipient;

(5) ensure that staff is capable of implementing culturally specific services that are culturally competent and appropriate as determined by the recipient's culture, beliefs, values, and language as identified in the individual treatment plan;

(6) ensure enough flexibility in service delivery to respond to the changing and intermittent care needs of a recipient as identified by the recipient and the individual treatment plan;

(7) ensure that the mental health professional or mental health practitioner, who is under the clinical supervision of a mental health professional, involved in a recipient's services participates in the development of the individual treatment plan;

(8) assist the recipient in arranging needed crisis assessment, intervention, and stabilization services;

(9) ensure that services are coordinated with other recipient mental health services providers and the county mental health authority and the federally recognized American Indian authority and necessary others after obtaining the consent of the recipient. Services must also be coordinated with the recipient's case manager or care coordinator if the recipient is receiving case management or care coordination services;

(10) develop and maintain recipient files, individual treatment plans, and contact charting;

- (11) develop and maintain staff training and personnel files;
 - (12) submit information as required by the state;
 - (13) establish and maintain a quality assurance plan to evaluate the outcome of services provided;
 - (14) keep all necessary records required by law;
 - (15) deliver services as required by section 245.461;
 - (16) comply with all applicable laws;
 - (17) be an enrolled Medicaid provider;
 - (18) maintain a quality assurance plan to determine specific service outcomes and the recipient's satisfaction with services; and
 - (19) develop and maintain written policies and procedures regarding service provision and administration of the provider entity.
- ~~(g) The commissioner shall develop statewide procedures for provider certification, including timelines for counties to certify qualified providers.~~

Sec. 4. Minnesota Statutes 2002, section 256B.0623, subdivision 5, is amended to read:

Subd. 5. [QUALIFICATIONS OF PROVIDER STAFF.] Adult rehabilitative mental health services must be provided by qualified individual provider staff of a certified provider entity. Individual provider staff must be qualified under one of the following criteria:

- (1) a mental health professional as defined in section 245.462, subdivision 18, clauses (1) to (5);
- (2) a mental health practitioner as defined in section 245.462, subdivision 17. The mental health practitioner must work under the clinical supervision of a mental health professional; or
- (3) a mental health rehabilitation worker. A mental health rehabilitation worker means a staff person working under the direction of a mental health practitioner or mental health professional and under the clinical supervision of a mental health professional in the implementation of rehabilitative mental health services as identified in the recipient's individual treatment plan who:
 - (i) is at least 21 years of age;
 - (ii) has a high school diploma or equivalent;
 - (iii) has successfully completed 30 hours of training during the past two years in all of the following areas: recipient rights, recipient-centered individual treatment planning, behavioral terminology, mental illness, co-occurring mental illness and substance abuse, psychotropic medications and side effects, functional assessment, local community resources, adult vulnerability, recipient confidentiality; and

(iv) meets the qualifications in subitem (A) or (B):

(A) has an associate of arts degree in one of the behavioral sciences or human services, or is a registered nurse without a bachelor's degree, or who within the previous ten years has:

(1) three years of personal life experience with serious and persistent mental illness;

(2) three years of life experience as a primary caregiver to an adult with a serious mental illness or traumatic brain injury; or

(3) 4,000 hours of supervised paid work experience in the delivery of mental health services to adults with a serious mental illness or traumatic brain injury; or

(B)(1) is fluent in the non-English language or competent in the culture of the ethnic group to which at least ~~50~~ 20 percent of the mental health rehabilitation worker's clients belong;

(2) receives during the first 2,000 hours of work, monthly documented individual clinical supervision by a mental health professional;

(3) has 18 hours of documented field supervision by a mental health professional or practitioner during the first 160 hours of contact work with recipients, and at least six hours of field supervision quarterly during the following year;

(4) has review and cosignature of charting of recipient contacts during field supervision by a mental health professional or practitioner; and

(5) has 40 hours of additional continuing education on mental health topics during the first year of employment.

Sec. 5. Minnesota Statutes 2002, section 256B.0623, subdivision 6, is amended to read:

Subd. 6. [REQUIRED TRAINING AND SUPERVISION.] (a) Mental health rehabilitation workers must receive ongoing continuing education training of at least 30 hours every two years in areas of mental illness and mental health services and other areas specific to the population being served. Mental health rehabilitation workers must also be subject to the ongoing direction and clinical supervision standards in paragraphs (c) and (d).

(b) Mental health practitioners must receive ongoing continuing education training as required by their professional license; or if the practitioner is not licensed, the practitioner must receive ongoing continuing education training of at least 30 hours every two years in areas of mental illness and mental health services. Mental health practitioners must meet the ongoing clinical supervision standards in paragraph (c).

(c) Clinical supervision may be provided by a full or part-time qualified professional employed by or under contract with the provider entity. Clinical supervision may be provided by interactive videoconferencing according to procedures developed by the commissioner. A mental health professional providing clinical supervision of staff delivering adult rehabilitative mental health services must provide the following guidance:

(1) review the information in the recipient's file;

(2) review and approve initial and updates of individual treatment plans;

(3) meet with mental health rehabilitation workers and practitioners, individually or in small groups, at least monthly to discuss treatment topics of interest to the workers and practitioners;

(4) meet with mental health rehabilitation workers and practitioners, individually or in small groups, at least monthly to discuss treatment plans of recipients, and approve by signature and document in the recipient's file any resulting plan updates;

(5) meet at least ~~twice a month~~ monthly with the directing mental health practitioner, if there is one, to review needs of the adult rehabilitative mental health services program, review staff on-site observations and evaluate mental health rehabilitation workers, plan staff training, review program evaluation and development, and consult with the directing practitioner; and

(6) be available for urgent consultation as the individual recipient needs or the situation necessitates; ~~and~~

~~(7) provide clinical supervision by full or part time mental health professionals employed by or under contract with the provider entity.~~

(d) An adult rehabilitative mental health services provider entity must have a treatment director who is a mental health practitioner or mental health professional. The treatment director must ensure the following:

(1) while delivering direct services to recipients, a newly hired mental health rehabilitation worker must be directly observed delivering services to recipients by ~~the~~ a mental health practitioner or mental health professional for at least six hours per 40 hours worked during the first 160 hours that the mental health rehabilitation worker works;

(2) the mental health rehabilitation worker must receive ongoing on-site direct service observation by a mental health professional or mental health practitioner for at least six hours for every six months of employment;

(3) progress notes are reviewed from on-site service observation prepared by the mental health rehabilitation worker and mental health practitioner for accuracy and consistency with actual recipient contact and the individual treatment plan and goals;

(4) immediate availability by phone or in person for consultation by a mental health professional or a mental health practitioner to the mental health rehabilitation services worker during service provision;

(5) oversee the identification of changes in individual recipient treatment strategies, revise the plan, and communicate treatment instructions and methodologies as appropriate to ensure that treatment is implemented correctly;

(6) model service practices which: respect the recipient, include the recipient in planning and implementation of the individual treatment plan, recognize the recipient's strengths, collaborate and coordinate with other involved parties and providers;

(7) ensure that mental health practitioners and mental health rehabilitation workers are able to effectively communicate with the recipients, significant others, and providers; and

(8) oversee the record of the results of on-site observation and charting evaluation and corrective actions taken to modify the work of the mental health practitioners and mental health rehabilitation workers.

(e) A mental health practitioner who is providing treatment direction for a provider entity must receive supervision at least monthly from a mental health professional to:

- (1) identify and plan for general needs of the recipient population served;
- (2) identify and plan to address provider entity program needs and effectiveness;
- (3) identify and plan provider entity staff training and personnel needs and issues; and
- (4) plan, implement, and evaluate provider entity quality improvement programs.

Sec. 6. Minnesota Statutes 2002, section 256B.0623, subdivision 8, is amended to read:

Subd. 8. [DIAGNOSTIC ASSESSMENT.] Providers of adult rehabilitative mental health services must complete a diagnostic assessment as defined in section 245.462, subdivision 9, within five days after the recipient's second visit or within 30 days after intake, whichever occurs first. In cases where a diagnostic assessment is available that reflects the recipient's current status, and has been completed within 180 days preceding admission, an update must be completed. An update shall include a written summary by a mental health professional of the recipient's current mental health status and service needs. If the recipient's mental health status has changed significantly since the adult's most recent diagnostic assessment, a new diagnostic assessment is required. For initial implementation of adult rehabilitative mental health services, until June 30, 2005, a diagnostic assessment that reflects the recipient's current status and has been completed within the past three years preceding admission is acceptable.

Sec. 7. Minnesota Statutes 2002, section 256B.0625, subdivision 19c, is amended to read:

Subd. 19c. [PERSONAL CARE.] Medical assistance covers personal care assistant services provided by an individual who is qualified to provide the services according to subdivision 19a and section 256B.0627, where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by the recipient or a qualified professional. "Qualified professional" means a mental health professional as defined in section 245.462, subdivision 18, or 245.4871, subdivision 27; or a registered nurse as defined in sections 148.171 to 148.285, or a licensed social worker as defined in section 148B.21. As part of the assessment, the county public health nurse will assist the recipient or responsible party to identify the most appropriate person to provide supervision of the personal care assistant. The qualified professional shall perform the duties described in Minnesota Rules, part 9505.0335, subpart 4.

Sec. 8. Minnesota Statutes 2002, section 256B.0627, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] (a) "Activities of daily living" includes eating, toileting, grooming, dressing, bathing, transferring, mobility, and positioning.

(b) "Assessment" means a review and evaluation of a recipient's need for home care services conducted in person. Assessments for private duty nursing shall be conducted by a registered private duty nurse. Assessments for home health agency services shall be conducted by a home health agency nurse. Assessments for personal care assistant services shall be conducted by the county public health nurse or a certified public health nurse under contract with the county. A face-to-face assessment must include: documentation of health status, determination of need, evaluation of service effectiveness, identification of appropriate services, service plan development or modification, coordination of services, referrals and follow-up to appropriate payers and community resources, completion of required reports, recommendation of service authorization, and consumer education. Once the need for personal care assistant services is determined under this section, the county public health nurse or certified public health nurse under contract with the county is responsible for communicating this recommendation to the

commissioner and the recipient. A face-to-face assessment for personal care assistant services is conducted on those recipients who have never had a county public health nurse assessment. A face-to-face assessment must occur at least annually or when there is a significant change in the recipient's condition or when there is a change in the need for personal care assistant services. A service update may substitute for the annual face-to-face assessment when there is not a significant change in recipient condition or a change in the need for personal care assistant service. A service update or review for temporary increase includes a review of initial baseline data, evaluation of service effectiveness, redetermination of service need, modification of service plan and appropriate referrals, update of initial forms, obtaining service authorization, and on going consumer education. Assessments for medical assistance home care services for mental retardation or related conditions and alternative care services for developmentally disabled home and community-based waived recipients may be conducted by the county public health nurse to ensure coordination and avoid duplication. Assessments must be completed on forms provided by the commissioner within 30 days of a request for home care services by a recipient or responsible party.

(c) "Care plan" means a written description of personal care assistant services developed by the qualified professional or the recipient's physician with the recipient or responsible party to be used by the personal care assistant with a copy provided to the recipient or responsible party.

(d) "Complex and regular private duty nursing care" means:

(1) complex care is private duty nursing provided to recipients who are ventilator dependent or for whom a physician has certified that were it not for private duty nursing the recipient would meet the criteria for inpatient hospital intensive care unit (ICU) level of care; and

(2) regular care is private duty nursing provided to all other recipients.

(e) "Health-related functions" means functions that can be delegated or assigned by a licensed health care professional under state law to be performed by a personal care attendant.

(f) "Home care services" means a health service, determined by the commissioner as medically necessary, that is ordered by a physician and documented in a service plan that is reviewed by the physician at least once every 60 days for the provision of home health services, or private duty nursing, or at least once every 365 days for personal care. Home care services are provided to the recipient at the recipient's residence that is a place other than a hospital or long-term care facility or as specified in section 256B.0625.

(g) "Instrumental activities of daily living" includes meal planning and preparation, managing finances, shopping for food, clothing, and other essential items, performing essential household chores, communication by telephone and other media, and getting around and participating in the community.

(h) "Medically necessary" has the meaning given in Minnesota Rules, parts 9505.0170 to 9505.0475.

(i) "Personal care assistant" means a person who:

(1) is at least 18 years old, except for persons 16 to 18 years of age who participated in a related school-based job training program or have completed a certified home health aide competency evaluation;

(2) is able to effectively communicate with the recipient and personal care provider organization;

(3) effective July 1, 1996, has completed one of the training requirements as specified in Minnesota Rules, part 9505.0335, subpart 3, items A to D;

(4) has the ability to, and provides covered personal care assistant services according to the recipient's care plan, responds appropriately to recipient needs, and reports changes in the recipient's condition to the supervising qualified professional or physician;

(5) is not a consumer of personal care assistant services; and

(6) is subject to criminal background checks and procedures specified in section 245A.04.

(j) "Personal care provider organization" means an organization enrolled to provide personal care assistant services under the medical assistance program that complies with the following: (1) owners who have a five percent interest or more, and managerial officials are subject to a background study as provided in section 245A.04. This applies to currently enrolled personal care provider organizations and those agencies seeking enrollment as a personal care provider organization. An organization will be barred from enrollment if an owner or managerial official of the organization has been convicted of a crime specified in section 245A.04, or a comparable crime in another jurisdiction, unless the owner or managerial official meets the reconsideration criteria specified in section 245A.04; (2) the organization must maintain a surety bond and liability insurance throughout the duration of enrollment and provides proof thereof. The insurer must notify the department of human services of the cancellation or lapse of policy; and (3) the organization must maintain documentation of services as specified in Minnesota Rules, part 9505.2175, subpart 7, as well as evidence of compliance with personal care assistant training requirements.

(k) "Responsible party" means an individual ~~residing with a recipient of personal care assistant services~~ who is capable of providing the ~~supportive care support~~ necessary to assist the recipient to live in the community, is at least 18 years old, actively participates in planning and directing of personal care assistant services, and is not a the personal care assistant. The responsible party must be accessible to the recipient and the personal care assistant when personal care services are being provided and monitor the services at least weekly according to the plan of care. The responsible party must be identified at the time of assessment and listed on the recipient's service agreement and care plan. Responsible parties ~~who are parents of minors or guardians of minors or incapacitated persons~~ may delegate the responsibility to another adult ~~during a temporary absence of at least 24 hours but not more than six months.~~ The person delegated as a responsible party must be able to meet the definition of responsible party, except that the delegated responsible party is required to reside with the recipient only while serving as the responsible party who is not the personal care assistant. The responsible party must assure that the delegate performs the functions of the responsible party, is identified at the time of the assessment, and is listed on the service agreement and the care plan. Foster care license holders may be designated the responsible party for residents of the foster care home if case management is provided as required in section 256B.0625, subdivision 19a. For persons who, as of April 1, 1992, are sharing personal care assistant services in order to obtain the availability of 24-hour coverage, an employee of the personal care provider organization may be designated as the responsible party if case management is provided as required in section 256B.0625, subdivision 19a.

(l) "Service plan" means a written description of the services needed based on the assessment developed by the nurse who conducts the assessment together with the recipient or responsible party. The service plan shall include a description of the covered home care services, frequency and duration of services, and expected outcomes and goals. The recipient and the provider chosen by the recipient or responsible party must be given a copy of the completed service plan within 30 calendar days of the request for home care services by the recipient or responsible party.

(m) "Skilled nurse visits" are provided in a recipient's residence under a plan of care or service plan that specifies a level of care which the nurse is qualified to provide. These services are:

(1) nursing services according to the written plan of care or service plan and accepted standards of medical and nursing practice in accordance with chapter 148;

(2) services which due to the recipient's medical condition may only be safely and effectively provided by a registered nurse or a licensed practical nurse;

(3) assessments performed only by a registered nurse; and

(4) teaching and training the recipient, the recipient's family, or other caregivers requiring the skills of a registered nurse or licensed practical nurse.

(n) "Telehomecare" means the use of telecommunications technology by a home health care professional to deliver home health care services, within the professional's scope of practice, to a patient located at a site other than the site where the practitioner is located.

Sec. 9. Minnesota Statutes 2002, section 256B.0627, subdivision 4, is amended to read:

Subd. 4. [PERSONAL CARE ASSISTANT SERVICES.] (a) The personal care assistant services that are eligible for payment are services and supports furnished to an individual, as needed, to assist in accomplishing activities of daily living; instrumental activities of daily living; health-related functions through hands-on assistance, supervision, and cuing; and redirection and intervention for behavior including observation and monitoring.

(b) Payment for services will be made within the limits approved using the prior authorized process established in subdivision 5.

(c) The amount and type of services authorized shall be based on an assessment of the recipient's needs in these areas:

(1) bowel and bladder care;

(2) skin care to maintain the health of the skin;

(3) repetitive maintenance range of motion, muscle strengthening exercises, and other tasks specific to maintaining a recipient's optimal level of function;

(4) respiratory assistance;

(5) transfers and ambulation;

(6) bathing, grooming, and hairwashing necessary for personal hygiene;

(7) turning and positioning;

(8) assistance with furnishing medication that is self-administered;

(9) application and maintenance of prosthetics and orthotics;

(10) cleaning medical equipment;

(11) dressing or undressing;

(12) assistance with eating and meal preparation and necessary grocery shopping;

(13) accompanying a recipient to obtain medical diagnosis or treatment;

(14) assisting, monitoring, or prompting the recipient to complete the services in clauses (1) to (13);

(15) redirection, monitoring, and observation that are medically necessary and an integral part of completing the personal care assistant services described in clauses (1) to (14);

(16) redirection and intervention for behavior, including observation and monitoring;

(17) interventions for seizure disorders, including monitoring and observation if the recipient has had a seizure that requires intervention within the past three months;

(18) tracheostomy suctioning using a clean procedure if the procedure is properly delegated by a registered nurse. Before this procedure can be delegated to a personal care assistant, a registered nurse must determine that the tracheostomy suctioning can be accomplished utilizing a clean rather than a sterile procedure and must ensure that the personal care assistant has been taught the proper procedure; and

(19) incidental household services that are an integral part of a personal care service described in clauses (1) to (18).

For purposes of this subdivision, monitoring and observation means watching for outward visible signs that are likely to occur and for which there is a covered personal care service or an appropriate personal care intervention. For purposes of this subdivision, a clean procedure refers to a procedure that reduces the numbers of microorganisms or prevents or reduces the transmission of microorganisms from one person or place to another. A clean procedure may be used beginning 14 days after insertion.

(d) The personal care assistant services that are not eligible for payment are the following:

(1) services not ordered by the physician;

(2) assessments by personal care assistant provider organizations or by independently enrolled registered nurses;

(3) services that are not in the service plan;

(4) services provided by the recipient's spouse, legal guardian for an adult or child recipient, or parent of a recipient under age 18;

(5) services provided by a foster care provider of a recipient who cannot direct the recipient's own care, unless monitored by a county or state case manager under section 256B.0625, subdivision 19a;

(6) services provided by the residential or program license holder in a residence for more than four persons;

(7) services that are the responsibility of a residential or program license holder under the terms of a service agreement and administrative rules;

(8) sterile procedures;

(9) injections of fluids into veins, muscles, or skin;

~~(10) services provided by parents of adult recipients, adult children, or siblings of the recipient, unless these relatives meet one of the following hardship criteria and the commissioner waives this requirement:~~

~~(i) the relative resigns from a part time or full time job to provide personal care for the recipient;~~

~~(ii) the relative goes from a full time to a part time job with less compensation to provide personal care for the recipient;~~

~~(iii) the relative takes a leave of absence without pay to provide personal care for the recipient;~~

~~(iv) the relative incurs substantial expenses by providing personal care for the recipient; or~~

~~(v) because of labor conditions, special language needs, or intermittent hours of care needed, the relative is needed in order to provide an adequate number of qualified personal care assistants to meet the medical needs of the recipient;~~

~~(11) homemaker services that are not an integral part of a personal care assistant services;~~

~~(12) (11) home maintenance, or chore services;~~

~~(13) (12) services not specified under paragraph (a); and~~

~~(14) (13) services not authorized by the commissioner or the commissioner's designee.~~

(e) The recipient or responsible party may choose to supervise the personal care assistant or to have a qualified professional, as defined in section 256B.0625, subdivision 19c, provide the supervision. As required under section 256B.0625, subdivision 19c, the county public health nurse, as a part of the assessment, will assist the recipient or responsible party to identify the most appropriate person to provide supervision of the personal care assistant. Health-related delegated tasks performed by the personal care assistant will be under the supervision of a qualified professional or the direction of the recipient's physician. If the recipient has a qualified professional, Minnesota Rules, part 9505.0335, subpart 4, applies.

Sec. 10. Minnesota Statutes 2002, section 256B.0627, subdivision 9, is amended to read:

Subd. 9. [FLEXIBLE USE OF PERSONAL CARE ASSISTANT HOURS.] (a) ~~The commissioner may allow for the flexible use of personal care assistant hours.~~ "Flexible use" means the scheduled use of authorized hours of personal care assistant services, which vary within the length of the service authorization in order to more effectively meet the needs and schedule of the recipient. Recipients may use their approved hours flexibly within the service authorization period for medically necessary covered services specified in the assessment required in subdivision 1. The flexible use of authorized hours does not increase the total amount of authorized hours available to a recipient as determined under subdivision 5. The commissioner shall not authorize additional personal care assistant services to supplement a service authorization that is exhausted before the end date under a flexible service use plan, unless the county public health nurse determines a change in condition and a need for increased services is established.

(b) ~~The recipient or responsible party, together with the county public health nurse, shall determine whether flexible use is an appropriate option based on the needs and preferences of the recipient or responsible party, and, if appropriate, must ensure that the allocation of hours covers the ongoing needs of the recipient over the entire service authorization period. As part of the assessment and service planning process, the recipient or responsible party must work with the county public health nurse to develop a written month to month plan of the projected use of personal care assistant services that is part of the service plan and ensures that the:~~

~~(1) health and safety needs of the recipient will be met;~~

~~(2) total annual authorization will not exceed before the end date; and~~

~~(3) how actual use of hours will be monitored.~~

~~(e) If the actual use of personal care assistant service varies significantly from the use projected in the plan, the written plan must be promptly updated by the recipient or responsible party and the county public health nurse.~~

(d) The recipient or responsible party, together with the provider, must work to monitor and document the use of authorized hours and ensure that a recipient is able to manage services effectively throughout the authorized period. ~~The provider must ensure that the month to month plan is incorporated into the care plan.~~ Upon request of the recipient or responsible party, the provider must furnish regular updates to the recipient or responsible party on the amount of personal care assistant services used.

~~(e) The recipient or responsible party may revoke the authorization for flexible use of hours by notifying the provider and county public health nurse in writing.~~

~~(f) If the requirements in paragraphs (a) to (e) have not substantially been met, the commissioner shall deny, revoke, or suspend the authorization to use authorized hours flexibly. The recipient or responsible party may appeal the commissioner's action according to section 256.045. The denial, revocation, or suspension to use the flexible hours option shall not affect the recipient's authorized level of personal care assistant services as determined under subdivision 5.~~

Sec. 11. Minnesota Statutes 2002, section 256B.0911, subdivision 4d, is amended to read:

Subd. 4d. [PREADMISSION SCREENING OF INDIVIDUALS UNDER 65 YEARS OF AGE.] (a) It is the policy of the state of Minnesota to ensure that individuals with disabilities or chronic illness are served in the most integrated setting appropriate to their needs and have the necessary information to make informed choices about home and community-based service options.

(b) Individuals under 65 years of age who are admitted to a nursing facility from a hospital must be screened prior to admission as outlined in subdivisions 4a through 4c.

(c) Individuals under 65 years of age who are admitted to nursing facilities with only a telephone screening must receive a face-to-face assessment from the long-term care consultation team member of the county in which the facility is located or from the recipient's county case manager within ~~20 working~~ 40 calendar days of admission.

(d) Individuals under 65 years of age who are admitted to a nursing facility without preadmission screening according to the exemption described in subdivision 4b, paragraph (a), clause (3), and who remain in the facility longer than 30 days must receive a face-to-face assessment within 40 days of admission.

(e) At the face-to-face assessment, the long-term care consultation team member or county case manager must perform the activities required under subdivision 3b.

(f) For individuals under 21 years of age, a screening interview which recommends nursing facility admission must be face-to-face and approved by the commissioner before the individual is admitted to the nursing facility.

(g) In the event that an individual under 65 years of age is admitted to a nursing facility on an emergency basis, the county must be notified of the admission on the next working day, and a face-to-face assessment as described in paragraph (c) must be conducted within ~~20 working days~~ 40 calendar days of admission.

(h) At the face-to-face assessment, the long-term care consultation team member or the case manager must present information about home and community-based options so the individual can make informed choices. If the individual chooses home and community-based services, the long-term care consultation team member or case manager must complete a written relocation plan within 20 working days of the visit. The plan shall describe the services needed to move out of the facility and a time line for the move which is designed to ensure a smooth transition to the individual's home and community.

(i) An individual under 65 years of age residing in a nursing facility shall receive a face-to-face assessment at least every 12 months to review the person's service choices and available alternatives unless the individual indicates, in writing, that annual visits are not desired. In this case, the individual must receive a face-to-face assessment at least once every 36 months for the same purposes.

(j) Notwithstanding the provisions of subdivision 6, the commissioner may pay county agencies directly for face-to-face assessments for individuals under 65 years of age who are being considered for placement or residing in a nursing facility.

Sec. 12. Minnesota Statutes 2002, section 256B.0915, is amended by adding a subdivision to read:

Subd. 9. [TRIBAL MANAGEMENT OF ELDERLY WAIVER.] Notwithstanding contrary provisions of this section, or those in other state laws or rules, the commissioner and White Earth reservation may develop a model for tribal management of the elderly waiver program and implement this model through a contract between the state and White Earth reservation. The model shall include the provision of tribal waiver case management, assessment for personal care assistance, and administrative requirements otherwise carried out by counties but shall not include tribal financial eligibility determination for medical assistance.

Sec. 13. Minnesota Statutes 2002, section 256B.47, subdivision 2, is amended to read:

Subd. 2. [NOTICE TO RESIDENTS.] (a) No increase in nursing facility rates for private paying residents shall be effective unless the nursing facility notifies the resident or person responsible for payment of the increase in writing 30 days before the increase takes effect.

A nursing facility may adjust its rates without giving the notice required by this subdivision when the purpose of the rate adjustment is to reflect a ~~necessary~~ change in the ~~level of care provided to a case-mix~~ classification of the resident. If the state fails to set rates as required by section 256B.431, subdivision 1, the time required for giving notice is decreased by the number of days by which the state was late in setting the rates.

(b) If the state does not set rates by the date required in section 256B.431, subdivision 1, nursing facilities shall meet the requirement for advance notice by informing the resident or person responsible for payments, on or before the effective date of the increase, that a rate increase will be effective on that date. If the exact amount has not yet been determined, the nursing facility may raise the rates by the amount anticipated to be allowed. Any amounts collected from private pay residents in excess of the allowable rate must be repaid to private pay residents with interest at the rate used by the commissioner of revenue for the late payment of taxes and in effect on the date the rate increase is effective.

ARTICLE 3

MISCELLANEOUS

Section 1. Minnesota Statutes 2002, section 256B.431, is amended by adding a subdivision to read:

Subd. 38. [DESIGNATION OF AREAS TO RECEIVE METROPOLITAN RATES.] (a) For rate years beginning on or after July 1, 2003, and subject to paragraph (b), nursing facilities located in areas designated as metropolitan areas by the federal Office of Management and Budget using census bureau data shall be considered metro, in order to:

(1) determine rate increases under this section, section 256B.434, or any other section; and

(2) establish nursing facility reimbursement rates for the new nursing facility reimbursement system developed under Laws 2002, chapter 220, article 14, section 35.

(b) Paragraph (a) applies only if designation as a metro facility results in a level of reimbursement that is higher than the level the facility would have received without application of that paragraph.

[EFFECTIVE DATE.] This section is effective July 1, 2003.

Sec. 2. [MEDICAL ASSISTANCE FOR MENTAL HEALTH SERVICES PROVIDED IN OUT-OF-HOME PLACEMENT SETTINGS.]

The commissioner of human services, in consultation with the commissioner of corrections and representatives of counties, health care providers, and other stakeholders, shall develop a plan to secure medical assistance funding for mental health-related services provided in out-of-home placement settings, including treatment foster care, group homes, and residential programs licensed under Minnesota Statutes, chapters 241 and 245A. The plan must include fiscal estimates and related information and draft legislation. Treatment foster care services must be provided by a child placing agency licensed under Minnesota Rules, parts 9545.0755 to 9545.0845 or 9543.0010 to 9543.0150. The commissioner shall submit the plan to the legislature by January 15, 2004.

Sec. 3. [ASSESSMENT OF A DOULA SERVICES HEALTH BENEFIT MANDATE.]

The commissioner of health, in consultation with the commissioners of commerce and human services, shall complete an assessment of statutorily requiring health plans that offer maternity benefits to provide coverage for doula services when provided by a certified doula, in terms of the public health, economic, and fiscal impacts of the proposed mandate, including the extent to which the provision of doula coverage will increase or decrease the cost of maternity benefits.

"Doula services" means childbirth education and support services, including emotional and physical support provided during pregnancy, labor, birth, and postpartum.

"Certified doula" means an individual who has received a certification to perform doula services from the International Childbirth Education Association, the Doulas of North America, the Association of Labor Assistance and Childbirth Educators, or the Childbirth and Postpartum Professional Association.

The commissioner shall submit to the legislature a summary report of all findings and recommendations by January 15, 2004."

Delete the title and insert:

"A bill for an act relating to human services; modifying background study and other provisions in the Human Services Licensing Act; expanding foster care license capacity; granting authority for variances for overnight supervision in adult foster care homes; modifying law providing for consumer services for mental retardation conditions; requiring a risk management plan for mental retardation consumers; requiring providing mental retardation consumers a copy of revisions to policies and procedures affecting service-related or protection-related

rights; authorizing relocation target case management providers to subcontract with other providers; providing for diagnostic assessment for adult rehabilitative mental health services; providing for tribal management of elderly waivers; amending Minnesota Statutes 2002, sections 245A.04, subdivisions 3, 3b; 245A.09, subdivision 7; 245A.11, subdivision 2a, by adding a subdivision; 245B.03, subdivision 2, by adding a subdivision; 245B.04, subdivision 2; 245B.06, subdivisions 2, 5; 245B.07, subdivisions 6, 9; 245B.08, subdivision 1; 256B.0621, subdivision 4; 256B.0623, subdivisions 2, 4, 5, 6, 8; 256B.0625, subdivision 19c; 256B.0627, subdivisions 1, 4, 9; 256B.0911, subdivision 4d; 256B.0915, by adding a subdivision; 256B.431, by adding a subdivision; 256B.47, subdivision 2."

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.

Westrom from the Committee on Regulated Industries to which was referred:

H. F. No. 671, A bill for an act relating to telecommunications; regulating promotions and packages of telephone company services; proposing coding for new law in Minnesota Statutes, chapter 237; repealing Minnesota Statutes 2002, section 237.626.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 237.626, is amended to read:

237.626 [PROMOTION ACTIVITIES.]

Subdivision 1. [PROMOTIONS.] A telephone company may promote the use of its services by offering a waiver of part or all of a recurring or a nonrecurring charge, a redemption coupon, or a premium with the purchase of a service. Section 237.09 does not apply to promotions under this section, but the customer group to which the promotion is available must be based on reasonable distinctions among customers. No single promotion may be effective for longer than 90 days at a time. The benefits to a particular customer of a promotion must not extend beyond nine months. The service being promoted must have a price that is above the incremental cost of the service, including amortized cost of the promotion. A promotion may take effect the day after the notice is filed with the commission. The notice must identify customers to whom the promotion is available ~~and include cost information demonstrating that the revenue from the service covers incremental cost, including cost of the promotion.~~ A telephone company that offers a promotion under this section shall file a report on the promotion with the commission and the department within 90 days of the conclusion of the promotion. A telephone company is not required to file cost information except upon request of the department, the office of the attorney general, or the commission to determine if a promotion complies with applicable legal requirements. Within five business days of receipt of a request pursuant to this subdivision, or an order of the commission, the telephone company shall provide the requested cost information demonstrating the service being promoted has a price above the incremental cost of service to the office of the attorney general, the department, and the commission. The telephone company shall file this cost information with the commission soon thereafter.

Subd. 2. [BUNDLED SERVICE.] (a) A telephone company may offer telecommunications services subject to the regulatory jurisdiction of the commission as part of a package of services that may include goods and services other than those subject to the commission's regulatory jurisdiction. Subject to the requirements of this chapter and the associated rules and orders of the commission applicable to those regulated services, a telephone company may establish the prices, terms, and conditions of a package of services, except that:

(1) each telecommunications service subject to the regulatory jurisdiction of the commission must be available to customers on a stand-alone basis;

(2) at the time the packaged offering is introduced or at the time the packaged price is subsequently changed, the packaged rate or price may not exceed the sum of the unpackaged rates or prices for the individual service elements or services; and

(3) in addition to the tariff requirements that apply to the telecommunications elements of the package, the tariff must also contain a general description of the nontelecommunications components of the package.

(b) Nothing in this subdivision is intended to extend or diminish the regulatory authority of the commission or the department.

Sec. 2. Laws 1995, chapter 156, section 25, is amended to read:

Sec. 25. [EFFECTIVE DATE;~~EXPIRATION.~~]

Sections 1 to 22 are effective August 1, 1995,~~and expire January 1, 2006.~~

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective June 1, 2003."

Delete the title and insert:

"A bill for an act relating to telecommunications; regulating promotions and packages of telephone company services; removing sunset expiration dates for alternative regulation plans for telecommunications providers; amending Minnesota Statutes 2002, section 237.626; Laws 1995, chapter 156, section 25."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 680, A bill for an act relating to education; providing for a hearing for the termination or nonrenewal of the contract of a licensed or unlicensed coach or assistant coach; amending Minnesota Statutes 2002, sections 122A.33; 122A.58; proposing coding for new law in Minnesota Statutes, chapter 122A.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 122A.33, is amended to read:

122A.33 [LICENSE AND DEGREE EXEMPTION FOR HEAD COACH.]

Subdivision 1. [EMPLOYMENT.] Notwithstanding section 122A.15, subdivision 1, a school district may employ as a head varsity coach of an interscholastic sport at its secondary school a person who does not have a license as head varsity coach of interscholastic sports and who does not have a bachelor's degree if:

(1) in the judgment of the school board, the person has the knowledge and experience necessary to coach the sport;

(2) can verify completion of six quarter credits, or the equivalent, or 60 clock hours of instruction in first aid and the care and prevention of athletic injuries; and

(3) can verify completion of a coaching methods or theory course.

Subd. 2. [ANNUAL CONTRACT.] Notwithstanding section 122A.58, a person employed as a head varsity coach ~~under this section~~ has an annual contract as a coach that the school board may or may not renew as the board sees fit.

Subd. 3. [NOTICE OF NONRENEWAL; OPPORTUNITY TO RESPOND.] A school board that declines to renew the coaching contract of a licensed or nonlicensed head varsity coach must give the coach timely notice to that effect. If the coach requests reasons for not renewing the coaching contract, the board must give the coach its reasons in writing within ten days of receiving the request and provide the coach with a reasonable opportunity to respond to the reasons at a public board meeting.

[EFFECTIVE DATE.] This section is effective October 1, 2003."

Delete the title and insert:

"A bill for an act relating to education; providing for opportunity to respond to nonrenewal of certain coaching contracts; amending Minnesota Statutes 2002, section 122A.33."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 727, A bill for an act relating to health; providing for evaluation of proposed health coverage mandates; proposing coding for new law in Minnesota Statutes, chapter 62J.

Reported the same back with the following amendments:

Page 2, after line 12, insert:

"(1) an actuarial analysis of the cost or savings impact of the proposed health benefit, that may be performed by a health insurer upon the request of the commissioner;"

Renumber the remaining clauses

Page 3, line 20, after the period, insert "No more than three evaluations may be performed under this section in any fiscal year.

Subd. 4. [SOURCES OF FUNDING.] The commissioner may seek and accept funding to pay for evaluations under this section, to supplement or replace state appropriations. Any money received under this subdivision must be deposited in the state treasury, credited to a separate account for this purpose, and is appropriated to the commissioner of commerce for purposes of this section."

Page 3, line 21, delete "4" and insert "5"

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.

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

H. F. No. 730, A bill for an act relating to real property; statutory home warranties; amending the exclusions for liability of the vendor and home improvement contractor; providing for a statutory cure of defects; specifying limitation of actions based on breach; amending Minnesota Statutes 2002, sections 327A.01, by adding a subdivision; 327A.03; 327A.05, by adding a subdivision; 515B.4-115; 541.051, subdivision 4.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 327A.03, is amended to read:

327A.03 [EXCLUSIONS.]

The liability of the vendor or the home improvement contractor under sections 327A.01 to 327A.07 is limited to the specific items set forth in sections 327A.01 to 327A.07 and does not extend to the following:

(a) loss or damage not reported by the vendee or the owner to the vendor or the home improvement contractor in writing within six months after the vendee or the owner discovers or should have discovered the loss or damage;

(b) loss or damage caused by defects in design, installation, or materials which the vendee or the owner supplied, installed, or directed to be installed;

(c) secondary loss or damage such as personal injury or property damage;

(d) loss or damage from normal wear and tear;

(e) loss or damage from normal shrinkage caused by drying of the dwelling or the home improvement within tolerances of building standards;

(f) loss or damage from dampness and condensation due to insufficient ventilation after occupancy;

(g) loss or damage from negligence, improper maintenance or alteration of the dwelling or the home improvement by parties other than the vendor or the home improvement contractor;

(h) loss or damage from changes in grading of the ground around the dwelling or the home improvement by parties other than the vendor or the home improvement contractor;

(i) landscaping or insect loss or damage;

(j) loss or damage from failure to maintain the dwelling or the home improvement in good repair;

(k) loss or damage which the vendee or the owner, whenever feasible, has not taken timely action to minimize;

(l) loss or damage which occurs after the dwelling or the home improvement is no longer used primarily as a residence;

(m) accidental loss or damage usually described as acts of God, including, but not limited to: fire, explosion, smoke, water escape, windstorm, hail or lightning, falling trees, aircraft and vehicles, flood, and earthquake, except when the loss or damage is caused by failure to comply with building standards;

(n) loss or damage from soil movement which is compensated by legislation or covered by insurance;

(o) loss or damage due to soil conditions where construction is done upon lands owned by the vendee or the owner and obtained by the vendee or owner from a source independent of the vendor or the home improvement contractor;

(p) in the case of home improvement work, loss or damage due to defects in the existing structure and systems not caused by the home improvement;

(q) claims or actions brought against any vendor for defects discovered after one year from the warranty date for defects described in section 327A.02, subdivision 1, paragraph (a);

(r) claims or actions brought against any vendor for defects discovered after two years from the warranty date for defects described in section 327A.02, subdivision 1, paragraph (b);

(s) claims or actions brought against any vendor for defects discovered after ten years from the warranty date for defects described in section 327A.02, subdivision 1, paragraph (c);

(t) claims or actions brought against any contractor for defects discovered after one year from the warranty date for defects described in section 327A.02, subdivision 3, paragraphs (a), clause (1), and (c);

(u) claims or actions brought against any contractor for defects discovered after ten years from the warranty date for defects described in section 327A.02, subdivision 3, paragraph (a), clause (2); and

(v) claims or actions brought against any contractor for defects discovered after two years from the warranty date for defects described in section 327A.02, subdivision 3, paragraph (b).

Sec. 2. Minnesota Statutes 2002, section 541.051, subdivision 4, is amended to read:

Subd. 4. [~~APPLICABILITY STATUTORY OR EXPRESS WARRANTIES.~~] (a) This section shall not apply to actions based on breach of the statutory warranties set forth in section 327A.02, or to actions based on breach of an express written warranty, provided such actions shall be brought within two years of the discovery of the breach of an express written warranty or as otherwise provided in this subdivision.

(b) Except where fraud is involved, no action by a vendee may be brought against a vendor for defects discovered after one year from the date of the warranty for defects described in section 327A.02, subdivision 1, paragraph (a).

(c) Except where fraud is involved, no action by a vendee may be brought against a vendor for defects discovered after two years from the date of the warranty for defects described in section 327A.02, subdivision 1, paragraph (b).

(d) Except where fraud is involved, no action by a vendee may be brought against a vendor for defects discovered after ten years from the date of warranty for defects described in section 327A.02, subdivision 1, paragraph (c).

(e) Except where fraud is involved, no action by an owner may be brought against a contractor for defects discovered after one year from the date of the warranty for defects described in section 327A.02, subdivision 3, paragraphs (a), clause (1), and (c).

(f) Except where fraud is involved, no action by an owner may be brought against a contractor for defects discovered after ten years from the date of the warranty for defects described in section 327A.02, subdivision 1, paragraph (a), clause (2).

(g) Except where fraud is involved, no action by an owner may be brought against a contractor for defects discovered after two years from the date of warranty for defects described in section 327A.02, subdivision 3, paragraph (b)."

Delete the title and insert:

"A bill for an act relating to real property; statutory home warranties; amending the exclusions for liability of the vendor and home improvement contractor; specifying limitation of actions based on breach; amending Minnesota Statutes 2002, sections 327A.03; 541.051, subdivision 4."

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

The report was adopted.

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

H. F. No. 775, A bill for an act relating to energy; modifying provisions relating to radioactive waste management and renewable energy; amending Minnesota Statutes 2002, sections 116C.71, subdivision 7; 116C.779; 216B.1645, subdivision 2; 216B.2424, subdivisions 5, 6, 8, by adding a subdivision; 216C.052, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 116C; 216B; repealing Minnesota Statutes 2002, section 216B.2411.

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

The report was adopted.

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

H. F. No. 780, A bill for an act relating to education; permitting school districts to pay insurance premiums for teachers on an extended leave of absence; amending Minnesota Statutes 2002, sections 122A.46, subdivision 9; 354.094, subdivision 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 122A.46, subdivision 9, is amended to read:

Subd. 9. [BENEFITS.] A teacher on an extended leave of absence shall receive all of the health, accident, medical, surgical and hospitalization insurance or benefits, for both the teacher and the teacher's dependents, for which the teacher would otherwise be eligible if not on an extended leave. A teacher shall receive the coverage if such coverage is available from the school district's insurer, if the teacher requests the coverage, and if the teacher either (a) reimburses the district for the full amount of the premium necessary to maintain the coverage within one month ~~following~~ preceding the district's payment of the premium, or (b) if the district is wholly or partially self-insured, pays the district, according to a schedule agreed upon by the teacher and the school board, an amount determined by the school board to be the amount that would be charged for the coverage chosen by the teacher if the school board purchased all health, accident, medical, surgical and hospitalization coverage for its teachers from an insurer. A school district may enter into an agreement with the exclusive bargaining representative of teachers in the district where the district agrees to pay all or a portion of the premium for such coverage.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to agreements in effect or entered into after that date.

Sec. 2. Minnesota Statutes 2002, section 354.094, subdivision 1, is amended to read:

Subdivision 1. [SERVICE CREDIT CONTRIBUTIONS.] Upon granting any extended leave of absence under section 122A.46 or 136F.43, the employing unit granting the leave must certify the leave to the association on a form specified by the executive director. A member granted an extended leave of absence under section 122A.46 or 136F.43 may pay employee contributions and receive allowable service credit toward annuities and other benefits under this chapter, for each year of the leave, provided that the member and the employing board make the required employer contribution in any proportion they may agree upon, during the period of the leave. The employer may enter into an agreement with the exclusive bargaining representative. The leave period must not exceed five years. A member may not receive more than five years of allowable service credit under this section. The employee and employer contributions must be based upon the rates of contribution prescribed by section 354.42 for the salary received during the year immediately preceding the extended leave. Payments for the years for which a member is receiving service credit while on extended leave must be made on or before the later of June 30 of each fiscal year for which service credit is received or within 30 days after first notification of the amount due, if requested by the member, is given by the association. No payment is permitted after the following September 30. Payments received after June 30 must include interest at an annual rate of 8.5 percent from June 30 through the end of the month in which payment is received. Notwithstanding the provisions of any agreements to the contrary, employee and employer contributions may not be made to receive allowable service credit if the member does not have full reinstatement rights as provided in section 122A.46 or 136F.43, both during and at the end of the extended leave.

[EFFECTIVE DATE.] This section is effective the day following final enactment and applies to agreements in effect or entered into after that date."

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

The report was adopted.

Smith from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 784, A bill for an act relating to crimes; prohibiting interfering with emergency communications; prescribing penalties; proposing coding for new law in Minnesota Statutes, chapter 609.

Reported the same back with the following amendments:

Page 1, line 10, delete "interferes with" and insert "disrupts"

Page 1, line 11, delete "new"

Page 1, line 16, delete "creates"

Page 1, line 17, delete "a risk of obstructing, preventing, or misdirecting" and insert "obstructs, prevents, or misdirects"

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 789, A bill for an act relating to natural resources; modifying game and migratory waterfowl refuge provisions; providing for suspension of game and fish license and permit privileges under certain circumstances; modifying certain game license provisions; modifying certain fish possession restrictions; amending Minnesota Statutes 2002, sections 97A.085, subdivisions 2, 3, 4; 97A.095, subdivisions 1, 2; 97A.421, by adding a subdivision; 97A.435, subdivision 4; 97B.721; 97C.401, subdivision 2.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 97A.015, subdivision 24, is amended to read:

Subd. 24. [GAME BIRDS.] "Game birds" means migratory waterfowl, pheasant, ruffed grouse, sharp-tailed grouse, Canada spruce grouse, prairie chickens, gray partridge, bob-white quail, turkeys, coots, gallinules, sora and Virginia rails, American woodcock, ~~and~~ common snipe, and mourning doves.

Sec. 2. Minnesota Statutes 2002, section 97A.085, subdivision 2, is amended to read:

Subd. 2. [ESTABLISHMENT BY COMMISSIONER.] The commissioner may designate ~~a contiguous area of at least 640 acres~~ as a game refuge if more than 50 percent of the area is in public ownership. The game refuge must be a contiguous area of at least 640 acres unless it borders or includes a marsh, or other body of water or watercourse suitable for wildlife habitat.

Sec. 3. Minnesota Statutes 2002, section 97A.085, subdivision 3, is amended to read:

Subd. 3. [ESTABLISHMENT BY PETITION OF LAND HOLDERS.] The commissioner may designate a land area or portion of a land area described in a petition as a game refuge. The petition must be signed by the owner, the lessee, or the person in possession of each tract in the area. A certificate of the auditor of the county where the lands

are located must accompany the petition stating that the persons named in the petition are the owners, lessees, or persons in possession of all of the land described according to the county records. The game refuge must be a contiguous area of at least 640 acres unless it borders or includes a marsh, or other body of water or watercourse suitable for wildlife habitat.

Sec. 4. Minnesota Statutes 2002, section 97A.085, subdivision 4, is amended to read:

Subd. 4. [ESTABLISHMENT BY PETITION OF COUNTY RESIDENTS.] The commissioner may designate as a game refuge public waters or a contiguous area ~~of at least 640 acres,~~ described in a petition, signed by 50 or more residents of the county where the public waters or area is located. The game refuge must be a contiguous area of at least 640 acres unless it borders or includes a marsh, or other body of water or watercourse suitable for wildlife habitat. The game refuge may be designated only if the commissioner finds that protected wild animals are depleted and are in danger of extermination, or that it will best serve the public interest.

Sec. 5. Minnesota Statutes 2002, section 97A.095, subdivision 1, is amended to read:

Subdivision 1. [MIGRATORY WATERFOWL ~~REFUGES~~ SANCTUARY.] The commissioner ~~shall~~ may designate by rule any part of a state game refuge or any part of a lake that is designated for management purposes under section 97A.101, subdivision 2, as a migratory waterfowl ~~refuge~~ sanctuary if there is presented to the commissioner a petition signed by ten resident licensed hunters describing an area that is primarily a migratory waterfowl refuge. The commissioner shall post the area as a migratory waterfowl ~~refuge~~ sanctuary. A person may not enter a posted migratory waterfowl ~~refuge~~ sanctuary during the open migratory waterfowl season unless accompanied by or under a permit issued by a conservation officer or ~~game refuge~~ wildlife manager. Upon a request from a private landowner within a migratory waterfowl ~~refuge~~ sanctuary, an annual permit must be issued to provide access to the property during the waterfowl season. The permit shall include conditions that allow no activity which would disturb waterfowl using the refuge during the waterfowl season.

Sec. 6. Minnesota Statutes 2002, section 97A.095, subdivision 2, is amended to read:

Subd. 2. [WATERFOWL FEEDING AND RESTING AREAS.] The commissioner may, by rule, designate any part of a lake as a migratory feeding ~~or~~ and resting area. Before designation, the commissioner must receive a petition signed by at least ten local resident licensed hunters describing the area of a lake that is a substantial feeding or resting area for migratory waterfowl, and find that the statements in the petition are correct, and that adequate, free public access to the lake exists near the designated area. The commissioner shall post the area as a migratory waterfowl feeding and resting area. Except as authorized in rules adopted by the commissioner, a person may not enter a posted migratory waterfowl feeding and resting area, during a period when hunting of migratory waterfowl is allowed, with watercraft or aircraft propelled by a motor, other than an electric motor of less than 30 pounds thrust. The commissioner may, by rule, further restrict the use of electric motors in migratory waterfowl feeding and resting areas.

Sec. 7. Minnesota Statutes 2002, section 97A.420, subdivision 4, is amended to read:

Subd. 4. [HEARING.] (a) A hearing under subdivision 3 must be before a district court judge in the county where the incident occurred giving rise to the license seizure. The hearing must be to the court and may be conducted at the same time as hearings upon pretrial motions in a related criminal prosecution. The commissioner must be represented by the county attorney.

(b) The hearing must be held at the earliest practicable date and in any event no later than 60 days following the filing of the petition for review.

(c) The scope of the hearing must be limited to the issue of whether there is probable cause to believe that the person ~~violated section 97A.338~~ has unlawfully taken, possessed, or transported wild animals with a restitution value over \$500.

(d) The court shall order that the license seizure be either sustained or rescinded. Within 14 days following the hearing, the court shall forward a copy of the order to the commissioner.

(e) Any party aggrieved by the decision of the reviewing court may appeal the decision as provided in the Rules of Civil Appellate Procedure.

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

Sec. 8. Minnesota Statutes 2002, section 97A.421, is amended by adding a subdivision to read:

Subd. 4a. [SUSPENSION FOR FAILURE TO APPEAR IN COURT OR TO PAY A FINE OR SURCHARGE.] When a court reports to the commissioner that a person (1) has failed to appear in court under the summons issued to them for a violation of the game and fish laws or (2) has been convicted of violating a provision of the game and fish laws, has been sentenced to the payment of a fine or had a surcharge levied against them, and refused or failed to comply with that sentence or to pay the fine or surcharge, the commissioner shall suspend the game and fish license and permit privileges of the person for three years or until notified by the court that the person has appeared in court under clause (1) or that any fine or surcharge due the court has been paid under clause (2).

Sec. 9. Minnesota Statutes 2002, section 97A.435, subdivision 4, is amended to read:

Subd. 4. [SEPARATE SELECTION OF ELIGIBLE LICENSEES.] (a) The commissioner may conduct a separate selection for up to 20 percent of the turkey licenses to be issued for any area. Only persons who are owners or tenants of and who live on at least 40 acres of agricultural or grazing land in the area, and their family members, are eligible applicants for turkey licenses for the separate selection. The qualifying agricultural or grazing land may be noncontiguous. Persons who are unsuccessful in a separate selection must be included in the selection for the remaining licenses. Persons who obtain a license in a separate selection must allow public turkey hunting on their land during that turkey season. A license issued under this subdivision is restricted to the land owned or leased by the holder of the license within the permit area where the qualifying land is located.

(b) The commissioner may by rule establish criteria for determining eligible family members under this subdivision.

Sec. 10. Minnesota Statutes 2002, section 97A.485, subdivision 12, is amended to read:

Subd. 12. [YOUTH DEER LICENSE.] The commissioner may, for a fee of \$5.50, issue to a resident under the age of 16 a license, without a tag, to take deer with firearms or archery. A youth holding a license issued under this subdivision may hunt under the license only if accompanied by a licensed hunter who is at least 18 years of age and possesses a valid tag. A deer taken by a youth holding a license issued under this subdivision must be promptly tagged by the licensed hunter accompanying the youth. Section 97B.301, subdivision 6, does not apply to a youth holding a license issued under this subdivision.

Sec. 11. Minnesota Statutes 2002, section 97B.011, is amended to read:

97B.011 [DOGS PURSUING BIG GAME.]

(a) A person who observes a dog wounding, killing, or pursuing in a manner that endangers big game may kill the dog:

(1) at any time, if the person is a peace officer or conservation officer; or

(2) between January 1 and July 14, if the person is not a peace officer or conservation officer and the discharge of firearms is allowed.

The officer or person is not liable for damages for killing the dog.

(b) This section does not apply when dogs are used to track and trail bear.

Sec. 12. Minnesota Statutes 2002, section 97B.075, is amended to read:

97B.075 [HUNTING RESTRICTED BETWEEN EVENING AND MORNING.]

(a) A person may not take protected wild animals, except raccoon and fox, with a firearm between the evening and morning times established by commissioner's rule, except as provided in this section.

(b) Big game may be taken from one-half hour before sunrise until one-half hour after sunset, and,

(c) Except as otherwise prescribed by the commissioner during the first eight days of the season before the Saturday nearest October 8, until January 1, 2001, waterfowl may be taken from one-half hour before sunrise until sunset during the entire season prescribed by the commissioner. On the opening day of the duck season, shooting hours for migratory game birds, except woodcock, begin at 9:00 a.m.

Sec. 13. [97B.717] [MOURNING DOVES.]

Subdivision 1. [SEASON.] The commissioner shall prescribe an open season for taking mourning doves.

Subd. 2. [LICENSE REQUIRED.] A person may not take mourning doves without a small game license in possession.

Sec. 14. Minnesota Statutes 2002, section 97B.721, is amended to read:

97B.721 [LICENSE AND STAMP VALIDATION REQUIRED TO TAKE TURKEY; TAGGING AND REGISTRATION REQUIREMENTS.]

(a) Except as provided in paragraph (b) or section 97A.405, subdivision 2, a person may not take a turkey without possessing a turkey license and a turkey stamp validation.

(b) The requirement in paragraph (a) to have a turkey stamp validation does not apply to persons under age 18. An unlicensed adult age 18 or older may assist a licensed wild turkey hunter under the age of 16. The unlicensed adult may not shoot or possess a firearm or bow while assisting a youth under this paragraph.

(c) The commissioner may by rule prescribe requirements for the tagging and registration of turkeys.

Sec. 15. Minnesota Statutes 2002, section 97C.401, subdivision 2, is amended to read:

Subd. 2. [WALLEYE; NORTHERN PIKE.] (a) Except as provided in paragraphs (b) and (c), a person may take no more than one walleye larger than ~~24~~ 20 inches and one northern pike larger than ~~30~~ 24 inches daily.

(b) The restrictions in paragraph (a) do not apply to boundary waters or spearing.

(c) On Lake of the Woods, a person may take no more than one walleye larger than 19.5 inches and one northern pike larger than 36 inches daily.

Sec. 16. Minnesota Statutes 2002, section 97C.605, subdivision 2c, is amended to read:

Subd. 2c. [LICENSE EXEMPTIONS.] A person does not need a turtle seller's license or an angling license:

(1) when buying turtles for resale at a retail outlet;

(2) when buying a turtle at a retail outlet; ~~or~~

(3) if the person is a nonresident buying a turtle from a licensed turtle seller for export out of state. Shipping documents provided by the turtle seller must accompany each shipment exported out of state by a nonresident. Shipping documents must include: name, address, city, state, and zip code of the buyer; number of each species of turtle; and name and license number of the turtle seller; or

(4) to take, possess, and rent or sell up to 25 turtles for the purpose of providing the turtles to participants at a nonprofit turtle race, if the person is a resident under age 18. The person is responsible for the well-being of the turtles and must return any turtles in their possession to the turtles' place of origin following the race.

Sec. 17. [REPORT; CHANGE IN SHOOTING HOURS.]

By January 15, 2006, the commissioner of natural resources shall report to the chairs of the senate and house committees having jurisdiction over natural resources policy, evaluating the impacts of the change in shooting hours under section 12, including harvest success and the effect on local waterfowl populations.

Sec. 18. [REPORT; MOURNING DOVE SEASON.]

The commissioner of natural resources shall report to the legislature by August 1, 2004, on the results of the mourning dove season authorized by Minnesota Statutes, section 97B.717. The report must include a description of the impact of the season on the mourning dove population in the state.

Sec. 19. [REPEALER.]

Minnesota Statutes 2002, section 97B.731, subdivision 2, is repealed.

Sec. 20. [EFFECTIVE DATE.]

Section 15 is effective May 15, 2004. Sections 13, 18, and 19 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to natural resources; modifying game and migratory waterfowl refuge provisions; providing for suspension of game and fish license and permit privileges under certain circumstances; modifying certain hearing provisions; modifying certain fish and game license provisions; modifying shooting hours for migratory game birds; permitting dogs to track and trail bear; authorizing a hunting season for mourning doves; modifying certain fish possession restrictions; requiring reports; amending Minnesota Statutes 2002, sections

97A.015, subdivision 24; 97A.085, subdivisions 2, 3, 4; 97A.095, subdivisions 1, 2; 97A.420, subdivision 4; 97A.421, by adding a subdivision; 97A.435, subdivision 4; 97A.485, subdivision 12; 97B.011; 97B.075; 97B.721; 97C.401, subdivision 2; 97C.605, subdivision 2c; proposing coding for new law in Minnesota Statutes, chapter 97B; repealing Minnesota Statutes 2002, section 97B.731, subdivision 2."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 807, A bill for an act relating to elections; fair campaign practices; prohibiting distorted photographs of candidates in campaign materials; providing penalties; proposing coding for new law in Minnesota Statutes, chapter 211B.

Reported the same back with the following amendments:

Page 1, line 9, delete "person" and insert "party organization within a house of the legislature"

Page 1, line 10, delete the second "a" and insert "an opposing"

Page 1, line 11, delete "candidate as defined in section" and insert "party organization within a house of the legislature"

Page 1, delete line 12

Page 1, line 13, delete everything before "that"

Page 1, line 14, delete "penalties" and insert "penalty"

Page 1, line 15, delete everything before "that" and insert "a party organization within a house of the legislature"

Page 1, line 18, delete "; and" and insert "."

This section does not apply to a photograph of a candidate in campaign material that promotes the nomination or election of the candidate.

Page 1, delete lines 19 to 21

Page 1, line 25, delete "clause (1)" and insert "this section"

Amend the title as follows:

Page 1, line 4, delete "penalties" and insert "a penalty"

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 810, A bill for an act relating to state lands; providing for certain state land acquisition; modifying the Mississippi whitewater trail; modifying provisions of the outdoor recreation system; establishing a mineral coordinating committee; adding to and deleting from state parks, state recreation areas, state forests, and wildlife management areas; authorizing sales of certain surplus state land in St. Louis and Beltrami counties; amending Minnesota Statutes 2002, sections 85.013, subdivision 1; 85.0156, subdivision 1; 86A.04; proposing coding for new law in Minnesota Statutes, chapter 93.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 85.013, subdivision 1, is amended to read:

Subdivision 1. [NAMES, ACQUISITION; ADMINISTRATION.] ~~State parks;~~ (a) Designated monuments, recreation reserves, and waysides heretofore established and hereby confirmed as state monuments, state recreation areas and state waysides together with the counties in which they are situated are listed in this section and shall hereafter be named as indicated in this section.

(b) Any land that now is or hereafter becomes tax-forfeited land and is located within the described boundaries of a state recreation area as defined by session laws is hereby withdrawn from sale and is transferred from the custody, control, and supervision of the county board of the county to the commissioner of natural resources, free from any trust in favor of the interested taxing districts. The commissioner shall execute a certificate of acceptance of the lands on behalf of the state for such purposes and transmit the same to the county auditor of the county for record as provided by law in the case of tax-forfeited land transferred to the commissioner by resolution of the county board for conservation purposes.

Sec. 2. Minnesota Statutes 2002, section 85.0156, subdivision 1, is amended to read:

Subdivision 1. [CREATION.] An urban whitewater trail is created along the Mississippi river in the lower St. Anthony falls area ~~below the stone arch bridge~~ in Minneapolis. The trail must be primarily developed for whitewater rafters, canoers, and kayakers.

Sec. 3. Minnesota Statutes 2002, section 86A.04, is amended to read:

86A.04 [COMPOSITION OF SYSTEM.]

The outdoor recreation system shall consist of all state parks; state recreation areas; state trails established pursuant to sections 84.029, subdivision 2, ~~and~~ 85.015, 85.0155, and 85.0156; state scientific and natural areas; state wilderness areas; state forests; state wildlife management areas; state water access sites, which include all lands and facilities established by the commissioner of natural resources or the commissioner of transportation to provide public access to water; state wild, scenic, and recreational rivers; state historic sites; state rest areas, which include all facilities established by the commissioner of transportation for the safety, rest, comfort and use of the highway traveler, and shall include all existing facilities designated as rest areas and waysides by the commissioner of transportation; and any other units not listed in this section that are classified under section 86A.05. Each individual state park, state recreation area, and so forth is called a "unit."

Sec. 4. [93.0015] [MINERAL COORDINATING COMMITTEE.]

Subdivision 1. [ESTABLISHMENT; MEMBERSHIP.] The mineral coordinating committee is established to plan for diversified mineral development. The mineral coordinating committee consists of:

(1) the commissioner of natural resources;

(2) the deputy commissioner of the Minnesota pollution control agency;

(3) the director of United Steelworkers of America, district 11, or the director's designee;

(4) the commissioner of iron range resources and rehabilitation;

(5) the director of the Minnesota geological survey;

(6) the dean of the University of Minnesota institute of technology;

(7) the director of the natural resources research institute; and

(8) three individuals appointed by the governor for a four-year term, one each representing the iron ore and taconite, nonferrous metallic minerals, and industrial minerals industries within the state.

Subd. 2. [STAFFING.] The commissioner of natural resources shall serve as chair of the committee. A member of the committee may designate another person of the member's organization to act in the member's place. The commissioner shall provide staff and administrative services necessary for the committee's activities.

Subd. 3. [EXPIRATION.] Notwithstanding section 15.059, subdivision 5, or other law to the contrary, the committee expires June 30, 2007.

Subd. 4. [ADVICE.] The mineral coordinating committee is encouraged to solicit and receive advice from representatives of the United States Geological Survey, United States Environmental Protection Agency, and United States Department of Energy.

Sec. 5. [ADDITIONS TO STATE PARKS.]

Subdivision 1. [85.012] [Subd. 18.] [FORT SNELLING STATE PARK, RAMSEY, HENNEPIN, AND DAKOTA COUNTIES.] The following areas are added to Ft. Snelling state park, Dakota and Hennepin counties:

(1) the following is in Section 18, Township 27 North, Range 23 West, Dakota county: that part of Government Lot 8, according to the Government Survey thereof, described as follows: commencing at the southwest corner of said Government Lot 8; thence on an assumed bearing of South 88 degrees 21 minutes 46 seconds East, along the south line of said Government Lot 8, a distance of 1287.93 feet to the actual point of beginning of the property to be described; thence continuing South 88 degrees 21 minutes 46 seconds East, along said south line of Government Lot 8, a distance of 1055.38 feet to the southwesterly right-of-way line of Cedar Avenue (Nicols Road); thence northwesterly along said southwesterly right-of-way line to a point distant 75.00 feet southeasterly, measured along said southwesterly right-of-way line, from its intersection with the southeasterly right-of-way line of the Chicago, St. Paul, Minneapolis, and Omaha Railroad; thence South 48 degrees 15 minutes 09 seconds West, parallel with said southeasterly right-of-way line, a distance of 150.00 feet; thence North 29 degrees 28 minutes 09 seconds West, parallel with said southwesterly right-of-way line, a distance of 75.00 feet to the southeasterly right-of-way line of said railroad; thence southwesterly along said southeasterly right-of-way line to its intersection with a line bearing North 32 degrees 45 minutes 39 seconds West from the point of beginning; thence South 32 degrees 45 minutes 39

seconds East a distance of 323.53 feet to the point of beginning; EXCEPTING THEREFROM that part described as follows: beginning at the intersection of the south line of said Government Lot 8 and the southwesterly right-of-way line of Cedar Avenue (Nicols Road); thence northwesterly along said southwesterly right-of-way line a distance of 285.00 feet; thence South 57 degrees 40 minutes 36 seconds West a distance of 446.50 feet to a point on the south line of said Government Lot 8, distant 508.50 feet West of the point of beginning; thence South 88 degrees 21 minutes 46 seconds East, along the south line of said Government Lot 8, a distance 508.50 feet to the point of beginning;

(2) that part of the East Half of the Northeast Quarter North of Little Creek, Section 6, Township 27 North, Range 23 West, described as follows: Beginning at the northeast corner of the Northeast Quarter of said Section 6; thence South along the east line of said Section 6, a distance of 2115.8 feet to center of Little Creek so-called; thence with a bearing of North 74 degrees 30 minutes 00 seconds West from last mentioned course, a distance of 750 feet along said center of creek; thence North 38 degrees 53 minutes 00 seconds West a distance of 170 feet along the center of said creek; thence North 14 degrees 44 minutes 00 seconds West, a distance of 250 feet along said center line of creek; thence southwesterly along said center line of creek a distance of 505 feet to a point on the west line of the East Half of said Northeast Quarter of Section 6, said point being 1790.6 feet South of the north line of said Northeast Quarter of Section 6; thence North along the west line of the East Half of the Northeast Quarter of said Section 6, a distance of 1790.6 feet to the north line of said Northeast Quarter; thence East 1320 feet to the point of beginning, the title thereto being registered as evidenced by Certificate of Title No. 590582; which lies southerly of Line 1 described as follows: From the northeast corner of Section 6, Township 27 North, Range 23 West, run southerly on the east line of said Section 6, on an azimuth of 179 degrees 57 minutes 16 seconds for 50.13 feet to the point of beginning of Line 1 to be described; thence on an azimuth of 235 degrees 01 minutes 06 seconds for 94.31 feet; thence on an azimuth of 224 degrees 33 minutes 00 seconds for 196.82 feet; thence on an azimuth of 230 degrees 12 minutes 40 seconds for 403.57 feet; thence on an azimuth of 233 degrees 15 minutes 41 seconds for 276.59 feet; thence on an azimuth of 237 degrees 46 minutes 24 seconds for 338.06 feet; thence on an azimuth of 247 degrees 21 minutes 24 seconds for 314.42 feet more or less to the west line of the East Half of said Section 6, and there terminating. Subject to the following restrictions: no access shall be permitted to Trunk Highway 393, renumbered 494, from the lands herein described and conveyed; and

(3) that part of Section 20, Township 28 North, Range 23 West, of the fourth principal meridian, Hennepin county, Minnesota, as shown on an October 28, 1997, survey done by William H. Herbst for Group No. 179 titled "TOWNSHIP 28 NORTH, RANGE 23 WEST, OF THE FOURTH PRINCIPAL MERIDIAN, MINNESOTA. DEPENDENT RESURVEY AND SURVEY U.S. BUREAU OF MINES, TWIN CITIES RESEARCH CENTER, WITHIN THE FORT SNELLING MILITARY RESERVATION," described as follows: Commencing at Station H.H., said station being a 1-inch-diameter steel rod firmly imbedded in concrete (to get to Station H.H: Commence at the southwest corner of Section 17, Township 28 North, Range 23 West, said corner being MCM 107 of the city of Minneapolis and state of Minnesota coordinate grid systems; thence South 39 degrees 54 minutes 57 seconds East, a distance of 4,015.45 feet to monument number 2 located on a western extension of the south line of the U.S. Department of the Interior, Bureau of Mines reservation heretofore established; thence South 89 degrees 52 minutes 00 seconds East for a distance of 1,192 feet, more or less, along the south boundary and fence line of the Bureau of Mines to Station H.H.); thence on an assumed bearing of North 89 degrees 55.3 minutes West, a distance of 234.85 feet, along the south line of the U.S. Department of the Interior, Bureau of Mines reservation to the POINT OF BEGINNING; thence North 34 degrees 20.5 minutes West, a distance of 187.42 feet; thence North 23 degrees 39.6 minutes West, a distance of 80.18 feet; thence North 19 degrees 26.3 minutes West, a distance of 75.69 feet; thence North 16 degrees 31.6 minutes West, a distance of 70.66 feet; thence North 13 degrees 22.0 minutes West, a distance of 70.02 feet; thence North 10 degrees 30.0 minutes West, a distance of 80.78 feet; thence North 08 degrees 56.6 minutes West, a distance of 73.92 feet; thence North 07 degrees 52.2 minutes West, a distance of 1,189.90 feet to a point on the north line of the U.S. Department of the Interior, Bureau of Mines reservation (said point lying South 89 degrees 54.6 minutes West, a distance of 18.0 feet from Station A.A.); thence South 89 degrees 54.6 minutes West, a distance of 740.84 feet along said north line; thence South 14 degrees 43.1 minutes East, a distance

of 846.53 feet; thence South 13 degrees 29.7 minutes East, a distance of 57.42 feet; thence South 12 degrees 47.1 minutes East, a distance of 424.03 feet; thence South 25 degrees 57.4 minutes East, a distance of 283.01 feet; thence South 38 degrees 45.3 minutes East, a distance of 303.20 feet to the south line of said reservation; thence South 89 degrees 55.3 minutes East, a distance of 478.70 feet to the point of beginning.

Subd. 2. [85.012] [Subd. 33.] [LAKE BEMIDJI STATE PARK, BELTRAMI COUNTY.] The following area is added to Lake Bemidji state park, all in Township 146 North, Range 33 West, Beltrami county:

That part of Lot 1, Block 3 of LINDS ADDITION TO BEMIDJI, according to the recorded plat thereof on file and of record in the Beltrami county recorder's office, in Section 2, described as follows: commencing at the southeast corner of said Lot 1, Block 3; thence westerly along the south line of said Lot 1, Block 3 to a point being 25 feet easterly of, measured at right angles to, the centerline of an existing trail and the point of beginning of the land to be described; thence northwesterly parallel with and 25 feet easterly of measured at right angles to, the centerline of the existing trail to a point being 25 feet northerly of, measured at right angles to, the south line of said Lot 1, Block 3; thence westerly, parallel with and 25 feet northerly of the south line of said Lot 1, Block 3, to a point being 25 feet westerly of, measured at right angles to, the centerline of the existing trail; thence southerly, perpendicular to the south line of said Lot 1, Block 3, to the said south line of Lot 1, Block 3; thence easterly along the south line of said Lot 1, Block 3, to the point of beginning.

Subd. 3. [85.012] [Subd. 55a.] [TETTEGOUCHE STATE PARK, LAKE COUNTY.] The following areas are added to Tettegouche state park, Lake county: the Northeast Quarter of Section 16, Township 56 North, Range 7 West.

Sec. 6. [DELETION FROM TETTEGOUCHE STATE PARK.]

[85.012] [Subd. 55a.] [TETTEGOUCHE STATE PARK, LAKE COUNTY.] The following area is deleted from Tettegouche state park, Lake county: the Southwest Quarter of Section 16, Township 56 North, Range 7 West.

Sec. 7. [ADDITIONS TO STATE RECREATION AREAS.]

Subdivision 1. [85.013] [Subd. 2c.] [BIG BOG STATE RECREATION AREA, BELTRAMI COUNTY.] The following area is added to Big Bog state recreation area, Beltrami county: that part of Government Lot 6 lying east of Minnesota state trunk highway 72, Section 5, Township 154, Range 30.

Subd. 2. [85.013] [Subd. 12a.] [IRON RANGE OFF-HIGHWAY VEHICLE RECREATION AREA, ST. LOUIS COUNTY.] The following areas are added to Iron Range Off-Highway Vehicle recreation area, St. Louis county:

(1) the NW1/4, lying north of the Mesabi Trail, in Section 23, Township 58 North, Range 17 West, containing approximately 80 acres; and

(2) the N1/2 of the NW1/4, SW1/4 of the NW1/4, and the NW1/4 of the SW1/4 all in Section 3, Township 58 North, Range 17 West, containing approximately 160 acres.

Sec. 8. [ADDITIONS TO STATE FORESTS.]

Subdivision 1. [89.021] [Subd. 38.] [PAUL BUNYAN STATE FOREST.] The following area is added to Paul Bunyan state forest: S1/2SE1/4 of Section 25, Township 143 North, Range 34 West; Lot 10 of Section 15, Township 141 North, Range 33 West; Government Lot 4 and the SW1/4NW1/4 of Section 22, Township 141 North, Range 33 West; and the NW1/4SW1/4 of Section 9; the N1/2NE1/4; W1/2NW1/4 and the SE1/4NW1/4 of Section 16, Township 141 North, Range 32 West.

Subd. 2. [89.021] [Subd. 46.] [SAVANNA STATE FOREST.] The following area is added to Savanna state forest: SW1/4-SW1/4 of Section 32, Township 48 North, Range 23 West.

Subd. 3. [89.021] [Subd. 51a.] [WAUKENABO STATE FOREST.] The following areas are added to Waukenabo state forest:

(1) Lot 1 of Section 4, Township 47 North, Range 26 West;

(2) Lot 2 and NE1/4-SW1/4 of Section 1 and Lot 8 of Section 2, all in Township 48 North, Range 26 West; and

(3) NE1/4-NW1/4 and SW1/4-NW1/4 of Section 11, Township 48 North, Range 27 West.

Sec. 9. [DELETIONS FROM STATE FORESTS.]

Subdivision 1. [89.021] [Subd. 19.] [FOOT HILLS STATE FOREST.] The following areas are deleted from Foot Hills state forest, Cass county:

(1) that part of Government Lot 4 lying west of County Road No. 6, Section 8, Township 140 North, Range 31 West;

(2) that part of the SW1/4-NW1/4 lying northwest of County Road No. 6, Section 15, Township 140 North, Range 31 West; and

(3) that part of the NE1/4-SW1/4 lying north of County Road No. 6, Section 16, Township 140 North, Range 31 West.

Subd. 2. [89.021] [Subd. 27.] [KABETOGAMA STATE FOREST.] The following areas are deleted from Kabetogama state forest, St. Louis county:

(1) that portion of Government Lot 5, Section 1, Township 67 North, Range 17 West, sold pursuant to section 21 of this act; and

(2) Outlot B, Plat of Sunset Forest, located in Section 22, Township 69 North, Range 21 West.

Subd. 3. [89.021] [Subd. 34.] [MISSISSIPPI HEADWATERS STATE FOREST.] The following areas are deleted from Mississippi Headwaters state forest, Beltrami county:

(1) SE1/4-NE1/4, Section 32, Township 147 North, Range 34 West; and

(2) SW1/4-NW1/4, Section 33, Township 147 North, Range 34 West.

Sec. 10. [DELETIONS FROM RED LAKE WILDLIFE MANAGEMENT AREA.]

[97A.133] [Subd. 44.] [RED LAKE WILDLIFE MANAGEMENT AREA; BELTRAMI COUNTY] The following areas are deleted from Red Lake wildlife management area:

(1) all of Sections 1 and 2; Lot 1, Lot 2, the S1/2 of the NE1/4, and the SE1/4 of Section 3; the E1/2, the SE1/4 of the NW1/4, the NE1/4 of the SW1/4, and the S1/2 of the SW1/4 of Section 10; all of Sections 11, 12, 13, 14, and 15; all in Township 155 North, Range 31 West; and

(2) all of Sections 25, 26, and 27; the E1/2, the NW1/4, and the N1/2 of the SW1/4 of Section 34; the N1/2 and the SW1/4 of Section 35; the N1/2, the E1/2 of the SW1/4; the SW1/4 of the SW1/4, the W1/2 of the SE1/4 and the SE1/4 of the SE1/4 of Section 36; all in Township 156 North, Range 31 West.

Sec. 11. [PUBLIC SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; AITKIN COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, Aitkin county may sell the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general.

(c) The land to be sold is located in Aitkin county and is described as:

Six acres in Government Lot 3 as in Document #198469 less 2.69 acres plat Section 24, Township 52, Range 26, more accurately described as: That part of Government Lot 3, Section 24, Township 52 North, Range 26 West, Aitkin County, Minnesota, described as follows: Commencing at the southwest corner of Government Lot 3, Section 24, thence North, assumed bearing, along the west line of Government Lot 3 a distance of 819.59 feet; thence South 89 degrees 50 minutes 32 seconds East a distance of 244.00 feet to the point of beginning of parcel to be described; thence continuing South 89 degrees 50 minutes 32 seconds East a distance of 893 feet, more or less, to the mean high water mark of Hill Lake; thence southeasterly along the meandered shoreline of Hill Lake a distance of 416 feet, more or less, to a point at the intersection of the mean high water line of Hill Lake and line "A" as hereinafter described; thence South 69 degrees 27 minutes 14 seconds West a distance of 188 feet, more or less; thence North 41 degrees 52 minutes 10 seconds West a distance of 245.95 feet; thence North 76 degrees 23 minutes 39 seconds West a distance of 653.09 feet; thence due North a distance of 139.56 feet to the point of beginning containing six acres. Line "A" is hereby described by commencing at the previous point of beginning; thence due South a distance of 139.56 feet; thence South 76 degrees 23 minutes 39 seconds East a distance of 653.09 feet; thence South 41 degrees 52 minutes 10 seconds East a distance of 245.95 feet to the beginning of line "A"; thence North 69 degrees 27 minutes 14 seconds East a distance of 188 feet, more or less, along line "A" to the mean high water line of Hill Lake, which is also the end of line "A." Which lies easterly of the following described line: Commencing at the southwest corner of said Government Lot 3; thence on an assumed bearing of North along the west line of said Government Lot 3, a distance of 819.59 feet; thence South 89 degrees 50 minutes 32 seconds East, a distance of 818.97 feet to the point of beginning of the line to be described; thence South 0 degrees 09 minutes 28 seconds West, a distance of 154.06 feet; thence South 18 degrees 42 minutes 02 seconds West, a distance of 120 feet more or less to the southerly line of the above described tract and there terminating.

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

Sec. 12. [PUBLIC SALE OF SURPLUS STATE LAND; BELTRAMI COUNTY.]

(a) Notwithstanding Minnesota Statutes, section 94.10, the commissioner of natural resources may sell by public sale for less than the appraised value the surplus land that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general.

(c) The land to be sold is located in Beltrami county and is described as: Lots 6 through 12, Block 11, First Addition to Blackduck.

(d) The commissioner has determined that the land is no longer needed for any natural resource purpose and that the state's land management interests would best be served if the land was sold.

Sec. 13. [PRIVATE SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; CROW WING COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, and the public sale provisions of Minnesota Statutes, chapter 282, Crow Wing county may sell by private sale the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general for a consideration of the appraised value.

(c) The land to be sold is located in Crow Wing county and is described as:

All of the following:

That part of Railroad Lot 7, located in the Northwest Quarter of the Southeast Quarter of Section 22, Township 43 North, Range 32 West, shown as Parcel 212A on Minnesota department of transportation right-of-way plat numbered 18-79 as the same is on file and of record in the office of the county recorder in and for Crow Wing county, Minnesota;

containing 0.770 hectare (1.90 acres), more or less; together with other rights as set forth below, forming and being part of said Parcel 212A:

Access:

All right of access as shown on said plat by the access control symbol.

Temporary Easement:

A temporary easement for highway purposes as shown on said plat as to said Parcel 212A by the temporary easement symbol; said easement shall cease on December 1, 2008, or on such earlier date upon which the commissioner of transportation determines by formal order that it is no longer needed for highway purposes.

Sec. 14. [PUBLIC SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; CROW WING COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, Crow Wing county may sell the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general.

(c) The land to be sold is located in Crow Wing county and is described as: Undivided 303/720 interest in the Northeast Quarter of the Northeast Quarter of Section 36, Township 44 North, Range 32 West.

(d) The county has determined that the county's land management interests would best be served if the land was returned to private ownership.

Sec. 15. [PRIVATE SALE OF TAX-FORFEITED LAND; ITASCA COUNTY.]

(a) Notwithstanding the public sale provisions of Minnesota Statutes, chapter 282, or other law to the contrary, Itasca county may sell by private sale the tax-forfeited land described in paragraph (c) to an adjoining landowner.

(b) The conveyance must be in a form approved by the attorney general for consideration no less than the appraised value of the land.

(c) The land to be sold is located in Itasca county and is described as:

(1) that part of Outlot B, the north one-half of the vacated roadway south of Outlot B of the Plat of GREEN-ROCK on file at the Itasca county recorder's office, and Government Lot 3, Section 24, Township 60 North, Range 22 West of the Fourth Principal Meridian described as follows:

Commencing at the northwest corner of said Outlot B; thence South 88 degrees 30 minutes 57 seconds West, bearing assigned, along the extended north line of said Outlot B, 14.64 feet; thence North 06 degrees 25 minutes 20 seconds West 175.49 feet; thence South 87 degrees 58 minutes 29 seconds East 377.61 feet to the point of beginning of the tract to be described; thence South 89 degrees 27 minutes 27 seconds East 269.45 feet; thence South 02 degrees 43 minutes 38 seconds East 142.22 feet more or less to the south line of said Government Lot 3 and the east corner of said Outlot B; thence South 80 degrees 20 minutes 57 seconds West along the south line of Outlot B 85.55 feet more or less to the intersection of the south line of Outlot B and the west line of Scott Avenue projected north; thence South 09 degrees 39 minutes 03 seconds East along the west line of said projected Scott Avenue 16.50 feet to the south line of the north half of the vacated roadway lying south of Outlot B; thence South 80 degrees 20 minutes 57 seconds West along said south line of north half of vacated roadway 187.10 feet more or less to intersect a line bearing South 02 degrees 43 minutes 38 seconds East from the point of beginning; thence North 02 degrees 43 minutes 38 seconds West 206.87 feet more or less to the point of beginning. Tract contains 1.1 acres more or less;

(2) that part of SE-NW, Section 24, Township 60 North, Range 22 West, lying south and east of County Road 531;

(3) the South 295.16 feet of the West 295.16 feet of SE-SW of Section 10, Township 60 North, Range 25 West;

(4) the North 100 feet of the South 768 feet of SW-NW, Section 33, Township 62 North, Range 24 West, lying East of State Highway No. 1 LESS AND EXCEPT the East 245 feet thereof; and

(5) that part of Lot 3 lying East of a line drawn parallel to and 66 feet West of the E 1/16th line of Section 20, Township 150 North, Range 28 West.

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

Sec. 16. [PRIVATE SALE OF TAX-FORFEITED LAND; KOOCHICHING COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, and the public sale provisions of Minnesota Statutes, chapter 282, Koochiching county may sell by private sale to the Bois Forte band of Chippewa Indians the tax-forfeited land, some of which borders public water, that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general at a price agreed to by the Koochiching county board and the Bois Forte tribal council.

(c) The land to be sold is located within the Nett Lake Reservation in Koochiching county and is described as fractional interests in:

- (1) W1/2SW1/4, Section 2, Township 64 North, Range 22 West;
- (2) E1/2NE1/4, Section 13, Township 65 North, Range 23 West;
- (3) E1/2SE1/4, Section 7, Township 64 North, Range 23 West;
- (4) NE1/4SW1/4 and NW1/4SE1/4, Section 18, Township 64 North, Range 23 West;
- (5) N1/2SE1/4, Section 11, Township 65 North, Range 23 West;
- (6) W1/2SE1/4, Section 28, Township 66 North, Range 23 West;
- (7) W1/2NE1/4, Section 3, Township 65 North, Range 22 West;
- (8) Government Lots 3 and 4, Section 3, Township 65 North, Range 22 West;
- (9) S1/2SW1/4, Section 3, Township 65 North, Range 22 West;
- (10) S1/2SE1/4, Section 22, Township 64 North, Range 22 West;
- (11) Lots 2 and 3, Section 19, Township 64 North, Range 22 West;
- (12) Lot 2, Section 30, Township 64 North, Range 23 West;
- (13) Lot 3, Section 30, Township 64 North, Range 23 West;
- (14) W1/2NE1/4, Section 34, Township 66 North, Range 23 West;
- (15) E1/2SW1/4, Section 28, Township 66 North, Range 22 West;
- (16) SE1/4NE1/4 and NE1/4SE1/4, Section 25, Township 65 North, Range 23 West;
- (17) N1/2NE1/4, Section 7, Township 64 North, Range 22 West;
- (18) S1/2NE1/4, Section 4, Township 65 North, Range 23 West;
- (19) SE1/4NW1/4 and NE1/4SW1/4, Section 4, Township 65 North, Range 23 West;
- (20) S1/2NE1/4, Section 10, Township 65 North, Range 23 West;
- (21) W1/2SW1/4, Section 12, Township 65 North, Range 23 West;
- (22) SW1/4NW1/4 and NW1/4SW1/4, Section 11, Township 65 North, Range 23 West;

(23) SW1/4NE1/4 and Government Lot 2, Section 6, Township 64 North, Range 22 West;

(24) Lots 3 and 4, Section 4, Township 65 North, Township 23 West;

(25) S1/2SE1/4, Section 33, Township 66 North, Range 23 West;

(26) N1/2NE1/4, Section 20, Township 64 North, Range 23 West; and

(27) Lot 13 and NW1/4SE1/4, Section 6, Township 64 North, Range 23 West.

(d) The county has determined that the county's land management interests would best be served if the fractional interests in the lands were consolidated and the lands were returned to private ownership.

Sec. 17. [PRIVATE SALE OF TAX-FORFEITED LAND; LAKE COUNTY.]

(a) Notwithstanding the public sale provisions of Minnesota Statutes, chapter 282, or other law to the contrary, Lake county may sell by private sale the tax-forfeited land described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general for consideration no less than the appraised value of the land.

(c) The land to be sold is located in Lake county and is described as: the North 600 feet of the Westerly 150 feet of the SE 1/4 of the NE 1/4, Section 24, Township 55 North, Range 9 West.

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

Sec. 18. [CONVEYANCE OF SURPLUS STATE LAND BORDERING PUBLIC WATER; LAKE OF THE WOODS COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 94.09 to 94.16, or other law to the contrary, the commissioner of transportation may convey to the city of Baudette for no consideration the surplus land bordering public water that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general and provide that the land reverts to the state if the city of Baudette stops using the land for the public purpose described in paragraph (d).

(c) The land to be conveyed is located in Lake of the Woods county, consists of approximately 6.04 acres, and is described as: tract in Government Lot 4, Section 35, Township 161, Range 31 (parcel number R60.35.43.02E).

(d) The commissioner has determined that the land is no longer needed for any state purpose and that the state's land management interests would best be served if the land was conveyed to and used by the city of Baudette as a rest area.

Sec. 19. [PUBLIC SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; NORMAN COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, Norman county may sell the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general.

(c) The land to be sold is located in Norman county and is described as:

Parcel #18-6909000: a triangular piece or parcel of land beginning at the southeast corner of the Northeast Quarter of the Northwest Quarter (NE 1/4 NW 1/4) of Section Nineteen (19) Township One Hundred Forty-six (146) North of Range Forty-eight (48) West of the Fifth Principal Meridian; thence running North on the quarter line fifty-six and one-half (56 1/2) rods; thence due West fifty-six and one-half (56 1/2) rods; thence in a southeasterly direction to the place of beginning, containing ten (10) acres, more or less.

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

Sec. 20. [PRIVATE SALE OF SURPLUS LAND BORDERING PUBLIC WATERS; SCOTT COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45; 94.09; 94.10; 97A.135, subdivision 2a; and 103F.535, the commissioner of natural resources shall sell by private sale the surplus land bordering public waters that is described in paragraph (e).

(b) The conveyance shall be in a form approved by the attorney general for consideration of no less than the appraised value of the land.

(c) The deed must contain a restrictive covenant that prohibits altering, disturbing vegetation in, draining, filling, or placing any material or structure of any kind on or in the existing wetland area located on the land; prohibits any increase in run-off rate or volume from the land or future buildings into said wetland; and prohibits diverting or appropriating water from said wetland.

(d) The consideration received for the conveyance shall be deposited in the state treasury and credited to the wildlife acquisition account in the game and fish fund. The money is appropriated to the commissioner of natural resources for wildlife land acquisition purposes.

(e) The land that may be sold is in the Prior Lake wildlife management area in Scott county and is described as:

The East 1200 feet of the South 800 feet of the Southwest Quarter of the Southeast Quarter of Section 22, Township 115 North, Range 22 West. Including the abandoned right-of-way of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (formerly the Hastings and Dakota Railway Company). Containing 22 acres, more or less.

(f) This land no longer fits into the state wildlife management area system because of hunting limitations, its small size, and future development planned for the area. Proceeds from the sale will be used to purchase lands more suitable for wildlife management and public use.

Sec. 21. [PRIVATE SALE OF SURPLUS STATE LAND BORDERING PUBLIC WATERS; ST. LOUIS COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45, 94.09, and 94.10, the commissioner of natural resources may sell by private sale to adjacent landowners the surplus land bordering public waters that is described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general and the consideration must be equal to the fair market value of the land plus the cost of appraisal.

(c) The land to be sold is in St. Louis county and is a parcel of land to be split from Government Lot 5, Section 1, Township 67 North, Range 17 West. The exact area to be sold will be determined by completion of a further site analysis.

(d) The conveyance is necessary for installation of a community septic system to benefit the adjacent land owners in Government Lot 6, Section 1, Township 67 North, Range 17 West.

(e) The commissioner has determined that the parcel needed for the purpose described in paragraph (d) is available for surplus, will not be necessary for natural resources purposes, and is best suited for the above-stated purpose.

Sec. 22. [PUBLIC OR PRIVATE SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; ST. LOUIS COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, and the public sale provisions of Minnesota Statutes, chapter 282, St. Louis county may sell by public or private sale the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general for a consideration of taxes due on the property and any penalties, interest, and costs. The conveyance must reserve fisheries easements of at least 75 feet on either side of the stream for the property described in paragraph (c), clauses (1) and (2), and at least 50 feet of shoreland for the property described in paragraph (c), clauses (3) and (4).

(c) The land to be sold is located in St. Louis county and is described as:

(1) the West 200 feet of W1/2 of S1/2 of NE1/4 of SE1/4, Section 9, Township 50, Range 14, consisting of 3.03 acres, Plat/Parcel Code: 10-2710-2750;

(2) the SW1/4SE1/4, except part southerly of center line of Sargent Creek, Section 4, Township 48, Range 15, consisting of 20.47 acres, Plat/Parcel Code: 10-2730-540;

(3) Lots 6 and 7, Erickson Beach, Section 27, Township 57, Range 17, consisting of .46 acre, Plat/Parcel Code: 340-90-60; and

(4) Lot 8, except easterly 50 feet and the easterly 50 feet of Lot 8, Erickson Beach, Section 27, Township 57, Range 17, consisting of .5 acre, Plat/Parcel Codes: 340-90-80, 340-90-85.

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership.

Sec. 23. [PRIVATE SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATER; ST. LOUIS COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, and the public sale provisions of Minnesota Statutes, chapter 282, St. Louis county may sell by private sale the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general for a consideration of the appraised value.

(c) The land to be sold is located in St. Louis county and is described as:

(1) Lot 7, Block E, Endion Division (10-1440-70);

(2) Lots 10-13, Block 1, Endion Division (10-1440-180) and Lot 7, Block 1, except part NW'ly of NE'ly extension of SE'ly line of Lot 6, Endion Division (10-1440-150);

(3) Lot 9, Block 1, Endion Division (10-1440-170); and

(4) Lots 1-4, Block E, Endion Division (10-1440-10) and that part of the easterly 33 feet of 24th Avenue East lying south of Water Street.

(d) The county has determined that the county's land management interests would best be served if the lands were sold to the city of Duluth.

Sec. 24. [LAND EXCHANGE; LAKE OF THE WOODS COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 94.342, subdivision 3, and 94.343, subdivision 3, the commissioner of natural resources shall, with the approval of the land exchange board as required under the Minnesota Constitution, article XI, section 10, and according to the remaining provisions of Minnesota Statutes, sections 94.342 to 94.348, exchange the following land bordering on public waters for the land described in paragraph (b): the North 859.83 feet of the Southwest Quarter of the Southwest Quarter and the North 859.83 feet of Government Lot 7, Section 5, Township 167 North, Range 33 West.

(b) The land bordering on public waters to be obtained by the commissioner in the exchange under paragraph (a) is described as: the Northeast Quarter of the Southwest Quarter, Section 5, Township 167 North, Range 33 West.

Sec. 25. [LAND EXCHANGE; ST. LOUIS COUNTY.]

Subdivision 1. [EXCHANGE REQUIRED.] The commissioner of natural resources shall exchange, according to Laws 1998, chapter 389, article 16, section 31, as amended by Laws 1999, chapter 184, Laws 2000, chapter 488, article 3, section 31, and Laws 2001, chapter 164, section 5, the following trust fund land in St. Louis county: Lot 11, Block 1 of Lake Leander Homesite Plat No. 1, Section 16, Township 60 North, Range 19 West, for county land.

Subd. 2. [DEADLINE.] The exchange required under subdivision 1 must be completed by June 30, 2004.

Sec. 26. [CONVEYANCE OF LAND; COOK COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45, 94.09 to 94.16, 161.144, or any other law, the commissioner of transportation shall convey to Cook county for no consideration the land bordering public water that is described in paragraph (c). The commissioner may not convey the land until Cook county enters into an agreement with the commissioner of transportation to spend an amount equal to the value of the land described in paragraph (c) for airport purposes. The value of the land shall be determined by a current appraisal.

(b) The conveyance must be in a form approved by the attorney general and must convey the land free and clear of any requirement to use the land for a particular purpose.

(c) The land to be conveyed is described as:

(1) all of Government Lots 1, 2, 10, 11, and 12 of Section 30, Township 62 North, Range 1 East of the Fourth Principal Meridian, Cook county, Minnesota, according to plat of resurvey accepted by the United States of America, Department of Interior, Bureau of Land Management, on May 22, 1951, except the land lying South and East of the following described line:

From the northwest corner of said Section 30, South 2 degrees 18 minutes East for a distance of 1758.9 feet to the meander corner Sections 25 and 30 on the north shore of Devils Track Lake; thence North 2 degrees 18 minutes West 26.4 feet to a point on the section line; thence south 87 degrees 05 minutes East for a distance of 646.8 feet; thence South 88.4 feet to a point on the north shore of Devils Track Lake which is the point of beginning of the line to be described herein; from said point of beginning North for a distance of 88.4 feet; thence South 87 degrees 05 minutes East for a distance of 1442.8 feet; thence South 100 feet; thence South 87 degrees 05 minutes East for a distance of 947.1 feet to a point on the North-South quarter line of said Section 30, said point being 124.1 feet South of the center of Section 30, subject to reservation of the coal and other minerals and conditions and limitations provided by the Federal Act of December 22, 1928 (45 Stat., 1069); and

(2) that part of Government Lot 3, Section 30, Township 62 North, Range 1 East, Cook county, Minnesota, lying within the following described lines:

Beginning at the northwest corner of Section 30, Township 62 North, Range 1 East, Cook county, thence South 02 degrees 00 minutes East for a distance of 1747 feet; thence South 87 degrees 05 minutes East for a distance of 2089.6 feet; thence South for a distance of 100 feet; thence South 87 degrees 05 minutes East for a distance of 947.1 feet to a point on the North-South quarter line of Section 30 which is the point of beginning of the property to be described herein; from said point of beginning thence South 87 degrees 05 minutes East for a distance of 450 feet; thence North 01 degrees 38 minutes East for a distance of 840 feet; thence North 87 degrees 05 minutes West for a distance of 450 feet to a point on the North-South quarter line of Section 30; thence South 01 degrees 38 minutes West on said North-South quarter line for a distance of 840 feet to the point of beginning.

Sec. 27. [FOND DU LAC RESERVATION LANDS.]

Before offering state-owned lands for public sale under Minnesota Statutes, sections 282.01 to 282.13, the county auditor shall first offer lands within the Fond du Lac Indian Reservation to the Fond du Lac Band of Chippewa Indians for sale at the appraised value. The costs of any survey or appraisal must be added to and made a part of the appraised value. To determine whether the band wants to buy the land, the county auditor shall give written notice to the band. If the band wants to buy the land, it shall submit a written offer to the county auditor within two weeks after receiving the notice. If the offer is for at least the appraised value, including costs, the county auditor shall accept it.

Sec. 28. [EFFECTIVE DATE.]

(a) Section 27 is effective the day after the governing body of Carlton county and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

(b) Sections 13 and 25 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to state lands; providing for certain state land acquisition; modifying the Mississippi whitewater trail; modifying provisions of the outdoor recreation system; establishing a mineral coordinating committee; adding to and deleting from state parks, state recreation areas, state forests, and wildlife management areas; authorizing public and private sales and conveyances of certain state lands; requiring certain land exchanges; amending Minnesota Statutes 2002, sections 85.013, subdivision 1; 85.0156, subdivision 1; 86A.04; proposing coding for new law in Minnesota Statutes, chapter 93."

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

The report was adopted.

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

H. F. No. 817, A bill for an act relating to occupational safety and health; eliminating certain responsibilities of the commissioner of health; increasing penalty limits for certain violations; amending Minnesota Statutes 2002, sections 182.65, subdivision 2; 182.656, subdivision 1; 182.66, subdivision 2; 182.666, subdivision 2.

Reported the same back with the following amendments:

Page 4, after line 14, insert:

"Sec. 5. Minnesota Statutes 2002, section 182.666, subdivision 2a, is amended to read:

Subd. 2a. Notwithstanding any other provision of this section, if any (1) serious, willful, or repeated violation other than a violation of section 182.653, subdivision 2; or (2) any failure to correct a violation pursuant to subdivision 4 causes or contributes to the death of an employee, the minimum total nonnegotiable fine which shall be assessed for all citations connected to the death of an employee is \$50,000 if there is a willful or repeated violation or \$25,000 if there is no willful or repeated violation, except that if there is no willful or repeated violation and the employer has fewer than 50 employees, the employer shall be assessed an initial fine of \$5,000 and an additional fine of \$5,000 for each of the following four years."

Amend the title as follows:

Page 1, line 7, delete the second "subdivision 2" and insert "subdivisions 2, 2a"

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.

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

H. F. No. 822, A bill for an act relating to education; allowing for direct judicial review of district exclusion and expulsion decisions; amending Minnesota Statutes 2002, section 121A.50; repealing Minnesota Statutes 2002, section 121A.49.

Reported the same back with the following amendments:

Page 1, line 12, strike "under sections 14.63 to"

Page 1, line 13, strike "14.69" and insert "by writ of certiorari to the court of appeals. The school district may implement its decision during the appeal"

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 837, A bill for an act relating to natural resources; allowing the Clearwater river watershed district to charge for facilities for disposing sewage, industrial waste, or other wastes.

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

The report was adopted.

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

H. F. No. 883, A bill for an act relating to metropolitan government; providing for the confirmation of the chair of the metropolitan airports commission by the senate; clarifying the terms of office of the members of the metropolitan airports commission; amending Minnesota Statutes 2002, sections 473.601, subdivision 4; 473.604, subdivisions 1, 2, by adding a subdivision.

Reported the same back with the following amendments:

Page 1, before line 10, insert:

"Section 1. Minnesota Statutes 2002, section 3.8841, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHED.] The legislative commission on metropolitan government is established to oversee the ~~metropolitan council's~~ operating and capital budgets, work ~~program programs~~, and capital improvement ~~program programs of the metropolitan council and the metropolitan airports commission~~.

Sec. 2. Minnesota Statutes 2002, section 3.8841, is amended by adding a subdivision to read:

Subd. 10. [POWERS; DUTIES; METROPOLITAN AIRPORTS COMMISSION OVERSIGHT.] The commission must monitor, review, and make recommendations to the metropolitan airports commission and the legislature for the following calendar year on:

(1) the metropolitan airports commission's proposed operating and capital budgets, work program, and capital improvement program; and

(2) the overall work and role of the metropolitan airports commission.

The commission must monitor appointments to the metropolitan airports commission and may make recommendations to the governor before the governor makes the appointments."

Page 1, line 19, strike everything after "(1)"

Page 1, strike line 20

Page 1, line 21, strike "(2)"

Page 2, line 11, strike "(3)" and insert "(2)"

Page 2, line 32, strike "(4)" and insert "(3)"

Page 3, line 6, delete "(2) and (3)" and insert "(1) and (2)"

Page 3, line 8, delete "The members"

Page 3, delete line 9

Page 3, line 10, delete the new language

Page 3, after line 32, insert:

"Sec. 7. Minnesota Statutes 2002, section 473.604, subdivision 3, is amended to read:

Subd. 3. [RESOLUTION OF APPOINTMENT; OATH.] ~~The clerk, secretary, or other appropriate official of each appointing public body shall immediately file with the secretary of state a certified copy of each resolution appointing commissioners. The city clerk of each city, upon the election and qualification of each new mayor thereof, shall file with the secretary of state a certificate stating the mayor's full name and address, and that such mayor has elected to act as a commissioner, or, in the event such mayor has appointed some other qualified voter instead, shall file a certified copy of the order of the mayor appointing such commissioner. The governor shall file appointments in the same office of the secretary of state. Each person selected as a commissioner shall thereupon file in the same office the oath of office prescribed by the state Constitution, article V, section 5, subscribed by the person and certified by the officer administering the same.~~

Sec. 8. Minnesota Statutes 2002, section 473.605, subdivision 2, is amended to read:

Subd. 2. [PER DIEM, EXPENSES; ~~EXCEPTION~~.] Each commission member shall receive \$50 per diem compensation and be reimbursed for actual and necessary expenses. The chair shall receive a salary as prescribed in section 15A.0815 and shall be reimbursed for reasonable expenses to the same extent as a member. ~~The mayors and members of the city councils of Minneapolis and St. Paul shall not be eligible for per diem compensation.~~ The annual budget of the commission shall provide as a separate account anticipated expenditures for per diem, travel, and associated expenses for the chair and members, and compensation or reimbursement shall be made to the chair and members only when budgeted."

Page 3, line 34, delete "1 to 4" and insert "3 to 6"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, delete "clarifying" and insert "changing the composition, filing of appointments, and"

Page 1, line 6, after the semicolon, insert "providing for oversight of the metropolitan council and airports commission by the legislative commission on metropolitan government;"

Page 1, line 6, after "sections" insert "3.8841, subdivision 1, by adding a subdivision;"

Page 1, line 7, after "2," insert "3,"

Page 1, line 8, before the period, insert "; 473.605, subdivision 2"

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 889, A bill for an act relating to the metropolitan council; providing for local approval process for certain capital improvement projects for which real property will be acquired by eminent domain; proposing coding for new law in Minnesota Statutes, chapter 473.

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

The report was adopted.

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

H. F. No. 899, A bill for an act relating to motor fuels; requiring that certain gasoline to contain ten percent denatured ethanol; amending Minnesota Statutes 2002, section 239.791, subdivision 1.

Reported the same back with the following amendments:

Page 1, line 17, delete "ten" and insert "9.8"

Amend the title as follows:

Page 1, line 3, delete "ten" and insert "9.8"

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

The report was adopted.

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

H. F. No. 912, A bill for an act relating to veterans affairs; clarifying that certain benefits are limited to state residents; amending Minnesota Statutes 2002, section 197.05.

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

The report was adopted.

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

H. F. No. 931, A bill for an act relating to public contracting; prohibiting the use of certain agreements; amending Minnesota Statutes 2002, sections 16C.06, subdivision 6; 16C.28, by adding a subdivision; 471.345, by adding a subdivision.

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

The report was adopted.

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

H. F. No. 932, A bill for an act relating to taxation; property; providing for physical appraisal of property every five years; amending Minnesota Statutes 2002, sections 273.01; 273.08.

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

The report was adopted.

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

H. F. No. 936, A bill for an act relating to education; establishing a special education pilot program.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [IMPACT OF WAIVING SPECIFIC SPECIAL EDUCATION REQUIREMENTS THAT EXCEED FEDERAL LAW; THREE-YEAR PILOT PROJECT.]

Subdivision 1. [ESTABLISHMENT; GOAL.] A three-year pilot project is established to permit independent school district No. 535, Rochester, and up to three other geographically diverse school districts or cooperative units under Minnesota Statutes, section 125A.11, subdivision 3, selected by the commissioner of children, families, and learning to determine the impact, if any, of waiving specific special education requirements listed in subdivision 3 on the quality and cost effectiveness of the instructional services and educational outcomes provided to eligible students by the project participant.

Subd. 2. [ELIGIBILITY; APPLICATIONS.] The commissioner must transmit information about the pilot project and make application forms available to interested school districts or cooperative units. Applications must be submitted to the commissioner by July 1, 2003. An applicant must identify the specific special education requirements listed in subdivision 3 for which the applicant seeks a waiver and indicate how the applicant proposes to modify the activities and procedures affected by the waiver. The commissioner must approve the applications by August 1, 2003.

Subd. 3. [WAIVERS.] The following state special education requirements are waived for the 2003-2004, 2004-2005, and 2005-2006 school years for independent school district No. 535, Rochester, and the other school districts or cooperative units participating in this pilot project:

(1) Minnesota Statutes, section 125A.56, governing prereferral interventions;

(2) Minnesota Statutes, section 125A.08, paragraph (a), clause (1), governing transitional services for students when reaching age 14 or 9th grade who transition from secondary services to postsecondary education and training, employment, community participation, recreation and leisure, and home living;

(3) Minnesota Statutes, section 125A.22, governing community transition interagency committees; and

(4) Minnesota Statutes, section 125A.023, governing coordinated interagency services but only affecting eligible children with disabilities age seven or older.

Subd. 4. [STUDENTS' RIGHTS.] Eligible students enrolled in a district or receiving special instruction and services through a cooperative unit that is participating in this pilot project remain entitled to the procedural protections provided under federal law in any matter that affects the students' identification, evaluation, and placement or change in placement, or protections provided under state law in dismissal proceedings that may result in students' suspension, exclusion, or expulsion. Project participants must ensure that students' civil rights are protected, provide equal educational opportunities, and prohibit discrimination. Failure to comply with this subdivision will at least cause a district or cooperative unit to become ineligible to participate in the pilot project.

Subd. 5. [TECHNICAL ASSISTANCE.] The commissioner must provide project participants, upon request, assistance in developing and implementing a valid and uniform procedure under subdivision 6 to evaluate the participants' experience.

Subd. 6. [EVALUATION; REPORT.] All participating school districts and cooperative units must evaluate the impact, if any, of waiving specific special education requirements listed in subdivision 3 on the quality and cost-effectiveness of the instructional services and educational outcomes provided to eligible students by the project participant. Project participants must focus the evaluation on the overall efficacy of modifying the activities and procedures affected by the waiver. The evaluation must include a mechanism for documenting parents' response to the pilot project. Project participants must submit to the commissioner a progress report by September 1, 2004, and a final report by November 1, 2005. The commissioner must compile and present the results of the reports to the legislature by February 1, 2006, and recommend appropriate amendments to the statutory requirements listed in subdivision 3.

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

Delete the title and insert:

"A bill for an act relating to education; establishing a three-year pilot project to determine the impact of waiving specific special education requirements that exceed federal law."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 937, A bill for an act relating to child support enforcement; classifying certain data; requiring additional information; clarifying and improving certain procedures and support enforcement provisions; clarifying a funding provision; amending Minnesota Statutes 2002, sections 13.69, subdivision 1; 171.06, subdivision 3; 518.171, subdivision 7; 518.551, subdivisions 5, 12, 13; 518.6111, subdivision 7; 518.68, subdivision 2; 548.091, subdivision 1a; 552.01, subdivisions 2, 3, 5, 7; 552.04, subdivision 15; 552.06, subdivisions 1, 2, 5, 6; 609.375, subdivision 2b; Laws 1997, chapter 245, article 2, section 11; proposing coding for new law in Minnesota Statutes, chapter 97A.

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

The report was adopted.

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

H. F. No. 956, A bill for an act relating to veterans homes; clarifying use of certain funds; amending Minnesota Statutes 2002, section 198.261.

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

The report was adopted.

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

H. F. No. 969, A bill for an act relating to agriculture; authorizing certain embargoes; amending Minnesota Statutes 2002, section 31.05, by adding a subdivision.

Reported the same back with the recommendation that 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. 973, A bill for an act relating to veterans affairs; permitting the commissioner of veterans affairs access to taxpayer identification information to notify veterans of health hazards that might affect them; amending Minnesota Statutes 2002, section 270B.14, by adding a subdivision.

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

The report was adopted.

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

H. F. No. 980, A bill for an act relating to crimes; prohibiting use of electronic scanning devices to capture encoded information from a credit or other financial transaction card, and placing it on another card, with intent to defraud; prescribing penalties; proposing coding for new law in Minnesota Statutes, chapter 609.

Reported the same back with the following amendments:

Page 1, after the enacting clause, insert:

"Section 1. [325F.983] [CREDIT CARD RECEIPTS.]

(a) Except as provided in this section, no person that accepts credit cards for the transaction of business shall print more than the last five digits of the credit card account number or the expiration date upon any receipt provided to the cardholder.

(b) This section applies only to receipts that are electronically printed and does not apply to transactions in which the sole means of recording the person's credit card number is by handwriting or by an imprint or copy of the credit card."

Page 1, line 9, delete "Section 1." and insert "Sec. 2."

Page 2, line 36, delete "2" and insert "3" and after "DATE" insert "; APPLICATION"

Page 2, after line 36, insert:

"Section 1 is effective January 1, 2004, with respect to any receipt printed using a cash register or other machine or device that is first put into use on or after January 1, 2004.

Section 1 is effective January 1, 2006, with respect to any receipt printed using a cash register or other machine or device that is in use before January 1, 2004."

Page 3, line 1, delete "1" and insert "2"

Amend the title as follows:

Page 1, line 5, after the semicolon, insert "prohibiting merchants who accept credit cards from printing more than the last five digits of the card;"

Page 1, line 7, delete "chapter" and insert "chapters 325F;"

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

The report was adopted.

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

H. F. No. 984, A bill for an act relating to cooperatives; authorizing businesses to organize as cooperative associations; providing penalties; amending Minnesota Statutes 2002, sections 80A.14, subdivision 17; 80A.15, subdivision 2; proposing coding for new law as Minnesota Statutes, chapter 308B.

Reported the same back with the following amendments:

Page 17, line 6, after the comma, insert "and"

Page 26, line 36, before "In" insert "(a)"

Page 27, after line 9, insert:

"(b) This section does not give a cooperative the power or authority to exercise the powers of a credit union under chapter 52, a bank under chapter 48, or a savings association under chapter 51A."

Page 28, line 16, delete the first comma and insert "or" and delete ", or members"

Page 28, line 21, delete everything after "sufficient"

Page 28, delete lines 22 and 23

Page 28, line 24, delete "associations"

Page 68, line 16, delete "MEMBER APPROVAL OF" and before "ASSETS" insert "PROPERTY AND"

Page 68, line 17, delete "PAYMENT OF MONEY OR OTHER PROPERTY" and insert "MEMBER APPROVAL NOT REQUIRED"

Page 69, line 10, delete "SALE OF PROPERTY AND ASSETS" and insert "MEMBER APPROVAL REQUIRED"

Page 142, lines 6 to 11, reinstate the stricken language

Page 142, line 12, reinstate the stricken language and before "The" insert:

"(v)"

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

The report was adopted.

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

H. F. No. 996, A bill for an act relating to insurance; amending automobile no-fault personal injury protection coverage; changing no-fault arbitration provisions; reducing insurance fraud; amending Minnesota Statutes 2002, sections 65B.525; 65B.56, subdivision 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 65B.525, is amended to read:

65B.525 [ARBITRATION PROCEDURE; RULES OF COURT.]

Subdivision 1. [NO-FAULT ARBITRATION.] Except as otherwise provided in section 72A.327, the supreme court and the several courts of general trial jurisdiction of this state shall by rules of court or other constitutionally allowable device, provide for the mandatory submission to binding arbitration at the request of either party of ~~all~~ cases at issue where the claim at the ~~commencement of arbitration~~ time of hearing is in ~~an~~ the total amount of \$10,000 or less against any insured's reparation obligor for no-fault benefits or comprehensive or collision damage coverage.

Subd. 2. [ARBITRATION; AGREEMENT OF PARTIES.] The rules of court may provide that cases which are not at issue, whether or not suit has been filed, may be referred to arbitration by agreement of reference signed by counsel for both sides, or by the parties themselves. Such agreement of reference shall define the issues to be arbitrated and, shall also contain any stipulations with respect to facts submitted or agreed or defenses waived. In such cases, the agreement of reference shall take the place of the pleadings in the case and be filed of record.

Subd. 3. [ITEMIZATION; FULL PAYMENT.] All arbitration awards must be itemized. A partial award of medical benefits rendered by an arbitrator under this section and paid by an obligor will be considered full and final payment, and the injured party is not liable for, nor may the provider bill the injured party for, charges that are not part of the award. This subdivision does not apply to charges for health care that is not related to the accident.

Subd. 4. [NOTICE TO PROVIDERS.] The itemization of medical services claims required under the rules promulgated by the supreme court must include the names and addresses of all health care providers whose charges are the subject of the claims. Within ten business days after receipt of the itemization, the administrator of arbitration under this section must send a copy of the petition and itemization to each health care provider whose charges are the subject of claims, together with a notice of the content of subdivision 3 and of the provider's right to participate as a party to the proceeding. The notice must explain to the provider what steps the provider must take in order to participate.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective January 1, 2004, and applies to policies issued or renewed on or after that date."

Delete the title and insert:

"A bill for an act relating to insurance; changing no-fault arbitration provisions; amending Minnesota Statutes 2002, section 65B.525."

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

The report was adopted.

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

H. F. No. 1001, A bill for an act relating to health; classifying certain data; establishing a reporting system for adverse health care events; appropriating money; amending Minnesota Statutes 2002, section 13.381, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 144.

Reported the same back with the following amendments:

Page 2, line 30, delete everything after "patient" and insert a semicolon

Page 2, delete lines 31 and 32

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.

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

H. F. No. 1018, A bill for an act relating to the environment; modifying provisions relating to the petroleum tank release cleanup fund; amending Minnesota Statutes 2002, sections 115C.02, subdivision 14; 115C.09, subdivision 3; 115C.11, subdivision 1; 115C.13.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 115C.02, subdivision 14, is amended to read:

Subd. 14. [TANK.] "Tank" means any one or a combination of containers, vessels, and enclosures, including structures and appurtenances connected to them, that is, or has been, used to contain ~~or~~, dispense, store, or transport petroleum.

"Tank" does not include:

~~(1) a mobile storage tank used to transport petroleum from one location to another, except a mobile storage tank with a capacity of 500 gallons or less used only to transport home heating fuel on private property; or~~

~~(2) pipeline facilities, including gathering lines, regulated under the Natural Gas Pipeline Safety Act of 1968, United States Code, title 49, chapter 24, or the Hazardous Liquid Pipeline Safety Act of 1979, United States Code, title 49, chapter 29.~~

Sec. 2. Minnesota Statutes 2002, section 115C.08, subdivision 4, is amended to read:

Subd. 4. [EXPENDITURES.] (a) Money in the fund may only be spent:

- (1) to administer the petroleum tank release cleanup program established in this chapter;
- (2) for agency administrative costs under sections 116.46 to 116.50, sections 115C.03 to 115C.06, and costs of corrective action taken by the agency under section 115C.03, including investigations;
- (3) for costs of recovering expenses of corrective actions under section 115C.04;
- (4) for training, certification, and rulemaking under sections 116.46 to 116.50;
- (5) for agency administrative costs of enforcing rules governing the construction, installation, operation, and closure of aboveground and underground petroleum storage tanks;
- (6) for reimbursement of the environmental response, compensation, and compliance account under subdivision 5 and section 115B.26, subdivision 4;
- (7) for administrative and staff costs as set by the board to administer the petroleum tank release program established in this chapter;
- (8) for corrective action performance audits under section 115C.093; and
- (9) for contamination cleanup grants, as provided in paragraph (c); and

(10) to assess and remove abandoned underground storage tanks under section 115C.094 and, if a release is discovered, to pay for the specific consultant and contractor services costs necessary to complete the tank removal project, including, but not limited to, excavation soil sampling, groundwater sampling, soil disposal, and completion of an excavation report.

(b) Except as provided in paragraph (c), money in the fund is appropriated to the board to make reimbursements or payments under this section.

(c) \$6,200,000 is annually appropriated from the fund to the commissioner of trade and economic development for contamination cleanup grants under section 116J.554. Of this amount, the commissioner may spend up to \$120,000 annually for administration of the contamination cleanup grant program. The appropriation does not cancel and is available until expended. The appropriation shall not be withdrawn from the fund nor the fund balance reduced until the funds are requested by the commissioner of trade and economic development. The commissioner shall schedule requests for withdrawals from the fund to minimize the necessity to impose the fee authorized by subdivision 2. Unless otherwise provided, the appropriation in this paragraph may be used for:

(1) project costs at a qualifying site if a portion of the cleanup costs are attributable to petroleum contamination; and

(2) the costs of performing contamination investigation if there is a reasonable basis to suspect the contamination is attributable to petroleum.

Sec. 3. Minnesota Statutes 2002, section 115C.09, subdivision 3, is amended to read:

Subd. 3. [REIMBURSEMENTS; SUBROGATION; APPROPRIATION.] (a) The board shall reimburse an eligible applicant from the fund for 90 percent of the total reimbursable costs incurred at the site, except that the board may reimburse an eligible applicant from the fund for greater than 90 percent of the total reimbursable costs, if the applicant previously qualified for a higher reimbursement rate. For costs associated with a release from a tank in transport, the board may reimburse 90 percent of costs over \$10,000, with the maximum reimbursement not to exceed \$100,000.

Not more than \$1,000,000 may be reimbursed for costs associated with a single release, regardless of the number of persons eligible for reimbursement, and not more than \$2,000,000 may be reimbursed for costs associated with a single tank facility.

(b) A reimbursement may not be made from the fund under this chapter until the board has determined that the costs for which reimbursement is requested were actually incurred and were reasonable.

(c) When an applicant has obtained responsible competitive bids or proposals according to rules promulgated under this chapter prior to June 1, 1995, the eligible costs for the tasks, procedures, services, materials, equipment, and tests of the low bid or proposal are presumed to be reasonable by the board, unless the costs of the low bid or proposal are substantially in excess of the average costs charged for similar tasks, procedures, services, materials, equipment, and tests in the same geographical area during the same time period.

(d) When an applicant has obtained a minimum of two responsible competitive bids or proposals on forms prescribed by the board and where the rules promulgated under this chapter after June 1, 1995, designate maximum costs for specific tasks, procedures, services, materials, equipment and tests, the eligible costs of the low bid or proposal are deemed reasonable if the costs are at or below the maximums set forth in the rules.

(e) Costs incurred for change orders executed as prescribed in rules promulgated under this chapter after June 1, 1995, are presumed reasonable if the costs are at or below the maximums set forth in the rules, unless the costs in the change order are above those in the original bid or proposal or are unsubstantiated and inconsistent with the process and standards required by the rules.

(f) A reimbursement may not be made from the fund in response to either an initial or supplemental application for costs incurred after June 4, 1987, that are payable under an applicable insurance policy, except that if the board finds that the applicant has made reasonable efforts to collect from an insurer and failed, the board shall reimburse the applicant.

(g) If the board reimburses an applicant for costs for which the applicant has insurance coverage, the board is subrogated to the rights of the applicant with respect to that insurance coverage, to the extent of the reimbursement by the board. The board may request the attorney general to bring an action in district court against the insurer to enforce the board's subrogation rights. Acceptance by an applicant of reimbursement constitutes an assignment by the applicant to the board of any rights of the applicant with respect to any insurance coverage applicable to the costs that are reimbursed. Notwithstanding this paragraph, the board may instead request a return of the reimbursement under subdivision 5 and may employ against the applicant the remedies provided in that subdivision, except where the board has knowingly provided reimbursement because the applicant was denied coverage by the insurer.

(h) Money in the fund is appropriated to the board to make reimbursements under this chapter. A reimbursement to a state agency must be credited to the appropriation account or accounts from which the reimbursed costs were paid.

(i) The board may reduce the amount of reimbursement to be made under this chapter if it finds that the applicant has not complied with a provision of this chapter, a rule or order issued under this chapter, or one or more of the following requirements:

- (1) the agency was given notice of the release as required by section 115.061;
- (2) the applicant, to the extent possible, fully cooperated with the agency in responding to the release;
- (3) the state rules applicable after December 22, 1993, to operating an underground storage tank and appurtenances without leak detection;
- (4) the state rules applicable after December 22, 1998, to operating an underground storage tank and appurtenances without corrosion protection or spill and overfill protection; and
- (5) the state rule applicable after November 1, 1998, to operating an aboveground tank without a dike or other structure that would contain a spill at the aboveground tank site.

(j) The reimbursement may be reduced as much as 100 percent for failure by the applicant to comply with the requirements in paragraph (i), clauses (1) to (5). In determining the amount of the reimbursement reduction, the board shall consider:

- (1) the reasonable determination by the agency that the noncompliance poses a threat to the environment;
- (2) whether the noncompliance was negligent, knowing, or willful;

- (3) the deterrent effect of the award reduction on other tank owners and operators;
- (4) the amount of reimbursement reduction recommended by the commissioner; and
- (5) the documentation of noncompliance provided by the commissioner.

(k) An applicant may ~~assign the right to receive reimbursement to~~ request that the board issue a multiparty check that includes each lender who advanced funds to pay the costs of the corrective action or to each contractor or consultant who provided corrective action services. ~~An assignment~~ This request must be made by filing with the board a document, in a form prescribed by the board, indicating the identity of the applicant, the identity of the assignee lender, contractor, or consultant, the dollar amount ~~of the assignment~~, and the location of the corrective action. ~~An assignment signed by the applicant is valid unless terminated by filing a termination with the board, in a form prescribed by the board, which must include the written concurrence of the assignee. The board shall maintain an index of assignments filed under this paragraph. The board shall pay the reimbursement to the applicant and to one or more assignees by a multiparty check. The applicant must submit a request for the issuance of a multiparty check for each application submitted to the board. Payment under this paragraph does not constitute the assignment of the applicant's right to reimbursement to the consultant, contractor, or lender. The board has no liability to an applicant for a payment under an assignment meeting issued as a multiparty check that meets the requirements of this paragraph.~~

Sec. 4. Minnesota Statutes 2002, section 115C.09, is amended by adding a subdivision to read:

Subd. 3i. [REIMBURSEMENT; NATURAL DISASTER AREA.] (a) As used in this subdivision, "natural disaster area" means a geographical area that has been declared a disaster by the governor and President of the United States.

(b) Notwithstanding subdivision 3, paragraph (a), and Minnesota Rules, chapter 2890, with the exception of Minnesota Rules, parts 2890.0010 to 2890.0065, and 2890.0090 to 2890.0130, the board may reimburse:

(1) up to 50 percent of an applicant' pre-natural-disaster estimated building market value as recorded by the county assessor; or

(2) if the applicant conveys title of the real estate to local or state government, up to 50 percent of the pre-natural-disaster estimated total market value, not to exceed one acre, as recorded by the county assessor.

(c) Paragraph (b) applies only if the applicant documents that:

(1) the natural disaster area has been declared eligible for state or federal emergency aid;

(2) the building is declared uninhabitable by the commissioner because of damage caused by the release of petroleum from a petroleum storage tank; and

(3) the applicant has submitted a claim under any applicable insurance policies and has been denied benefits under those policies.

(d) In determining the percentage for reimbursement, the board shall consider the applicant's eligibility to receive other state or federal financial assistance and determine a lesser reimbursement rate to the extent that the applicant is eligible to receive financial assistance that exceeds 50 percent of the applicant's pre-natural-disaster estimated building market value or total market value.

Sec. 5. [115C.094] [ABANDONED UNDERGROUND STORAGE TANKS.]

(a) As used in this section, an abandoned underground petroleum storage tank means an underground petroleum storage tank that was:

(1) taken out of service prior to December 22, 1988; or

(2) taken out of service on or after December 22, 1988, if the current property owner did not know of the existence of the underground petroleum storage tank and cannot reasonably be expected to have known of the tank's existence.

(b) The board may contract for:

(1) a statewide assessment in order to determine the quantity, location, cost, and feasibility of removing abandoned underground petroleum storage tanks;

(2) the removal of an abandoned underground petroleum storage tank; and

(3) the removal and disposal of petroleum-contaminated soil if the removal is required by the commissioner at the time of tank removal.

(c) Before the board may contract for removal of an abandoned petroleum storage tank, the tank owner must provide the board with written access to the property and release the board from any potential liability for the work performed.

(d) Money in the fund is appropriated to the board for the purposes of this section.

Sec. 6. Minnesota Statutes 2002, section 115C.11, subdivision 1, is amended to read:

Subdivision 1. [REGISTRATION.] (a) All consultants and contractors who perform corrective action services must register with the board. In order to register, consultants must meet and demonstrate compliance with the following criteria:

(1) provide a signed statement to the board verifying agreement to abide by this chapter and the rules adopted under it and to include a signed statement with each claim that all costs claimed by the consultant are a true and accurate account of services performed;

(2) provide a signed statement that the consultant shall make available for inspection any records requested by the board for field or financial audits under the scope of this chapter;

(3) certify knowledge of the requirements of this chapter and the rules adopted under it;

(4) obtain and maintain professional liability coverage, including pollution impairment liability; and

(5) agree to submit to the board a certificate or certificates verifying the existence of the required insurance coverage.

(b) The board must maintain a list of all registered consultants and a list of all registered contractors.

(c) All corrective action services must be performed by registered consultants and contractors.

(d) Reimbursement for corrective action services performed by an unregistered consultant or contractor is subject to reduction under section 115C.09, subdivision 3, paragraph (i).

(e) Corrective action services performed by a consultant or contractor prior to being removed from the registration list may be reimbursed without reduction by the board.

(f) If the information in an application for registration becomes inaccurate or incomplete in any material respect, the registered consultant or contractor must promptly file a corrected application with the board.

(g) Registration is effective 30 days after a complete application is received by the board. The board may reimburse without reduction the cost of work performed by an unregistered contractor if the contractor performed the work within 60 days of the effective date of registration.

(h) Registration for consultants under this section remains in force until the expiration date of the professional liability coverage, including pollution impairment liability, required under paragraph (a), clause (4), or until voluntarily terminated by the registrant, or until suspended or revoked by the commissioner of commerce. Registration for contractors under this section expires each year on the anniversary of the effective date of the contractor's most recent registration and must be renewed on or before expiration. Prior to its annual expiration, a registration remains in force until voluntarily terminated by the registrant, or until suspended or revoked by the commissioner of commerce. All registrants must comply with registration criteria under this section.

(i) The board may deny a consultant or contractor registration or request for renewal under this section if the consultant or contractor:

(1) does not intend to or is not in good faith carrying on the business of an environmental consultant or contractor;

(2) has filed an application for registration that is incomplete in any material respect or contains any statement which, in light of the circumstances under which it is made, contains any misrepresentation, or is false, misleading, or fraudulent;

(3) has engaged in any fraudulent, coercive, deceptive, or dishonest act or practice whether or not such act or practice involves the business of environmental consulting or contracting;

(4) has forged another's name to any document whether or not the document relates to a document approved by the board;

(5) has plead guilty, with or without explicitly admitting guilt; plead nolo contendere; or been convicted of a felony, gross misdemeanor, or misdemeanor involving moral turpitude, including, but not limited to, assault, harassment, or similar conduct;

(6) has been subject to disciplinary action in another state or jurisdiction; or

(7) has not paid subcontractors hired by the consultant or contractor after they have been paid in full by the applicant.

Sec. 7. Minnesota Statutes 2002, section 115C.13, is amended to read:

115C.13 [REPEALER.]

Sections 115C.01, 115C.02, 115C.021, 115C.03, 115C.04, 115C.045, 115C.05, 115C.06, 115C.065, 115C.07, 115C.08, 115C.09, 115C.093, 115C.094, 115C.10, 115C.11, 115C.111, 115C.112, 115C.113, 115C.12, and 115C.13, are repealed effective June 30, ~~2005~~ 2007."

Delete the title and insert:

"A bill for an act relating to the environment; modifying provisions relating to the petroleum tank release cleanup fund; appropriating money; amending Minnesota Statutes 2002, sections 115C.02, subdivision 14; 115C.08, subdivision 4; 115C.09, subdivision 3, by adding a subdivision; 115C.11, subdivision 1; 115C.13; proposing coding for new law in chapter 115C."

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.

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

H. F. No. 1019, A bill for an act relating to insurance; applying the Minnesota No-Fault Automobile Insurance Act to horse-drawn vehicles regularly operated on public roads; establishing insurance requirements; amending Minnesota Statutes 2002, sections 65B.43, by adding a subdivision; 169.791, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 65B.

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

The report was adopted.

Westrom from the Committee on Regulated Industries to which was referred:

H. F. No. 1027, A bill for an act relating to public safety; modifying 911 emergency telecommunications provisions governing fee submission procedures and audits; amending Minnesota Statutes 2002, section 403.11, subdivisions 1, 3c.

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. 1032, A bill for an act relating to operation of state government; establishing the Minnesota False Claims Act; assessing penalties; proposing coding for new law as Minnesota Statutes, chapter 12A.

Reported the same back with the following amendments:

Page 2, delete line 27

Page 2, line 28, delete "is true" and insert "having knowledge it is false in any material respect"

Page 3, lines 4 and 18, delete "clause" and insert "section"

Page 3, line 13, delete "title" and insert "section"

Page 4, line 18, delete "or nolo contendere"

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

The report was adopted.

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

H. F. No. 1050, A bill for an act relating to the metropolitan council; clarifying and specifying in greater detail how a previous appropriation for the northwest busway may be used; amending Laws 2002, chapter 393, section 19, subdivision 2.

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.

Smith from the Committee on Judiciary Policy and Finance to which was referred:

H. F. No. 1066, A bill for an act relating to public safety; modifying state hazardous materials team provisions; amending Minnesota Statutes 2002, sections 299A.49, subdivisions 2, 4; 299A.50, subdivision 1; 299A.51, subdivisions 1, 2; repealing Minnesota Statutes 2002, sections 299A.50, subdivisions 2, 3; Minnesota Rules, parts 7514.0100; 7514.0200; 7514.0300; 7514.0400; 7514.0500; 7514.0600; 7514.0700; 7514.0800; 7514.0900; 7514.1000; 7514.1100; 7514.1200; 7514.1300; 7514.1400; 7514.1500; 7514.1600; 7514.1700; 7514.1800; 7514.1900; 7514.2000.

Reported the same back with the following amendments:

Pages 2 and 3, delete section 3

Page 3, delete section 6

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, delete "299A.50,"

Page 1, line 5, delete "subdivision 1;" and delete "; repealing" and insert a period

Page 1, delete lines 6 to 11

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1087, A bill for an act relating to economic security; regulating use of certain wage and employment data; amending Minnesota Statutes 2002, section 268.19, by adding a subdivision.

Reported the same back with the following amendments:

Page 1, line 20, delete "whereby" and insert "under which"

Page 1, line 21, delete "without" and insert "with"

Page 1, line 24, after the period, insert "With the initial consent of the subject of the data, this data may be shared for up to three years after termination of the employment and training services provided to the individual without execution of an additional consent."

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

The report was adopted.

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

H. F. No. 1093, A bill for an act relating to local government; establishing a legislative commission on unnecessary mandates; amending Minnesota Statutes 2002, sections 3.842, subdivision 4a; 3.843; proposing coding for new law in Minnesota Statutes, chapter 3.

Reported the same back with the following amendments:

Page 3, line 8, delete the second "the" and insert "each"

Page 3, line 9, after "exists," insert "the costs to local governments to comply with the mandate."

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

The report was adopted.

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

H. F. No. 1099, A bill for an act relating to state employees; limiting the state contribution for hospital, medical, and dental premiums; amending Minnesota Statutes 2002, section 43A.29.

Reported the same back with the following amendments:

Page 1, line 20, after the period, insert "The total contribution by the state for hospital and medical coverage for constitutional officers and legislators and for dependents of constitutional officers and legislators is limited to 80 percent of the premium cost. The total contribution by the state for dental coverage for constitutional officers and legislators and for dependents of constitutional officers and legislators is limited to 50 percent of the premium cost."

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

The report was adopted.

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

H. F. No. 1112, A bill for an act relating to veterans affairs; providing authority to the Department of Veterans Affairs to access certain state databases to verify eligibility; amending Minnesota Statutes 2002, section 13.461, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 197.

Reported the same back with the following amendments:

Page 1, line 22, delete everything after "effective" and insert "October 1, 2004."

Page 1, delete line 23

With the recommendation that when so amended the bill pass.

The report was adopted.

Westrom from the Committee on Regulated Industries to which was referred:

H. F. No. 1115, A bill for an act relating to public utilities; making changes to the telephone assistance plan; amending Minnesota Statutes 2002, sections 237.70, subdivisions 2, 3, 4a, 5, 6, 7; 237.701, subdivision 1.

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

The report was adopted.

Swenson from the Committee on Agriculture Policy to which was referred:

H. F. No. 1202, A bill for an act relating to the environment; modifying environmental review for animal feedlots; amending Minnesota Statutes 2002, section 116D.04, subdivisions 2a, 10, 11, 13.

Reported the same back with the following amendments:

Page 3, line 1, delete everything after the period

Page 3, delete lines 2 to 5

Page 3, line 7, after "19." insert "construction of"

Page 3, line 8, after "units" insert "or expansion of an animal feedlot facility by less than 1,000 animal units"

Page 3, line 9, delete "as"

Page 3, delete lines 10 and 11

Page 3, line 12, delete everything before the period and insert "unless the animal feedlot facility meets the mandatory EAW criteria identified in Minnesota Rules, part 4410.4300, subpart 29, item B"

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

The report was adopted.

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

H. F. No. 1228, A bill for an act relating to metropolitan agencies; providing for staggered terms of metropolitan council members; providing that public meetings are not required to fill metropolitan council vacancies within 12 months of initial appointment; amending Minnesota Statutes 2002, section 473.123, subdivisions 2a, 3.

Reported the same back with the following amendments:

Page 3, after line 19, insert:

"Sec. 3. [PLAN ADOPTED.]

Metropolitan council redistricting plan MC01, on file with the geographical information systems office of the legislative coordinating commission and published on its Web site on April 1, 2003, is adopted as the metropolitan council redistricting plan.

Sec. 4. [METES AND BOUNDS DESCRIPTION.]

Within 90 days after enactment of this act and in accordance with Minnesota Statutes, section 2.91, the revisor of statutes shall prepare a metes and bounds description of the metropolitan council districts in a form suitable for publication in Minnesota Statutes and file it with the secretary of state.

Sec. 5. [REPEALER.]

Minnesota Statutes 2002, section 473.123, subdivision 3c, is repealed."

Page 3, line 20, delete "3" and insert "6"

Page 3, line 21, delete "and 2" and insert "to 5"

Amend the title as follows:

Page 1, line 6, after the semicolon, insert "adopting the metropolitan council redistricting plan; requiring a metes and bounds description of the plan; removing the old council district boundaries from the statutes;"

Page 1, line 7, before the period, insert "; repealing Minnesota Statutes 2002, section 473.123, subdivision 3c"

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

The report was adopted.

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

S. F. No. 790, A bill for an act relating to human services; recodifying and reorganizing the background study provisions in the Human Services Licensing Act; making conforming changes; amending Minnesota Statutes 2002, sections 245A.04, subdivisions 1, 3, 3a, 3b, 3c, 3d, 3e, 3f; 245A.041; proposing coding for new law as Minnesota Statutes, chapter 245C.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

BACKGROUND STUDIES

Section 1. [245C.01] [TITLE.]

This chapter may be cited as the "Department of Human Services Background Studies Act."

Sec. 2. [245C.02] [DEFINITIONS.]

Subdivision 1. [SCOPE.] The definitions in this section apply to this chapter.

Subd. 2. [ACCESS TO PERSONS SERVED BY A PROGRAM.] "Access to persons served by a program" means physical access to persons receiving services or the persons' personal property without continuous, direct supervision, as defined in subdivision 8.

Subd. 3. [ANNUAL OR ANNUALLY.] "Annual" or "annually" has the meaning given in section 245A.02, subdivision 2b.

Subd. 4. [APPLICANT.] "Applicant" has the meaning given in section 245A.02, subdivision 3.

Subd. 5. [BACKGROUND STUDY.] "Background study" means the review of records conducted by the commissioner to determine whether a subject is disqualified from direct contact with persons served by a program and, where specifically provided in statutes, whether a subject is disqualified from having access to persons served by a program.

Subd. 6. [CHILD.] "Child" has the meaning given in section 245A.02, subdivision 4.

Subd. 7. [COMMISSIONER.] "Commissioner" has the meaning given in section 245A.02, subdivision 5.

Subd. 8. [CONTINUOUS, DIRECT SUPERVISION.] "Continuous, direct supervision" means an individual is within sight or hearing of the program's supervising individual to the extent that the program's supervising individual is capable at all times of intervening to protect the health and safety of the persons served by the program.

Subd. 9. [CONTRACTOR.] "Contractor" means any individual, regardless of employer, who is providing program services for hire under the control of the provider.

Subd. 10. [COUNTY AGENCY.] "County agency" has the meaning given in section 245A.02, subdivision 6.

Subd. 11. [DIRECT CONTACT.] "Direct contact" means providing face-to-face care, training, supervision, counseling, consultation, or medication assistance to persons served by the program.

Subd. 12. [LICENSE.] "License" has the meaning given in section 245A.02, subdivision 8.

Subd. 13. [LICENSE HOLDER.] "License holder" has the meaning given in section 245A.02, subdivision 9.

Subd. 14. [PERSON.] "Person" means a child as defined in subdivision 6 or an adult as defined in section 245A.02, subdivision 2.

Subd. 15. [REASONABLE CAUSE.] "Reasonable cause" means information or circumstances exist which provide the commissioner with articulable suspicion that further pertinent information may exist concerning a subject. The commissioner has reasonable cause when, but not limited to, the commissioner has received a report from the subject, the license holder, or a third party indicating that the subject has a history that would disqualify the individual or that may pose a risk to the health or safety of persons receiving services.

Subd. 16. [RECURRING MALTREATMENT.] "Recurring maltreatment" means more than one incident of maltreatment for which there is a preponderance of evidence that the maltreatment occurred and that the subject was responsible for the maltreatment.

Subd. 17. [REGISTRANT.] "Registrant" means an individual who operates a supplemental nursing services agency and who registers the agency with the commissioner of health under section 144A.71, subdivision 1.

Subd. 18. [SERIOUS MALTREATMENT.] (a) "Serious maltreatment" means sexual abuse, maltreatment resulting in death, maltreatment resulting in serious injury which reasonably requires the care of a physician whether or not the care of a physician was sought, or abuse resulting in serious injury.

(b) For purposes of this definition, "care of a physician" is treatment received or ordered by a physician but does not include diagnostic testing, assessment, or observation.

(c) For purposes of this definition, "abuse resulting in serious injury" means: bruises, bites, skin laceration, or tissue damage; fractures; dislocations; evidence of internal injuries; head injuries with loss of consciousness; extensive second-degree or third-degree burns and other burns for which complications are present; extensive second-degree or third-degree frostbite and other frostbite for which complications are present; irreversible mobility or avulsion of teeth; injuries to the eyes; ingestion of foreign substances and objects that are harmful; near drowning; and heat exhaustion or sunstroke.

Subd. 19. [SUBJECT OF A BACKGROUND STUDY.] "Subject of a background study" means an individual on whom a background study is required or completed.

Sec. 3. [245C.03] [BACKGROUND STUDY; INDIVIDUALS TO BE STUDIED.]

Subdivision 1. [LICENSED PROGRAMS.] The commissioner shall conduct a background study on:

(1) the applicant;

(2) an individual age 13 and over living in the household where the licensed program will be provided;

(3) current employees or contractors of the applicant who will have direct contact with persons served by the facility, agency, or program;

(4) volunteers or student volunteers who will have direct contact with persons served by the program to provide program services if the contact is not under the continuous, direct supervision by an individual listed in clause (1) or (3);

(5) an individual age ten to 12 living in the household where the licensed services will be provided when the commissioner has reasonable cause; and

(6) an individual who, without providing direct contact services at a licensed program, may have unsupervised access to children or vulnerable adults receiving services from a program licensed to provide:

(i) family child care for children;

(ii) foster care for children in the provider's own home; or

(iii) foster care or day care services for adults in the provider's own home.

The commissioner must have reasonable cause to study an individual under this clause.

Subd. 2. [PERSONAL CARE PROVIDER ORGANIZATIONS.] The commissioner shall conduct background studies on any individual required under section 256B.0627 to have a background study completed under this chapter.

Subd. 3. [SUPPLEMENTAL NURSING SERVICES AGENCIES.] The commissioner shall conduct all background studies required under this chapter and initiated by supplemental nursing services agencies registered under section 144A.71, subdivision 1.

Subd. 4. [PERSONNEL AGENCIES; EDUCATIONAL PROGRAMS; PROFESSIONAL SERVICES AGENCIES.] The commissioner also may conduct studies on individuals specified in subdivision 1, clauses (3) and (4), when the studies are initiated by:

(1) personnel pool agencies;

(2) temporary personnel agencies;

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

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

Sec. 4. [245C.04] [WHEN BACKGROUND STUDY MUST OCCUR.]

Subdivision 1. [LICENSED PROGRAMS.] (a) The commissioner shall conduct a background study of an individual required to be studied under section 245C.03, subdivision 1, at least upon application for initial license for all license types.

(b) The commissioner shall conduct a background study of an individual required to be studied under section 245C.03, subdivision 1, at reapplication for a license for family child care, child foster care, and adult foster care.

(c) The commissioner is not required to conduct a study of an individual at the time of reapplication for a license if the individual's background study was completed by the commissioner of human services for an adult foster care license holder that is also:

(1) registered under chapter 144D; or

(2) licensed to provide home and community-based services to people with disabilities at the foster care location and the license holder does not reside in the foster care residence; and

(3) the following conditions are met:

(i) a study of the individual was conducted either at the time of initial licensure or when the individual became affiliated with the license holder;

(ii) the individual has been continuously affiliated with the license holder since the last study was conducted; and

(iii) the last study of the individual was conducted on or after October 1, 1995.

(d) Applicants for licensure, license holders, and other entities as provided in this chapter must submit completed background study forms to the commissioner before individuals specified in section 245C.03, subdivision 1, begin positions allowing direct contact in any licensed program.

(e) For purposes of this section, a physician licensed under chapter 147 is considered to be continuously affiliated upon the license holder's receipt from the commissioner of health or human services of the physician's background study results.

Subd. 2. [OTHER STATE AGENCIES.] Applicants and license holders under the jurisdiction of other state agencies who are required in other statutory sections to initiate background studies under this chapter must submit completed background study forms to the commissioner before the background study subject begins in a position allowing direct contact in the licensed program or, where applicable, prior to being employed.

Subd. 3. [PERSONAL CARE PROVIDER ORGANIZATIONS.] (a) The commissioner shall conduct a background study of an individual required to be studied under section 245C.03, subdivision 2, at least upon application for initial enrollment under section 256B.0627.

(b) Organizations required to initiate background studies under section 256B.0627 for individuals described in section 245C.03, subdivision 2, must submit a completed background study form to the commissioner before those individuals begin a position allowing direct contact with persons served by the organization.

Subd. 4. [SUPPLEMENTAL NURSING SERVICES AGENCIES.] (a) The commissioner shall conduct a background study of an individual required to be studied under section 245C.03, subdivision 3, at least upon application for registration under section 144A.71, subdivision 1.

(b) Each supplemental nursing services agency must initiate background studies before an individual begins a position allowing direct contact with persons served by the agency and annually thereafter.

Subd. 5. [PERSONNEL AGENCIES; EDUCATIONAL PROGRAMS; PROFESSIONAL SERVICES AGENCIES.] Agencies, programs, and individuals who initiate background studies under section 245C.03, subdivision 4, must initiate the studies annually.

Sec. 5. [245C.05] [BACKGROUND STUDY; INFORMATION AND DATA PROVIDED TO COMMISSIONER.]

Subdivision 1. [INDIVIDUAL STUDIED.] The individual who is the subject of the background study must provide the applicant, license holder, or other entity under section 245C.04 with sufficient information to ensure an accurate study, including:

(1) the individual's first, middle, and last name and all other names by which the individual has been known;

(2) home address, city, county, and state of residence for the past five years;

(3) zip code;

(4) sex;

(5) date of birth; and

(6) driver's license number or state identification number.

Subd. 2. [APPLICANT, LICENSE HOLDER, OR OTHER ENTITY.] The applicant, license holder, or other entity under section 245C.04 shall provide the information collected under subdivision 1 about an individual who is the subject of the background study on forms prescribed by the commissioner.

Subd. 3. [ADDITIONAL INFORMATION FROM INDIVIDUAL STUDIED.] The commissioner may request additional information of the individual, such as the individual's social security number or race. The individual is not required to provide this information to the commissioner.

Subd. 4. [ELECTRONIC TRANSMISSION.] For background studies conducted by the department of human services, the commissioner shall implement a system for the electronic transmission of:

(1) background study information to the commissioner; and

(2) background study results to the license holder.

Subd. 5. [FINGERPRINTS.] (a) When the commissioner has reasonable cause to believe that further pertinent information may exist on the subject of the background study, the subject shall provide the commissioner with a set of classifiable fingerprints obtained from an authorized law enforcement agency.

(b) For purposes of requiring fingerprints, the commissioner has reasonable cause when, but not limited to, the:

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

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

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

Subd. 6. [APPLICANT, LICENSE HOLDER, REGISTRANT, AND AGENCIES.] (a) The applicant, license holder, registrant, bureau of criminal apprehension, commissioner of health, and county agencies shall help with the study by giving the commissioner criminal conviction data and reports about the maltreatment of adults substantiated under section 626.557 and the maltreatment of minors in licensed programs substantiated under section 626.556.

(b) If a background study is initiated by an applicant or license holder and the applicant or license holder receives information about the possible criminal or maltreatment history of an individual who is the subject of the background study, the applicant or license holder must immediately provide the information to the commissioner.

(c) The program or county or other agency must provide written notice to the individual who is the subject of the background study of the requirements under this subdivision.

Subd. 7. [PROBATION OFFICER AND CORRECTIONS AGENT.] (a) A probation officer or corrections agent shall notify the commissioner of an individual's conviction if the individual is:

(1) affiliated with a program or facility regulated by the department of human services or department of health, or any type of home care agency or provider of personal care assistance services; and

(2) convicted of a crime constituting a disqualification under section 245C.14.

(b) For the purpose of this subdivision, "conviction" has the meaning given it in section 609.02, subdivision 5.

(c) The commissioner, in consultation with the commissioner of corrections, shall develop forms and information necessary to implement this subdivision and shall provide the forms and information to the commissioner of corrections for distribution to local probation officers and corrections agents.

(d) The commissioner shall inform individuals subject to a background study that criminal convictions for disqualifying crimes will be reported to the commissioner by the corrections system.

(e) A probation officer, corrections agent, or corrections agency is not civilly or criminally liable for disclosing or failing to disclose the information required by this subdivision.

(f) Upon receipt of disqualifying information, the commissioner shall provide the notice required under section 245C.17, as appropriate, to agencies on record as having initiated a background study or making a request for documentation of the background study status of the individual.

(g) This subdivision does not apply to family child care and child foster care programs.

Sec. 6. [245C.06] [INDIVIDUAL PREVIOUSLY STUDIED.]

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

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

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

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

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

(3) the facility provides notices to the individual as required under section 245C.05, subdivision 6, paragraph (c), and that the facility is requesting written notification of the individual's background study status from the commissioner.

Subd. 2. [COMMISSIONER'S RESPONSE.] The commissioner shall respond to each request under subdivision 1 with a written or electronic notice to the facility and the study subject. If the commissioner determines that a background study is necessary, the commissioner shall complete the study without further request from a licensed agency or notifications to the study subject.

Sec. 7. [245C.07] [STUDY SUBJECT AFFILIATED WITH MULTIPLE LICENSED FACILITIES.]

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

When the commissioner receives a notice, the commissioner shall notify each facility identified by the background study subject of the study results.

The background study notice the commissioner sends to the subsequent agencies shall satisfy those facilities' responsibilities for initiating a background study on that individual.

Sec. 8. [245C.08] [BACKGROUND STUDY; INFORMATION COMMISSIONER REVIEWS.]

Subdivision 1. [BACKGROUND STUDIES CONDUCTED BY THE COMMISSIONER OF HUMAN SERVICES.] For a background study conducted by the commissioner, the commissioner shall review:

(1) information related to names of substantiated perpetrators of maltreatment of vulnerable adults that has been received by the commissioner as required under section 626.557, subdivision 9c, paragraph (i);

(2) the commissioner's records relating to the maltreatment of minors in licensed programs;

(3) information from juvenile courts as required in subdivision 4 for individuals listed in section 245C.03, subdivision 1, clauses (2), (5), and (6); and

(4) information from the bureau of criminal apprehension.

Subd. 2. [BACKGROUND STUDIES CONDUCTED BY A COUNTY OR PRIVATE AGENCY; FOSTER CARE AND FAMILY CHILD CARE.] For a background study conducted by a county or private agency for child foster care, adult foster care, and family child care homes, the commissioner shall review:

(1) information from the county agency's record of substantiated maltreatment of adults and the maltreatment of minors;

(2) information from juvenile courts as required in subdivision 4 for individuals listed in section 245C.03, subdivision 1, clauses (2), (5), and (6); and

(3) information from the bureau of criminal apprehension.

Subd. 3. [ARREST AND INVESTIGATIVE INFORMATION.] (a) If the commissioner has reasonable cause to believe the information is pertinent to the disqualification of an individual listed in section 245C.03, subdivisions 1 and 2, the commissioner also may review arrest and investigative information from:

(1) the bureau of criminal apprehension;

(2) the commissioner of health;

(3) a county attorney;

(4) a county sheriff;

(5) a county agency;

(6) a local chief of police;

(7) other states;

(8) the courts; or

(9) the Federal Bureau of Investigation.

(b) The commissioner is not required to conduct more than one review of a subject's records from the Federal Bureau of Investigation if a review of the subject's criminal history with the Federal Bureau of Investigation has already been completed by the commissioner and there has been no break in the subject's affiliation with the license holder who initiated the background study.

Subd. 4. [JUVENILE COURT RECORDS.] (a) The commissioner shall review records from the juvenile courts for an individual studied under section 245C.03, subdivision 1, clauses (2) and (5).

(b) For individuals studied under section 245C.03, subdivision 1, clauses (1), (3), (4), and (6), and subdivision 2, who are ages 13 to 17, the commissioner shall review records from the juvenile courts when the commissioner has reasonable cause.

(c) The juvenile courts shall help with the study by giving the commissioner existing juvenile court records on individuals described in section 245C.03, subdivision 1, clauses (2), (5), and (6), relating to delinquency proceedings held within either the five years immediately preceding the background study or the five years immediately preceding the individual's 18th birthday, whichever time period is longer.

(d) For purposes of this chapter, a finding that a delinquency petition is proven in juvenile court shall be considered a conviction in state district court.

(e) The commissioner shall destroy juvenile records obtained under this subdivision when the subject of the records reaches age 23.

Sec. 9. [245C.09] [FAILURE OR REFUSAL TO COOPERATE WITH BACKGROUND STUDY.]

Subdivision 1. [DISQUALIFICATION; LICENSING ACTION.] An applicant's, license holder's, or registrant's failure or refusal to cooperate with the commissioner is reasonable cause to disqualify a subject, deny a license application, or immediately suspend or revoke a license or registration.

Subd. 2. [EMPLOYMENT ACTION.] An individual's failure or refusal to cooperate with the background study is just cause for denying or terminating employment of the individual if the individual's failure or refusal to cooperate could cause the applicant's application to be denied or the license holder's license to be immediately suspended or revoked.

Sec. 10. [245C.10] [BACKGROUND STUDY; FEES.]

Subdivision 1. [SUBJECT OF A BACKGROUND STUDY.] No applicant, license holder, or individual who is the subject of a background study shall pay any fees required to conduct the study.

Subd. 2. [SUPPLEMENTAL NURSING SERVICES AGENCIES.] The commissioner shall recover the cost of the background studies initiated by supplemental nursing services agencies registered under section 144A.71, subdivision 1, through a fee of no more than \$8 per study charged to the agency. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Subd. 3. [PERSONAL CARE PROVIDER ORGANIZATIONS.] The commissioner shall recover the cost of background studies initiated by a personal care provider organization under section 256B.0627 through a fee of no more than \$12 per study charged to the organization responsible for submitting the background study form. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Sec. 11. [245C.11] [BACKGROUND STUDY; COUNTY AGENCIES.]

Subdivision 1. [FOSTER CARE; CRIMINAL CONVICTION DATA.] For individuals who are required to have background studies under section 245C.03, subdivisions 1 and 2, and who have been continuously affiliated with a foster care provider that is licensed in more than one county, criminal conviction data may be shared among those counties in which the foster care programs are licensed. A county agency's receipt of criminal conviction data from another county agency shall meet the criminal data background study requirements of this chapter.

Subd. 2. [JOINTLY LICENSED PROGRAMS.] A county agency may accept a background study completed by the commissioner under this chapter in place of the background study required under section 245A.16, subdivision 3, in programs with joint licensure as home and community-based services and adult foster care for people with developmental disabilities when the license holder does not reside in the foster care residence and the subject of the study has been continuously affiliated with the license holder since the date of the commissioner's study.

Subd. 3. [CRIMINAL HISTORY DATA.] County agencies shall have access to the criminal history data in the same manner as county licensing agencies under this chapter for purposes of background studies completed by county agencies on legal nonlicensed child care providers to determine eligibility for child care funds under chapter 119B.

Sec. 12. [245C.12] [BACKGROUND STUDY; TRIBAL ORGANIZATIONS.]

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

Sec. 13. [245C.13] [PROCESSING THE BACKGROUND STUDY FORM.]

Subdivision 1. [TIMING.] Upon receipt of the background study forms from an applicant, license holder, registrant, agency, organization, program, or entity required to initiate a background study under section 245C.04, the commissioner shall complete the background study and provide the notice required under section 245C.17, subdivision 1, within 15 working days.

Subd. 2. [DIRECT CONTACT PENDING COMPLETION OF BACKGROUND STUDY.] Unless otherwise specified, the subject of a background study may have direct contact with persons served by a program after the background study form is mailed or submitted to the commissioner pending notification of the study results under section 245C.17.

Sec. 14. [245C.14] [DISQUALIFICATION.]

Subdivision 1. [DISQUALIFICATION FROM DIRECT CONTACT.] (a) The commissioner shall disqualify an individual who is the subject of a background study from any position allowing direct contact with persons receiving services from the license holder or entity identified in section 245C.03, upon receipt of information showing, or when a background study completed under this chapter shows any of the following:

(1) a conviction of or admission to one or more crimes listed in section 245C.15;

(2) a preponderance of the evidence indicates the individual has committed an act or acts that meet the definition of any of the crimes listed in section 245C.15; or

(3) an investigation results in an administrative determination listed under section 245C.15, subdivision 4, paragraph (b).

(b) No individual who is disqualified following a background study under section 245C.03, subdivisions 1 and 2, may be retained in a position involving direct contact with persons served by a program or entity identified in section 245C.03, unless the commissioner has provided written notice under section 245C.17 stating that:

(1) the individual may remain in direct contact during the period in which the individual may request reconsideration as provided in section 245C.21, subdivision 2;

(2) the commissioner has set aside the individual's disqualification for that program or entity identified in section 245C.03, as provided in section 245C.22, subdivision 4; or

(3) the license holder has been granted a variance for the disqualified individual under section 245C.30.

Subd. 2. [DISQUALIFICATION FROM ACCESS.] (a) If an individual who is studied under section 245C.03, subdivision 1, clauses (2), (5), and (6), is disqualified from direct contact under subdivision 1, the commissioner shall also disqualify the individual from access to a person receiving services from the license holder.

(b) No individual who is disqualified following a background study under section 245C.03, subdivision 1, clauses (2), (5), and (6), or as provided elsewhere in statute who is disqualified as a result of this section, may be allowed access to persons served by the program unless the commissioner has provided written notice under section 245C.17 stating that:

(1) the individual may remain in direct contact during the period in which the individual may request reconsideration as provided in section 245C.21, subdivision 2;

(2) the commissioner has set aside the individual's disqualification for that licensed program or entity identified in section 245C.03 as provided in section 245C.22, subdivision 4; or

(3) the license holder has been granted a variance for the disqualified individual under section 245C.30.

Sec. 15. [245C.15] [DISQUALIFYING CRIMES OR CONDUCT.]

Subdivision 1. [PERMANENT DISQUALIFICATION.] (a) An individual is disqualified under section 245C.14 if: (1) regardless of how much time has passed since the discharge of the sentence imposed for the offense; and (2) unless otherwise specified, regardless of the level of the conviction, the individual is convicted of any of the following offenses: sections 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.221 or 609.222 (assault in the first or second degree); a felony offense under sections 609.2242 and 609.2243 (domestic assault), spousal abuse, child abuse or neglect, or a crime against children; 609.228 (great bodily harm caused by distribution of drugs); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third degree); 609.322 (solicitation, inducement, and promotion of prostitution); a felony offense under 609.324, subdivision 1 (other prohibited acts); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.352 (solicitation of children to engage in sexual conduct); 609.365 (incest); a felony offense under 609.377 (malicious punishment of a child); a felony offense under 609.378 (neglect or endangerment of a child); 609.561 (arson in the first degree); 609.66, subdivision 1e (drive-by shooting); 609.749, subdivision 3, 4, or 5 (felony-level harassment; stalking); 609.855, subdivision 5 (shooting at or in a public transit vehicle or facility); 617.246 (use of minors in sexual performance prohibited); or 617.247 (possession of pictorial representations of minors). An individual also is disqualified under section 245C.14 regardless of how much time has passed since the involuntary termination of the individual's parental rights under section 260C.301.

(b) An individual's attempt or conspiracy to commit any of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes, permanently disqualifies the individual under section 245C.14.

(c) An individual's offense in any other state or country, where the elements of the offense are substantially similar to any of the offenses listed in paragraph (a), permanently disqualifies the individual under section 245C.14.

Subd. 2. [15-YEAR DISQUALIFICATION.] (a) An individual is disqualified under section 245C.14 if: (1) less than 15 years have passed since the discharge of the sentence imposed for the offense; and (2) the individual has received a felony conviction for a violation of any of the following offenses: sections 260C.301 (grounds for termination of parental rights); 609.165 (felon ineligible to possess firearm); 609.21 (criminal vehicular homicide and injury); 609.215 (suicide); 609.223 or 609.2231 (assault in the third or fourth degree); repeat offenses under

609.224 (assault in the fifth degree); 609.2325 (criminal abuse of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.255 (false imprisonment); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.268 (injury or death of an unborn child in the commission of a crime); 609.27 (coercion); 609.275 (attempt to coerce); repeat offenses under 609.3451 (criminal sexual conduct in the fifth degree); 609.498, subdivision 1 or 1b (aggravated first degree or first degree tampering with a witness); 609.52 (theft); 609.521 (possession of shoplifting gear); 609.562 (arson in the second degree); 609.563 (arson in the third degree); 609.582 (burglary); 609.625 (aggravated forgery); 609.63 (forgery); 609.631 (check forgery; offering a forged check); 609.635 (obtaining signature by false pretense); 609.66 (dangerous weapons); 609.67 (machine guns and short-barreled shotguns); 609.687 (adulteration); 609.71 (riot); 609.713 (terroristic threats); repeat offenses under 617.23 (indecent exposure; penalties); repeat offenses under 617.241 (obscene materials and performances; distribution and exhibition prohibited; penalty); chapter 152 (drugs; controlled substance); or a felony level conviction involving alcohol or drug use.

(b) An individual is disqualified under section 245C.14 if less than 15 years has passed since the individual's attempt or conspiracy to commit any of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes.

(c) An individual is disqualified under section 245C.14 if less than 15 years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of the offenses listed in paragraph (a).

(d) If the individual studied is convicted of one of the felonies listed in paragraph (a), but the sentence is a gross misdemeanor or misdemeanor disposition, the lookback period for the conviction is the period applicable to the gross misdemeanor or misdemeanor disposition.

Subd. 3. [TEN-YEAR DISQUALIFICATION.] (a) An individual is disqualified under section 245C.14 if: (1) less than ten years have passed since the discharge of the sentence imposed for the offense; and (2) the individual has received a gross misdemeanor conviction for a violation of any of the following offenses: sections 609.224 (assault in the fifth degree); 609.224, subdivision 2, paragraph (c) (assault in the fifth degree by a caregiver against a vulnerable adult); 609.2242 and 609.2243 (domestic assault); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.265 (abduction); 609.275 (attempt to coerce); 609.324, subdivision 1a (other prohibited acts; minor engaged in prostitution); 609.33 (disorderly house); 609.3451 (criminal sexual conduct in the fifth degree); 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child); 609.52 (theft); 609.582 (burglary); 609.631 (check forgery; offering a forged check); 609.66 (dangerous weapons); 609.71 (riot); 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); repeat offenses under 609.746 (interference with privacy); 609.749, subdivision 2 (harassment; stalking); repeat offenses under 617.23 (indecent exposure); 617.241 (obscene materials and performances); 617.243 (indecent literature, distribution); 617.293 (harmful materials; dissemination and display to minors prohibited); or violation of an order for protection under 518B.01, subdivision 14.

(b) An individual is disqualified under section 245C.14 if less than ten years has passed since the individual's attempt or conspiracy to commit any of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes.

(c) An individual is disqualified under section 245C.14 if less than ten years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraph (a).

(d) If the defendant is convicted of one of the gross misdemeanors listed in paragraph (a), but the sentence is a misdemeanor disposition, the lookback period for the conviction is the period applicable to misdemeanors.

Subd. 4. [SEVEN-YEAR DISQUALIFICATION.] (a) An individual is disqualified under section 245C.14 if: (1) less than seven years have passed since the discharge of the sentence imposed for the offense; and (2) the individual has received a misdemeanor conviction for a violation of any of the following offenses: sections 609.224 (assault in the fifth degree); 609.2242 (domestic assault); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.2672 (assault of an unborn child in the third degree); 609.27 (coercion); violation of an order for protection under 609.3232 (protective order authorized; procedures; penalties); 609.52 (theft); 609.66 (dangerous weapons); 609.665 (spring guns); 609.746 (interference with privacy); 609.79 (obscene or harassing phone calls); 609.795 (letter, telegram, or package; opening; harassment); 617.23 (indecent exposure; penalties); 617.293 (harmful materials; dissemination and display to minors prohibited); or violation of an order for protection under 518B.01 (Domestic Abuse Act).

(b) An individual is disqualified under section 245C.14 if less than seven years has passed since a determination or disposition of the individual's:

(1) failure to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, for incidents in which: (i) the final disposition under section 626.556 or 626.557 was substantiated maltreatment, and (ii) the maltreatment was recurring or serious; or

(2) substantiated serious or recurring maltreatment of a minor under section 626.556 or of a vulnerable adult under section 626.557 for which: (i) there is a preponderance of evidence that the maltreatment occurred, and (ii) the subject was responsible for the maltreatment.

(c) An individual is disqualified under section 245C.14 if less than seven years has passed since the individual's attempt or conspiracy to commit any of the offenses listed in paragraphs (a) and (b), as each of these offenses is defined in Minnesota Statutes.

(d) An individual is disqualified under section 245C.14 if less than seven years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraphs (a) and (b).

Subd. 5. [MENTAL ILLNESS.] The commissioner may not disqualify an individual subject to a background study under this chapter because that individual has, or has had, a mental illness as defined in section 245.462, subdivision 20.

Sec. 16. [245C.16] [DISQUALIFIED INDIVIDUAL'S RISK OF HARM.]

Subdivision 1. [DETERMINING IMMEDIATE RISK OF HARM.] (a) If the commissioner determines that the individual studied has a disqualifying characteristic, the commissioner shall review the information immediately available and make a determination as to the subject's immediate risk of harm to persons served by the program where the individual studied will have direct contact.

(b) The commissioner shall consider all relevant information available, including the following factors in determining the immediate risk of harm:

(1) the recency of the disqualifying characteristic;

(2) the recency of discharge from probation for the crimes;

(3) the number of disqualifying characteristics;

(4) the intrusiveness or violence of the disqualifying characteristic;

(5) the vulnerability of the victim involved in the disqualifying characteristic; and

(6) the similarity of the victim to the persons served by the program where the individual studied will have direct contact.

(c) This section does not apply when the subject of a background study is regulated by a health-related licensing board as defined in chapter 214, and the subject is determined to be responsible for substantiated maltreatment under section 626.556 or 626.557.

Subd. 2. [FINDINGS.] (a) After evaluating the information immediately available under subdivision 1, the commissioner may have reason to believe one of the following:

(1) the individual poses an imminent risk of harm to persons served by the program where the individual studied will have direct contact;

(2) the individual poses a risk of harm requiring continuous, direct supervision while providing direct contact services during the period in which the subject may request a reconsideration; or

(3) the individual does not pose an imminent risk of harm or a risk of harm requiring continuous, direct supervision while providing direct contact services during the period in which the subject may request a reconsideration.

(b) After determining an individual's risk of harm under this section, the commissioner must notify the subject of the background study and the applicant or license holder as required under section 245C.17.

Subd. 3. [COUNTY AGENCY.] (a) County licensing agencies performing duties under this section may develop an alternative system for determining the subject's immediate risk of harm to persons served by the program, providing the notices under subdivision 2, paragraph (b), and documenting the action taken by the county licensing agency.

(b) Each county licensing agency's implementation of the alternative system is subject to approval by the commissioner.

(c) Notwithstanding this alternative system, county licensing agencies shall complete the requirements of section 245C.17.

Sec. 17. [245C.17] [NOTICE OF BACKGROUND STUDY RESULTS.]

Subdivision 1. [TIME FRAME FOR NOTICE OF STUDY RESULTS.] (a) Within 15 working days after the commissioner's receipt of the background study form, the commissioner shall notify the individual who is the subject of the study in writing or by electronic transmission of the results of the study or that more time is needed to complete the study.

(b) Within 15 working days after the commissioner's receipt of the background study form, the commissioner shall notify the applicant, license holder, or registrant in writing or by electronic transmission of the results of the study or that more time is needed to complete the study.

Subd. 2. [DISQUALIFICATION NOTICE SENT TO SUBJECT.] (a) If the information in the study indicates the individual is disqualified from direct contact with, or from access to, persons served by the program, the commissioner shall disclose to the individual studied:

- (1) the information causing disqualification;
- (2) instructions on how to request a reconsideration of the disqualification; and
- (3) the commissioner's determination of the individual's risk of harm under section 245C.16.

(b) If the commissioner determines under section 245C.16 that an individual poses an imminent risk of harm to persons served by the program where the individual will have direct contact, the commissioner's notice must include an explanation of the basis of this determination.

(c) If the commissioner determines under section 245C.16 that an individual studied does not pose a risk of harm that requires continuous, direct supervision, the commissioner shall only notify the individual of the disqualification.

Subd. 3. [DISQUALIFICATION NOTICE SENT TO APPLICANT, LICENSE HOLDER, OR REGISTRANT.] (a) The commissioner shall notify an applicant, license holder, or registrant who is not the subject of the study:

(1) that the commissioner has found information that disqualifies the individual studied from direct contact with, or from access to, persons served by the program; and

(2) the commissioner's determination of the individual's risk of harm under section 245C.16.

(b) If the commissioner determines under section 245C.16 that an individual studied poses an imminent risk of harm to persons served by the program where the individual studied will have direct contact, the commissioner shall order the license holder to immediately remove the individual studied from direct contact.

(c) If the commissioner determines under section 245C.16 that an individual studied poses a risk of harm that requires continuous, direct supervision, the commissioner shall order the license holder to:

(1) immediately remove the individual studied from direct contact services; or

(2) assure that the individual studied is under continuous, direct supervision when providing direct contact services during the period in which the individual may request a reconsideration of the disqualification under section 245C.21.

(d) If the commissioner determines under section 245C.16 that an individual studied does not pose a risk of harm that requires continuous, direct supervision, the commissioner shall send the license holder a notice that more time is needed to complete the individual's background study.

(e) The commissioner shall not notify the applicant, license holder, or registrant of the information contained in the subject's background study unless:

(1) the basis for the disqualification is failure to cooperate with the background study or substantiated maltreatment under section 626.556 or 626.557;

(2) the Data Practices Act under chapter 13 provides for release of the information; or

(3) the individual studied authorizes the release of the information.

Subd. 4. [DISQUALIFICATION NOTICE TO FAMILY CHILD CARE OR FOSTER CARE PROVIDER.] For studies on individuals pertaining to a license to provide family child care or group family child care, foster care for children in the provider's own home, or foster care or day care services for adults in the provider's own home, the commissioner is not required to provide a separate notice of the background study results to the individual who is the subject of the study unless the study results in a disqualification of the individual.

Sec. 18. [245C.18] [OBLIGATION TO REMOVE DISQUALIFIED INDIVIDUAL FROM DIRECT CONTACT.]

The license holder must remove a disqualified individual from direct contact with persons served by the licensed program if the individual does not request reconsideration under section 245C.21 within the prescribed time, or if the individual submits a timely request for reconsideration, and the commissioner does not set aside the disqualification under section 245C.22, subdivision 4.

Sec. 19. [245C.19] [TERMINATION OF AFFILIATION BASED ON DISQUALIFICATION NOTICE.]

An applicant or license holder that terminates affiliation with persons studied under section 245C.03, when the termination is made in good faith reliance on a notice of disqualification provided by the commissioner, shall not be subject to civil liability.

Sec. 20. [245C.20] [LICENSE HOLDER RECORD KEEPING.]

When a background study is completed under this chapter, a licensed program shall maintain a notice that the study was undertaken and completed in the program's personnel files.

Sec. 21. [245C.21] [REQUESTING RECONSIDERATION OF DISQUALIFICATION.]

Subdivision 1. [WHO MAY REQUEST RECONSIDERATION.] An individual who is the subject of a disqualification may request a reconsideration of the disqualification. The individual must submit the request for reconsideration to the commissioner in writing.

Subd. 2. [TIME FRAME FOR REQUESTING RECONSIDERATION OF A DISQUALIFICATION.] (a) When the commissioner sends an individual a notice of disqualification based on a finding under section 245C.16, subdivision 2, paragraph (a), clause (1) or (2), the disqualified individual must submit the request for a reconsideration within 30 calendar days of the individual's receipt of the notice of disqualification. Upon showing that the information under subdivision 3 cannot be obtained within 30 days, the disqualified individual may request additional time, not to exceed 30 days, to obtain the information.

(b) When the commissioner sends an individual a notice of disqualification based on a finding under section 245C.16, subdivision 2, paragraph (a), clause (3), the disqualified individual must submit the request for reconsideration within 15 calendar days of the individual's receipt of the notice of disqualification.

(c) An individual who was determined to have maltreated a child under section 626.556 or a vulnerable adult under section 626.557, and who is disqualified on the basis of serious or recurring maltreatment, may request a reconsideration of both the maltreatment and the disqualification determinations. The request must be submitted within 30 calendar days of the individual's receipt of the notice of disqualification.

Subd. 3. [INFORMATION THE DISQUALIFIED INDIVIDUAL MUST PROVIDE TO THE COMMISSIONER WHEN REQUESTING RECONSIDERATION.] The disqualified individual must submit information showing that:

(1) the information the commissioner relied upon in determining the underlying conduct that gave rise to the disqualification is incorrect;

(2) for maltreatment, the information the commissioner relied upon in determining that maltreatment was serious or recurring is incorrect; or

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

Sec. 22. [245C.22] [REVIEW AND ACTION BY THE COMMISSIONER ON A RECONSIDERATION REQUEST.]

Subdivision 1. [COMMISSIONER'S TIME FRAME FOR RESPONDING TO DISQUALIFICATION RECONSIDERATION REQUESTS.] (a) The commissioner shall respond in writing or by electronic transmission to all reconsideration requests for which the basis for the request is that the information the commissioner relied upon to disqualify is incorrect or inaccurate within 30 working days of receipt of a request and all relevant information.

(b) If the basis for a disqualified individual's reconsideration request is that the individual does not pose a risk of harm, the commissioner shall respond to the request within 15 working days after receiving the request for reconsideration and all relevant information.

(c) If the disqualified individual's reconsideration request is based on both the correctness or accuracy of the information the commissioner relied upon to disqualify the individual and the individual's risk of harm, the commissioner shall respond to the request within 45 working days after receiving the request for reconsideration and all relevant information.

Subd. 2. [INCORRECT INFORMATION; RESCISSION.] The commissioner shall rescind the disqualification if the commissioner finds that the information relied upon to disqualify the subject is incorrect.

Subd. 3. [PREEMINENT WEIGHT TO THE SAFETY OF PERSONS BEING SERVED.] In reviewing a request for reconsideration of a disqualification, the commissioner shall give preeminent weight to the safety of each person served by the license holder, applicant, or registrant over the interests of the license holder, applicant, or registrant.

Subd. 4. [RISK OF HARM; SET ASIDE.] (a) The commissioner may set aside the disqualification if the commissioner finds that the individual does not pose a risk of harm to any person served by the applicant, license holder, or registrant.

(b) In determining if the individual does not pose a risk of harm, the commissioner shall consider:

(1) the nature, severity, and consequences of the event or events that led to the disqualification;

(2) whether there is more than one disqualifying event;

(3) the age and vulnerability of the victim at the time of the event;

(4) the harm suffered by the victim;

(5) the similarity between the victim and persons served by the program;

(6) the time elapsed without a repeat of the same or similar event;

(7) documentation of successful completion by the individual studied of training or rehabilitation pertinent to the event; and

(8) any other information relevant to reconsideration.

Sec. 23. [245C.23] [COMMISSIONER'S RECONSIDERATION NOTICE.]

Subdivision 1. [COMMISSIONER'S NOTICE OF DISQUALIFICATION THAT IS SET ASIDE.] (a) If the commissioner sets aside a disqualification, the commissioner shall notify the applicant or license holder in writing or by electronic transmission of the decision. In the notice from the commissioner that a disqualification has been set aside, the commissioner must inform the license holder that information about the nature of the disqualification and which factors under section 245C.22, subdivision 4, were the basis of the decision to set aside the disqualification are available to the license holder upon request without the consent of the background study subject.

(b) With the written consent of the background study subject, the commissioner may release to the license holder copies of all information related to the background study subject's disqualification and the commissioner's decision to set aside the disqualification as specified in the written consent.

(c) If the individual studied submits a timely request for reconsideration under section 245C.21, and if the commissioner sets aside the disqualification for that license holder under section 245C.22, the commissioner shall send the license holder the same notification received by license holders in cases where the individual studied has no disqualifying characteristic.

Subd. 2. [COMMISSIONER'S NOTICE OF DISQUALIFICATION THAT IS NOT SET ASIDE.] If the individual studied does not submit a timely request for reconsideration under section 245C.21, or the individual submits a timely request for reconsideration, but the commissioner does not set aside the disqualification for that license holder under section 245C.22, the commissioner shall notify the license holder of the disqualification and order the license holder to immediately remove the individual from any position allowing direct contact with persons receiving services from the license holder.

Sec. 24. [245C.24] [BARS TO SETTING ASIDE A DISQUALIFICATION; FAMILY CHILD CARE AND FOSTER CARE.]

Subdivision 1. [MINIMUM DISQUALIFICATION PERIODS.] The disqualification periods under subdivisions 3 and 4 are the minimum applicable disqualification periods. The commissioner may determine that an individual should continue to be disqualified from licensure because the individual continues to pose a risk of harm to persons served by that individual, even after the minimum disqualification period has passed.

Subd. 2. [PERMANENT BAR TO SET ASIDE OF DISQUALIFICATION.] The commissioner may not set aside the disqualification of an individual in connection with a license to provide family child care for children, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home, regardless of how much time has passed, if the provider was disqualified for a crime or conduct listed in section 245C.15, subdivision 1.

Subd. 3. [TEN-YEAR BAR TO SET ASIDE OF DISQUALIFICATION.] (a) The commissioner may not set aside the disqualification of an individual in connection with a license to provide family child care for children, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home if: (1) less than ten years have passed since the discharge of the sentence imposed for the offense; and (2) the individual has been convicted of a violation of any of the following offenses: sections 609.165 (felon ineligible to possess firearm); criminal vehicular homicide under 609.21 (criminal vehicular homicide and injury); 609.215 (aiding suicide or aiding attempted suicide); felony violations under 609.223 or 609.2231 (assault in the third or fourth degree); 609.713 (terroristic threats); 609.235 (use of drugs to injure or to facilitate crime); 609.24 (simple robbery); 609.255 (false imprisonment); 609.562 (arson in the second degree); 609.71 (riot); 609.498, subdivision 1 or 1b (aggravated first degree or first degree tampering with a witness); burglary in the first or second degree under 609.582 (burglary); 609.66 (dangerous weapon); 609.665 (spring guns); 609.67 (machine guns and short-barreled shotguns); 609.749, subdivision 2 (gross misdemeanor harassment; stalking); 152.021 or 152.022 (controlled substance crime in the first or second degree); 152.023, subdivision 1, clause (3) or (4) or subdivision 2, clause (4) (controlled substance crime in the third degree); 152.024, subdivision 1, clause (2), (3), or (4) (controlled substance crime in the fourth degree); 609.224, subdivision 2, paragraph (c) (fifth-degree assault by a caregiver against a vulnerable adult); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report); 609.265 (abduction); 609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree); 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree); 609.268 (injury or death of an unborn child in the commission of a crime); 617.293 (disseminating or displaying harmful material to minors); a felony level conviction involving alcohol or drug use, a gross misdemeanor offense under 609.324, subdivision 1 (other prohibited acts); a gross misdemeanor offense under 609.378 (neglect or endangerment of a child); a gross misdemeanor offense under 609.377 (malicious punishment of a child); or 609.72, subdivision 3 (disorderly conduct against a vulnerable adult).

(b) The commissioner may not set aside the disqualification of an individual if less than ten years have passed since the individual's attempt or conspiracy to commit any of the offenses listed in paragraph (a) as each of these offenses is defined in Minnesota Statutes.

(c) The commissioner may not set aside the disqualification of an individual if less than ten years have passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraph (a).

Subd. 4. [SEVEN-YEAR BAR TO SET ASIDE DISQUALIFICATION.] The commissioner may not set aside the disqualification of an individual in connection with a license to provide family child care for children, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home if within seven years preceding the study:

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

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

Sec. 25. [245C.25] [CONSOLIDATED RECONSIDERATION OF MALTREATMENT DETERMINATION AND DISQUALIFICATION.]

If an individual is disqualified on the basis of a determination of maltreatment under section 626.556 or 626.557, which was serious or recurring, and the individual requests reconsideration of the maltreatment determination under section 626.556, subdivision 10i, or 626.557, subdivision 9d, and also requests reconsideration of the disqualification under section 245C.21, the commissioner shall consolidate the reconsideration of the maltreatment determination and the disqualification into a single reconsideration.

For maltreatment and disqualification determinations made by county agencies, the county agency shall conduct the consolidated reconsideration. If the county agency has disqualified an individual on multiple bases, one of which is a county maltreatment determination for which the individual has a right to request reconsideration, the county shall conduct the reconsideration of all disqualifications.

Sec. 26. [245C.26] [RECONSIDERATION OF A DISQUALIFICATION FOR AN INDIVIDUAL LIVING IN A LICENSED HOME.]

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

Sec. 27. [245C.27] [FAIR HEARING RIGHTS.]

Subdivision 1. [FAIR HEARING WHEN DISQUALIFICATION IS NOT SET ASIDE.] (a) If the commissioner does not set aside or rescind a disqualification of an individual under section 245C.22 who is disqualified on the basis of a preponderance of evidence that the individual committed an act or acts that meet the definition of any of the crimes listed in section 245C.15; or for failure to make required reports under section 626.556, subdivision 3; or 626.557, subdivision 3, pursuant to section 245C.15, subdivision 4, paragraph (b), clause (1), the individual may request a fair hearing under section 256.045.

(b) The fair hearing is the only administrative appeal of the final agency determination. The disqualified individual does not have the right to challenge the accuracy and completeness of data under section 13.04.

(c) This section does not apply to a public employee's appeal of a disqualification under section 245C.28, subdivision 3.

Subd. 2. [CONSOLIDATED FAIR HEARING FOR MALTREATMENT DETERMINATION AND DISQUALIFICATION NOT SET ASIDE.] (a) If an individual who is disqualified on the bases of serious or recurring maltreatment requests a fair hearing on the maltreatment determination under section 626.556, subdivision 10i, or 626.557, subdivision 9d, and requests a fair hearing under this section on the disqualification, which has not been set aside or rescinded, the scope of the fair hearing under section 256.045 shall include the maltreatment determination and the disqualification.

(b) A fair hearing is the only administrative appeal of the final agency determination. The disqualified individual does not have the right to challenge the accuracy and completeness of data under section 13.04.

(c) This section does not apply to a public employee's appeal of a disqualification under section 245C.28, subdivision 3.

Sec. 28. [245C.28] [CONTESTED CASE HEARING RIGHTS.]

Subdivision 1. [LICENSE HOLDER.] (a) If a maltreatment determination or a disqualification for which reconsideration was requested and which was not set aside or rescinded is the basis for a denial of a license under section 245A.05 or a licensing sanction under 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612.

(b) The license holder must submit the appeal in accordance with section 245A.05 or 245A.07, subdivision 3. As provided under section 245A.08, subdivision 2a, the scope of the consolidated contested case hearing must include the disqualification and the licensing sanction or denial of a license.

(c) If the disqualification was based on a determination of substantiated serious or recurring maltreatment under section 626.556 or 626.557, the appeal must be submitted in accordance with sections 245A.07, subdivision 3, and 626.556, subdivision 10i, or 626.557, subdivision 9d. As provided for under section 245A.08, subdivision 2a, the scope of the contested case hearing must include the maltreatment determination, the disqualification, and the licensing sanction or denial of a license. In such cases, a fair hearing must not be conducted under section 256.045.

Subd. 2. [INDIVIDUAL OTHER THAN THE LICENSE HOLDER.] If the basis for the commissioner's denial of a license under section 245A.05 or a licensing sanction under section 245A.07 is a maltreatment determination or disqualification that was not set aside or rescinded under section 245C.22, and the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under section 245C.03, the hearing of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.

Subd. 3. [EMPLOYEES OF PUBLIC EMPLOYER.] (a) If the commissioner does not set aside the disqualification of an individual who is an employee of an employer, as defined in section 179A.03, subdivision 15, the individual may request a contested case hearing under chapter 14.

(b) If the commissioner does not set aside or rescind a disqualification that is based on a maltreatment determination, the scope of the contested case hearing must include the maltreatment determination and the disqualification. In such cases, a fair hearing must not be conducted under section 256.045.

(c) Rules adopted under this chapter may not preclude an employee in a contested case hearing for a disqualification from submitting evidence concerning information gathered under this chapter.

Subd. 4. [FINAL AGENCY ORDER.] The commissioner's final order under section 245A.08, subdivision 5, is conclusive on the issue of maltreatment and disqualification, including for purposes of subsequent background studies. The contested case hearing under this section is the only administrative appeal of the final agency determination, specifically, including a challenge to the accuracy and completeness of data under section 13.04.

Sec. 29. [245C.29] [CONCLUSIVE DETERMINATIONS OR DISPOSITIONS.]

Subdivision 1. [CONCLUSIVE MALTREATMENT DETERMINATION OR DISPOSITION.] Unless otherwise specified in statute, a maltreatment determination or disposition under section 626.556 or 626.557 is conclusive, if:

(1) the commissioner has issued a final order in an appeal of that determination or disposition under section 245A.08, subdivision 5, or 256.045;

(2) the individual did not request reconsideration of the maltreatment determination or disposition under section 626.556 or 626.557; or

(3) the individual did not request a hearing of the maltreatment determination or disposition under section 256.045.

Subd. 2. [CONCLUSIVE DISQUALIFICATION DETERMINATION.] Unless otherwise specified in statute, a determination that:

(1) the information the commissioner relied upon to disqualify an individual under section 245C.14 was correct based on serious or recurring maltreatment;

(2) a preponderance of the evidence shows that the individual committed an act or acts that meet the definition of any of the crimes listed in section 245C.15; or

(3) the individual failed to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, is conclusive if:

(i) the commissioner has issued a final order in an appeal of that determination under section 245A.08, subdivision 5, or 256.045, or a court has issued a final decision;

(ii) the individual did not request reconsideration of the disqualification under section 245C.21; or

(iii) the individual did not request a hearing on the disqualification under section 256.045.

Sec. 30. [245C.30] [VARIANCE FOR A DISQUALIFIED INDIVIDUAL.]

Subdivision 1. [LICENSE HOLDER VARIANCE.] (a) When the commissioner has not set aside a background study subject's disqualification, and there are conditions under which the disqualified individual may provide direct contact services or have access to people receiving services that minimize the risk of harm to people receiving services, the commissioner may grant a time-limited variance to a license holder.

(b) The variance shall state the reason for the disqualification, the services that may be provided by the disqualified individual, and the conditions with which the license holder or applicant must comply for the variance to remain in effect.

Subd. 2. [DISCLOSURE OF REASON FOR DISQUALIFICATION.] (a) The commissioner may not grant a variance for a disqualified individual unless the applicant or license holder requests the variance and the disqualified individual provides written consent for the commissioner to disclose to the applicant or license holder the reason for the disqualification.

(b) This subdivision does not apply to programs licensed to provide family child care for children, foster care for children in the provider's own home, or foster care or day care services for adults in the provider's own home.

Subd. 3. [CONSEQUENCES FOR FAILING TO COMPLY WITH CONDITIONS OF VARIANCE.] When a license holder permits a disqualified individual to provide any services for which the subject is disqualified without complying with the conditions of the variance, the commissioner may terminate the variance effective immediately and subject the license holder to a licensing action under sections 245A.06 and 245A.07.

Subd. 4. [TERMINATION OF A VARIANCE.] The commissioner may terminate a variance for a disqualified individual at any time for cause.

Subd. 5. [FINAL DECISION.] The commissioner's decision to grant or deny a variance is final and not subject to appeal under the provisions of chapter 14.

Sec. 31. [245C.31] [DISQUALIFICATION OF INDIVIDUAL REGULATED BY A HEALTH-RELATED LICENSING BOARD WHEN DISQUALIFICATION BASED ON SUBSTANTIATED MALTREATMENT.]

Subdivision 1. [BOARD DETERMINES DISCIPLINARY OR CORRECTIVE ACTION.] (a) When the subject of a background study is regulated by a health-related licensing board as defined in chapter 214, and the commissioner determines that the regulated individual is responsible for substantiated maltreatment under section 626.556 or 626.557, instead of the commissioner making a decision regarding disqualification, the board shall make a determination whether to impose disciplinary or corrective action under chapter 214.

(b) This section does not apply to a background study of an individual regulated by a health-related licensing board if the individual's study is related to child foster care, adult foster care, or family child care licensure.

Subd. 2. [COMMISSIONER'S NOTICE TO THE BOARD.] (a) The commissioner shall notify the health-related licensing board:

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

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

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

(b) The commissioner's notice to the health-related licensing board shall indicate whether the commissioner would have disqualified the individual for the substantiated maltreatment if the individual were not regulated by the board.

(c) The commissioner shall concurrently send the notice under this subdivision to the individual who is the subject of the background study.

Subd. 3. [COMMISSIONER'S OR LOCAL AGENCY'S REFERRAL TO BOARD.] (a) When the commissioner or a local agency has reason to believe that the direct contact services provided by an individual may fall within the jurisdiction of a health-related licensing board, the commissioner or local agency shall refer the matter to the board as provided in this section.

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

Subd. 4. [FACILITY MONITORING.] (a) The commissioner has the authority to monitor the facility's compliance with any requirements that the health-related licensing board places on regulated individuals practicing in a facility either during the period pending a final decision on a disciplinary or corrective action or as a result of a disciplinary or corrective action. The commissioner has the authority to order the immediate removal of a regulated

individual from direct contact or access when a board issues an order of temporary suspension based on a determination that the regulated individual poses an immediate risk of harm to persons receiving services in a licensed facility.

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

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

Sec. 32. [245C.32] [SYSTEMS AND RECORDS.]

Subdivision 1. [ESTABLISHMENT.] The commissioner may establish systems and records to fulfill the requirements of this chapter.

Subd. 2. [USE.] (a) The commissioner may also use these systems and records to obtain and provide criminal history data from the bureau of criminal apprehension and data about substantiated maltreatment under section 626.556 or 626.557, for other purposes, provided that:

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

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

(b) An individual making a request under paragraph (a), clause (2), must agree in writing not to disclose the data to any other individual without the consent of the subject of the data.

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

Subd. 3. [NATIONAL RECORDS SEARCH.] (a) When specifically required by statute, the commissioner shall also obtain criminal history data from the National Criminal Records Repository.

(b) To obtain criminal history data from the National Criminal Records Repository, the commissioner shall require classifiable fingerprints of the data subject and must submit these fingerprint requests through the bureau of criminal apprehension.

(c) The commissioner may require the background study subject to submit fingerprint images electronically. The commissioner may not require electronic fingerprint images until the electronic recording and transfer system is available for noncriminal justice purposes and the necessary equipment is in use in the law enforcement agency in the background study subject's local community.

(d) The commissioner may recover the cost of obtaining and providing criminal history data from the National Criminal Records Repository by charging the individual requesting the study a fee of no more than \$30 per study. The fees collected under this subdivision are appropriated to the commissioner for the purpose of obtaining criminal history data from the National Criminal Records Repository.

Sec. 33. [REVISOR'S INSTRUCTION.]

(a) The revisor of statutes shall correct internal cross-references to sections that are now in Minnesota Statutes, chapter 245C, throughout Minnesota Statutes and Minnesota Rules.

(b) If a provision of a section of Minnesota Statutes amended or recodified by this act is amended by the 2003 regular legislative session or 2003 special legislative session, if any, the revisor shall codify the amendment consistent with the recodification of the affected section by this act, notwithstanding any law to the contrary. In sections affected by this instruction, the revisor may make changes necessary to correct the punctuation, grammar, or structure of the remaining text and preserve its meaning.

Sec. 34. [EFFECTIVE DATE.]

Sections 1 to 33 are effective the day following final enactment.

ARTICLE 2

CONFORMING AMENDMENTS

Section 1. Minnesota Statutes 2002, section 245A.04, subdivision 1, is amended to read:

Subdivision 1. [APPLICATION FOR LICENSURE.] (a) An individual, corporation, partnership, voluntary association, other organization or controlling individual that is subject to licensure under section 245A.03 must apply for a license. The application must be made on the forms and in the manner prescribed by the commissioner. The commissioner shall provide the applicant with instruction in completing the application and provide information about the rules and requirements of other state agencies that affect the applicant.

The commissioner shall act on the application within 90 working days after a complete application and any required reports have been received from other state agencies or departments, counties, municipalities, or other political subdivisions. The commissioner shall not consider an application to be complete until the commissioner receives all of the information required under section 245C.05.

(b) An application for licensure must specify one or more controlling individuals as an agent who is responsible for dealing with the commissioner of human services on all matters provided for in this chapter and on whom service of all notices and orders must be made. The agent must be authorized to accept service on behalf of all of the controlling individuals of the program. Service on the agent is service on all of the controlling individuals of the program. It is not a defense to any action arising under this chapter that service was not made on each controlling individual of the program. The designation of one or more controlling individuals as agents under this paragraph does not affect the legal responsibility of any other controlling individual under this chapter.

Sec. 2. Minnesota Statutes 2002, section 245A.04, subdivision 3, is amended to read:

Subd. 3. [~~BACKGROUND STUDY OF THE APPLICANT; DEFINITIONS.~~] ~~(a)~~ Individuals and organizations that are required ~~in statute~~ under section 245C.03 to have or initiate background studies ~~under this section~~ shall comply with the ~~following~~ requirements: in chapter 245C.

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

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

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

~~Upon receipt of the background study forms from the entities in clauses (1) to (3), the commissioner shall complete the background study as specified under this section and provide notices required in subdivision 3a. Unless otherwise specified, the subject of a background study may have direct contact with persons served by a program after the background study form is mailed or submitted to the commissioner pending notification of the study results under subdivision 3a. A county agency may accept a background study completed by the commissioner under this section in place of the background study required under section 245A.16, subdivision 3, in programs with joint licensure as home and community-based services and adult foster care for people with developmental disabilities when the license holder does not reside in the foster care residence and the subject of the study has been continuously affiliated with the license holder since the date of the commissioner's study.~~

~~(b) The definitions in this paragraph apply only to subdivisions 3 to 3e.~~

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

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

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

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

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

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

~~(c) The applicant, license holder, registrant under section 144A.71, subdivision 1, bureau of criminal apprehension, commissioner of health, and county agencies, after written notice to the individual who is the subject of the study, shall help with the study by giving the commissioner criminal conviction data and reports about the~~

~~maltreatment of adults substantiated under section 626.557 and the maltreatment of minors in licensed programs substantiated under section 626.556. If a background study is initiated by an applicant or license holder and the applicant or license holder receives information about the possible criminal or maltreatment history of an individual who is the subject of the background study, the applicant or license holder must immediately provide the information to the commissioner. The individuals to be studied shall include:~~

- ~~(1) the applicant;~~
- ~~(2) persons age 13 and over living in the household where the licensed program will be provided;~~
- ~~(3) current employees or contractors of the applicant who will have direct contact with persons served by the facility, agency, or program;~~
- ~~(4) volunteers or student volunteers who have direct contact with persons served by the program to provide program services, if the contact is not under the continuous, direct supervision by an individual listed in clause (1) or (3);~~
- ~~(5) any person required under section 256B.0627 to have a background study completed under this section;~~
- ~~(6) persons ages 10 to 12 living in the household where the licensed services will be provided when the commissioner has reasonable cause; and~~
- ~~(7) persons who, without providing direct contact services at a licensed program, may have unsupervised access to children or vulnerable adults receiving services from the program licensed to provide family child care for children, foster care for children in the provider's own home, or foster care or day care services for adults in the provider's own home when the commissioner has reasonable cause.~~

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

~~(e) Beginning August 1, 2001, the commissioner shall conduct all background studies required under this chapter and initiated by supplemental nursing services agencies registered under section 144A.71, subdivision 1. Studies for the agencies must be initiated annually by each agency. The commissioner shall conduct the background studies according to this chapter. The commissioner shall recover the cost of the background studies through a fee of no more than \$8 per study, charged to the supplemental nursing services agency. The fees collected under this paragraph are appropriated to the commissioner for the purpose of conducting background studies.~~

~~(f) For purposes of this section, a finding that a delinquency petition is proven in juvenile court shall be considered a conviction in state district court.~~

~~(g) A study of an individual in paragraph (c), clauses (1) to (7), shall be conducted at least upon application for initial license for all license types or registration under section 144A.71, subdivision 1, and at reapplication for a license for family child care, child foster care, and adult foster care. The commissioner is not required to conduct a study of an individual at the time of reapplication for a license or if the individual has been continuously affiliated with a foster care provider licensed by the commissioner of human services and registered under chapter 144D,~~

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

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

~~(i) personnel pool agencies;~~

~~(ii) temporary personnel agencies;~~

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

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

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

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

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

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

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

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

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

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

~~(3) When a background study is being initiated by a licensed facility or a foster care provider that is also registered under chapter 144D, a study subject affiliated with multiple licensed facilities may attach to the background study form a cover letter indicating the additional facilities' names, addresses, and background study identification numbers. When the commissioner receives such notices, each facility identified by the background study subject shall be notified of the study results. The background study notice sent to the subsequent agencies shall satisfy those facilities' responsibilities for initiating a background study on that individual.~~

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

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

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

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

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

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

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

~~(n) The failure or refusal of an applicant, license holder, or registrant under section 144A.71, subdivision 1, to cooperate with the commissioner is reasonable cause to disqualify a subject, deny a license application or immediately suspend, suspend, or revoke a license or registration. Failure or refusal of an individual to cooperate with the study is just cause for denying or terminating employment of the individual if the individual's failure or refusal to cooperate could cause the applicant's application to be denied or the license holder's license to be immediately suspended, suspended, or revoked.~~

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

~~(p) No person in paragraph (c), clauses (1) to (7), who is disqualified as a result of this section may be retained by the agency in a position involving direct contact with persons served by the program and no person in paragraph (c), clauses (2), (6), and (7), or as provided elsewhere in statute who is disqualified as a result of this section may be allowed access to persons served by the program, unless the commissioner has provided written notice to the agency stating that:~~

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

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

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

~~(q) Termination of affiliation with persons in paragraph (c), clauses (1) to (7), made in good faith reliance on a notice of disqualification provided by the commissioner shall not subject the applicant or license holder to civil liability.~~

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

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

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

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

~~(v) County agencies shall have access to the criminal history data in the same manner as county licensing agencies under this chapter for purposes of background studies completed by county agencies on legal nonlicensed child care providers to determine eligibility for child care funds under chapter 119B.~~

Sec. 3. Minnesota Statutes 2002, section 245A.04, subdivision 3a, is amended to read:

Subd. 3a. [~~NOTIFICATION TO SUBJECT AND LICENSE HOLDER OF NOTICE OF BACKGROUND STUDY RESULTS; COMMISSIONER'S DETERMINATION OF RISK OF HARM.~~] ~~(a) Within 15 working days, the commissioner shall notify the applicant, license holder, or registrant under section 144A.71, subdivision 1, and the individual who is the subject of the study, in writing or by electronic transmission, of the results of the study or that more time is needed to complete the study. When the study is completed, a notice that the study was undertaken and completed shall be maintained in the personnel files of the program. For studies on individuals pertaining to a license to provide family day care or group family day care, foster care for children in the provider's own home, or foster care or day care services for adults in the provider's own home, the commissioner is not required to provide a separate notice of the background study results to the individual who is the subject of the study unless the study results in a disqualification of the individual.~~

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

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

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

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

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

~~(c) County licensing agencies performing duties under this subdivision may develop an alternative system for determining the subject's immediate risk of harm to persons served by the program, providing the notices under paragraph (b), and documenting the action taken by the county licensing agency. Each county licensing agency's implementation of the alternative system is subject to approval by the commissioner. Notwithstanding this alternative system, county licensing agencies shall complete the requirements of paragraph (a) The notice of background study results and the commissioner's determination of the background subject's risk of harm shall be governed according to sections 245C.16 and 245C.17.~~

Sec. 4. Minnesota Statutes 2002, section 245A.04, subdivision 3b, is amended to read:

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

~~The individual must submit the request for reconsideration to the commissioner in writing. A request for reconsideration for an individual who has been sent a notice of disqualification under subdivision 3a, paragraph (b), clause (1) or (2), must be submitted within 30 calendar days of the disqualified individual's receipt of the notice of disqualification. Upon showing that the information in clause (1) or (2) cannot be obtained within 30 days, the disqualified individual may request additional time, not to exceed 30 days, to obtain that information. A request for reconsideration for an individual who has been sent a notice of disqualification under subdivision 3a, paragraph (b), clause (3), must be submitted within 15 calendar days of the disqualified individual's receipt of the notice of disqualification. An individual who was determined to have maltreated a child under section 626.556 or a vulnerable adult under section 626.557, and who was disqualified under this section on the basis of serious or recurring maltreatment, may request reconsideration of both the maltreatment and the disqualification determinations. The request for reconsideration of the maltreatment determination and the disqualification must be~~

~~submitted within 30 calendar days of the individual's receipt of the notice of disqualification. Removal of a disqualified individual from direct contact shall be ordered if the individual does not request reconsideration within the prescribed time, and for an individual who submits a timely request for reconsideration, if the disqualification is not set aside. The individual must present information showing that:~~

~~(1) the information the commissioner relied upon in determining that the underlying conduct giving rise to the disqualification occurred, and for maltreatment, that the maltreatment was serious or recurring, is incorrect; or~~

~~(2) the subject of the study does not pose a risk of harm to any person served by the applicant, license holder, or registrant under section 144A.71, subdivision 1.~~

~~(b) The commissioner shall rescind the disqualification if the commissioner finds that the information relied on to disqualify the subject is incorrect. The commissioner may set aside the disqualification under this section if the commissioner finds that the individual does not pose a risk of harm to any person served by the applicant, license holder, or registrant under section 144A.71, subdivision 1. In determining that an individual does not pose a risk of harm, the commissioner shall consider the nature, severity, and consequences of the event or events that lead to disqualification, whether there is more than one disqualifying event, the age and vulnerability of the victim at the time of the event, the harm suffered by the victim, the similarity between the victim and persons served by the program, the time elapsed without a repeat of the same or similar event, documentation of successful completion by the individual studied of training or rehabilitation pertinent to the event, and any other information relevant to reconsideration. In reviewing a disqualification under this section, the commissioner shall give preeminent weight to the safety of each person to be served by the license holder, applicant, or registrant under section 144A.71, subdivision 1, over the interests of the license holder, applicant, or registrant under section 144A.71, subdivision 1.~~

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

~~(1) less than ten years have passed since the discharge of the sentence imposed for the offense; and the individual has been convicted of a violation of any offense listed in sections 609.165 (felon ineligible to possess firearm), criminal vehicular homicide under 609.21 (criminal vehicular homicide and injury), 609.215 (aiding suicide or aiding attempted suicide), felony violations under 609.223 or 609.2231 (assault in the third or fourth degree), 609.713 (terroristic threats), 609.235 (use of drugs to injure or to facilitate crime), 609.24 (simple robbery), 609.255 (false imprisonment), 609.562 (arson in the second degree), 609.71 (riot), 609.498, subdivision 1 or 1a (aggravated first degree or first degree tampering with a witness), burglary in the first or second degree under 609.582 (burglary), 609.66 (dangerous weapon), 609.665 (spring guns), 609.67 (machine guns and short barreled shotguns), 609.749, subdivision 2 (gross misdemeanor harassment; stalking), 152.021 or 152.022 (controlled substance crime in the first or second degree), 152.023, subdivision 1, clause (3) or (4), or subdivision 2, clause (4) (controlled substance crime in the third degree), 152.024, subdivision 1, clause (2), (3), or (4) (controlled substance crime in the fourth degree), 609.224, subdivision 2, paragraph (c) (fifth degree assault by a caregiver against a vulnerable adult), 609.23 (mistreatment of persons confined), 609.231 (mistreatment of residents or patients), 609.2325 (criminal abuse of a vulnerable adult), 609.233 (criminal neglect of a vulnerable adult), 609.2335 (financial exploitation of a vulnerable adult), 609.234 (failure to report), 609.265 (abduction), 609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree), 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree), 609.268 (injury or death of an unborn child in the commission of a crime), 617.293 (disseminating or displaying harmful material to minors), a felony level conviction involving alcohol or drug use, a gross misdemeanor offense under 609.324, subdivision 1 (other prohibited acts), a gross misdemeanor offense under 609.378 (neglect or endangerment of a child), a gross misdemeanor offense under 609.377 (malicious punishment of~~

a child), 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); or an attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state, the elements of which are substantially similar to the elements of any of the foregoing offenses;

(2) regardless of how much time has passed since the involuntary termination of parental rights under section 260C.301 or the discharge of the sentence imposed for the offense, the individual was convicted of a violation of any offense listed in sections 609.185 to 609.195 (murder in the first, second, or third degree), 609.20 (manslaughter in the first degree), 609.205 (manslaughter in the second degree), 609.245 (aggravated robbery), 609.25 (kidnapping), 609.561 (arson in the first degree), 609.749, subdivision 3, 4, or 5 (felony level harassment; stalking), 609.228 (great bodily harm caused by distribution of drugs), 609.221 or 609.222 (assault in the first or second degree), 609.66, subdivision 1e (drive by shooting), 609.855, subdivision 5 (shooting in or at a public transit vehicle or facility), 609.2661 to 609.2663 (murder of an unborn child in the first, second, or third degree), a felony offense under 609.377 (malicious punishment of a child), a felony offense under 609.324, subdivision 1 (other prohibited acts), a felony offense under 609.378 (neglect or endangerment of a child), 609.322 (solicitation, inducement, and promotion of prostitution), 609.342 to 609.345 (criminal sexual conduct in the first, second, third, or fourth degree), 609.352 (solicitation of children to engage in sexual conduct), 617.246 (use of minors in a sexual performance), 617.247 (possession of pictorial representations of a minor), 609.365 (incest), a felony offense under sections 609.2242 and 609.2243 (domestic assault), a felony offense of spousal abuse, a felony offense of child abuse or neglect, a felony offense of a crime against children, or an attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes, or an offense in any other state, the elements of which are substantially similar to any of the foregoing offenses;

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

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

In the case of any ground for disqualification under clauses (1) to (4), if the act was committed by an individual other than the applicant, license holder, or registrant under section 144A.71, subdivision 1, residing in the applicant's or license holder's home, or the home of a registrant under section 144A.71, subdivision 1, the applicant, license holder, or registrant under section 144A.71, subdivision 1, may seek reconsideration when the individual who committed the act no longer resides in the home.

The disqualification periods provided under clauses (1), (3), and (4) are the minimum applicable disqualification periods. The commissioner may determine that an individual should continue to be disqualified from licensure or registration under section 144A.71, subdivision 1, because the license holder, applicant, or registrant under section 144A.71, subdivision 1, poses a risk of harm to a person served by that individual after the minimum disqualification period has passed.

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

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

~~(e) Except as provided in subdivision 3c, if a disqualification for which reconsideration was requested is not set aside or is not rescinded, an individual who was disqualified on the basis of a preponderance of evidence that the individual committed an act or acts that meet the definition of any of the crimes listed in subdivision 3d, paragraph (a), clauses (1) to (4); or for failure to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, pursuant to subdivision 3d, paragraph (a), clause (4), may request a fair hearing under section 256.045. Except as provided under subdivision 3c, the fair hearing is the only administrative appeal of the final agency determination, specifically, including a challenge to the accuracy and completeness of data under section 13.04.~~

~~(f) Except as provided under subdivision 3c, if an individual was disqualified on the basis of a determination of maltreatment under section 626.556 or 626.557, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under section 626.556, subdivision 10i, or 626.557, subdivision 9d, and also requested reconsideration of the disqualification under this subdivision, reconsideration of the maltreatment determination and reconsideration of the disqualification shall be consolidated into a single reconsideration. For maltreatment and disqualification determinations made by county agencies, the consolidated reconsideration shall be conducted by the county agency. If the county agency has disqualified an individual on multiple bases, one of which is a county maltreatment determination for which the individual has a right to request reconsideration, the county shall conduct the reconsideration of all disqualifications. Except as provided under subdivision 3c, if an individual who was disqualified on the basis of serious or recurring maltreatment requests a fair hearing on the maltreatment determination under section 626.556, subdivision 10i, or 626.557, subdivision 9d, and requests a fair hearing on the disqualification, which has not been set aside or rescinded under this subdivision, the scope of the fair hearing under section 256.045 shall include the maltreatment determination and the disqualification. Except as provided under subdivision 3c, a fair hearing is the only administrative appeal of the final agency determination, specifically, including a challenge to the accuracy and completeness of data under section 13.04.~~

~~(g) In the notice from the commissioner that a disqualification has been set aside, the license holder must be informed that information about the nature of the disqualification and which factors under paragraph (b) were the bases of the decision to set aside the disqualification is available to the license holder upon request without consent of the background study subject. With the written consent of a background study subject, the commissioner may release to the license holder copies of all information related to the background study subject's disqualification and the commissioner's decision to set aside the disqualification as specified in the written consent Reconsideration of a disqualification shall be governed according to sections 245C.21 to 245C.27.~~

Sec. 5. Minnesota Statutes 2002, section 245A.04, subdivision 3c, is amended to read:

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

~~(b) If a disqualification for which reconsideration was requested and which was not set aside or was not rescinded under subdivision 3b is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota~~

~~Rules, parts 1400.8510 to 1400.8612 and successor rules. The appeal must be submitted in accordance with section 245A.05 or 245A.07, subdivision 3. As provided for under section 245A.08, subdivision 2a, the scope of the consolidated contested case hearing shall include the disqualification and the licensing sanction or denial of a license. If the disqualification was based on a determination of substantiated serious or recurring maltreatment under section 626.556 or 626.557, the appeal must be submitted in accordance with sections 245A.07, subdivision 3, and 626.556, subdivision 10i, or 626.557, subdivision 9d. As provided for under section 245A.08, subdivision 2a, the scope of the contested case hearing shall include the maltreatment determination, the disqualification, and the licensing sanction or denial of a license. In such cases, a fair hearing shall not be conducted under section 256.045.~~

~~(e) If a maltreatment determination or disqualification, which was not set aside or was not rescinded under subdivision 3b, is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, and the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under subdivision 3, the hearing of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.~~

~~(d) The commissioner's final order under section 245A.08, subdivision 5, is conclusive on the issue of maltreatment and disqualification, including for purposes of subsequent background studies. The contested case hearing under this subdivision is the only administrative appeal of the final agency determination, specifically, including a challenge to the accuracy and completeness of data under section 13.04 Contested case hearing rights related to a disqualification shall be governed according to section 245C.28.~~

Sec. 6. Minnesota Statutes 2002, section 245A.04, subdivision 3d, is amended to read:

Subd. 3d. [DISQUALIFICATION.] ~~(a) Upon receipt of information showing, or when a background study completed under subdivision 3 shows any of the following: a conviction of one or more crimes listed in clauses (1) to (4); the individual has admitted to or a preponderance of the evidence indicates the individual has committed an act or acts that meet the definition of any of the crimes listed in clauses (1) to (4); or an investigation results in an administrative determination listed under clause (4), the individual shall be disqualified from any position allowing direct contact with persons receiving services from the license holder, entity identified in subdivision 3, paragraph (a), or registrant under section 144A.71, subdivision 1, and for individuals studied under section 245A.04, subdivision 3, paragraph (c), clauses (2), (6), and (7), the individual shall also be disqualified from access to a person receiving services from the license holder:~~

~~(1) regardless of how much time has passed since the involuntary termination of parental rights under section 260C.301 or the discharge of the sentence imposed for the offense, and unless otherwise specified, regardless of the level of the conviction, the individual was convicted of any of the following offenses: sections 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.221 or 609.222 (assault in the first or second degree); 609.228 (great bodily harm caused by distribution of drugs); 609.245 (aggravated robbery); 609.25 (kidnapping); 609.561 (arson in the first degree); 609.749, subdivision 3, 4, or 5 (felony level harassment; stalking); 609.66, subdivision 1e (drive by shooting); 609.855, subdivision 5 (shooting at or in a public transit vehicle or facility); 609.322 (solicitation, inducement, and promotion of prostitution); 609.342 (criminal sexual conduct in the first degree); 609.343 (criminal sexual conduct in the second degree); 609.344 (criminal sexual conduct in the third degree); 609.345 (criminal sexual conduct in the fourth degree); 609.352 (solicitation of children to engage in sexual conduct); 609.365 (incest); felony offense under 609.377 (malicious punishment of a child); a felony offense under 609.378 (neglect or endangerment of a child); a felony offense under 609.324, subdivision 1 (other prohibited acts); 617.246 (use of minors in sexual performance prohibited); 617.247 (possession of pictorial representations of minors); a felony offense under sections 609.2242~~

and 609.2243 (domestic assault), a felony offense of spousal abuse, a felony offense of child abuse or neglect, a felony offense of a crime against children; or attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes, or an offense in any other state or country, where the elements are substantially similar to any of the offenses listed in this clause;

(2) if less than 15 years have passed since the discharge of the sentence imposed for the offense; and the individual has received a felony conviction for a violation of any of these offenses: sections 609.21 (criminal vehicular homicide and injury); 609.165 (felon ineligible to possess firearm); 609.215 (suicide); 609.223 or 609.2231 (assault in the third or fourth degree); repeat offenses under 609.224 (assault in the fifth degree); repeat offenses under 609.3451 (criminal sexual conduct in the fifth degree); 609.498, subdivision 1 or 1a (aggravated first degree or first degree tampering with a witness); 609.713 (terroristic threats); 609.235 (use of drugs to injure or facilitate crime); 609.24 (simple robbery); 609.255 (false imprisonment); 609.562 (arson in the second degree); 609.563 (arson in the third degree); repeat offenses under 617.23 (indecent exposure; penalties); repeat offenses under 617.241 (obscene materials and performances; distribution and exhibition prohibited; penalty); 609.71 (riot); 609.66 (dangerous weapons); 609.67 (machine guns and short barreled shotguns); 609.2325 (criminal abuse of a vulnerable adult); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.268 (injury or death of an unborn child in the commission of a crime); 609.52 (theft); 609.2335 (financial exploitation of a vulnerable adult); 609.521 (possession of shoplifting gear); 609.582 (burglary); 609.625 (aggravated forgery); 609.63 (forgery); 609.631 (check forgery; offering a forged check); 609.635 (obtaining signature by false pretense); 609.27 (coercion); 609.275 (attempt to coerce); 609.687 (adulteration); 260C.301 (grounds for termination of parental rights); chapter 152 (drugs; controlled substance); and a felony level conviction involving alcohol or drug use. An attempt or conspiracy to commit any of these offenses, as each of these offenses is defined in Minnesota Statutes; or an offense in any other state or country, the elements of which are substantially similar to the elements of the offenses in this clause. If the individual studied is convicted of one of the felonies listed in this clause, but the sentence is a gross misdemeanor or misdemeanor disposition, the lookback period for the conviction is the period applicable to the disposition, that is the period for gross misdemeanors or misdemeanors;

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

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

~~For the purposes of this section, "serious maltreatment" means sexual abuse; maltreatment resulting in death; or maltreatment resulting in serious injury which reasonably requires the care of a physician whether or not the care of a physician was sought; or abuse resulting in serious injury. For purposes of this section, "abuse resulting in serious injury" means: bruises, bites, skin laceration or tissue damage; fractures; dislocations; evidence of internal injuries; head injuries with loss of consciousness; extensive second degree or third degree burns and other burns for which complications are present; extensive second degree or third degree frostbite, and others for which complications are present; irreversible mobility or avulsion of teeth; injuries to the eyeball; ingestion of foreign substances and objects that are harmful; near drowning; and heat exhaustion or sunstroke. For purposes of this section, "care of a physician" is treatment received or ordered by a physician, but does not include diagnostic testing, assessment, or observation. For the purposes of this section, "recurring maltreatment" means more than one incident of maltreatment for which there is a preponderance of evidence that the maltreatment occurred, and that the subject was responsible for the maltreatment. For purposes of this section, "access" means physical access to an individual receiving services or the individual's personal property without continuous, direct supervision as defined in section 245A.04, subdivision 3.~~

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

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

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

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

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

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

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

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

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

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

~~(7) The commissioner shall notify a health related licensing board immediately upon receipt of knowledge of noncompliance with requirements placed on a facility or upon a person regulated by the board. Disqualification shall be governed according to sections 245C.14 and 245C.15.~~

Sec. 7. Minnesota Statutes 2002, section 245A.04, subdivision 3e, is amended to read:

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

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

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

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

~~(e) The commissioner's decision to grant or deny a variance request is final and not subject to appeal under the provisions of chapter 14. A variance for a disqualified individual shall be governed according to section 245C.30.~~

Sec. 8. Minnesota Statutes 2002, section 245A.04, subdivision 3f, is amended to read:

Subd. 3f. [CONCLUSIVE DETERMINATIONS OR DISPOSITIONS.] ~~Unless otherwise specified in statute, the following determinations or dispositions are deemed conclusive:~~

~~(1) a maltreatment determination or disposition under section 626.556 or 626.557, if:~~

~~(i) the commissioner has issued a final order in an appeal of that determination or disposition under section 245A.08, subdivision 5, or 256.045;~~

~~(ii) the individual did not request reconsideration of the maltreatment determination or disposition under section 626.556 or 626.557; or~~

~~(iii) the individual did not request a hearing of the maltreatment determination or disposition under section 256.045; and~~

~~(2) a determination that the information relied upon to disqualify an individual under subdivision 3d was correct based on serious or recurring maltreatment; or~~

~~(3) a preponderance of evidence shows that the individual committed an act or acts that meet the definition of any of the crimes listed in subdivision 3d, paragraph (a), clauses (1) to (4); or the individual's failure to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, if:~~

~~(i) the commissioner has issued a final order in an appeal of that determination under section 245A.08, subdivision 5, or 256.045, or a court has issued a final decision;~~

~~(ii) the individual did not request reconsideration of the disqualification under this section; or~~

~~(iii) the individual did not request a hearing on the disqualification under section 256.045. Whether a disqualification determination or maltreatment determination or disposition is deemed conclusive shall be governed according to section 245C.29.~~

Sec. 9. Minnesota Statutes 2002, section 245A.041, is amended to read:

245A.041 [SYSTEMS AND RECORDS.]

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

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

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

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

~~(b) The commissioner may recover the cost of obtaining and providing background study data by charging the person requesting the study a fee of no more than \$12 per study. The fees collected under this paragraph are appropriated to the commissioner for the purpose of conducting background studies. The commissioner's establishment and use of systems and records to fulfill the requirements under chapter 245C shall be governed according to section 245C.32, subdivisions 1 and 2.~~

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

~~(b) To obtain criminal history data from the National Criminal Records Repository under this chapter, the commissioner may require the background study subject to submit fingerprint images electronically. The commissioner may not require electronic fingerprint images until the electronic recording and transfer system is available for non-criminal justice purposes and the necessary equipment is in use in the law enforcement agency in the background study subject's local community. National records searches shall be governed according to section 245C.32, subdivision 3.~~

Sec. 10. [EFFECTIVE DATE.]

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

Delete the title and insert:

"A bill for an act relating to human services; recodifying and reorganizing the background study provisions in the Human Services Licensing Act; making conforming changes; amending Minnesota Statutes 2002, sections 245A.04, subdivisions 1, 3, 3a, 3b, 3c, 3d, 3e, 3f; 245A.041; proposing coding for new law as Minnesota Statutes, chapter 245C."

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

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. Nos. 671, 680, 775, 784, 789, 807, 822, 837, 883, 912, 936, 956, 1027, 1066 and 1112 were read for the second time.

SECOND READING OF SENATE BILLS

S. F. No. 790 was read for the second time.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Beard and Buesgens introduced:

H. F. No. 1414, A bill for an act relating to highways; authorizing commissioner of transportation to enter into lease agreements for highway rest areas; depositing money in special revenue fund; appropriating money for highway rest stop program; requiring commissioner to report to legislature; amending Minnesota Statutes 2002, section 160.28, by adding a subdivision.

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

Gerlach introduced:

H. F. No. 1415, A bill for an act relating to state government; providing for expiration of certain groups; amending Minnesota Statutes 2002, sections 1.34, subdivision 1; 3.922, subdivision 3; 3.9223, subdivision 1; 3.9225, subdivision 1; 3.9226, subdivision 1; 15.50, subdivision 1; 116J.421, subdivision 2; 116L.03, subdivision 2; 116O.03, subdivision 2; 116O.09, subdivision 1a; 116O.091, subdivision 7; 125B.21; 136F.03, subdivision 2; 137.0245, subdivision 2; 138.763, subdivision 1; 174.55, subdivision 2; 175.007, subdivision 1; 198.002, subdivision 6; 240A.02, subdivision 1; 290.173; 299C.65, subdivision 2; 299E.03, subdivision 3.

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

Urdahl, Severson, Demmer, Zellers and Dill introduced:

H. F. No. 1416, A bill for an act relating to transportation; imposing surcharge on fines for littering by throwing cigarettes from a motor vehicle; amending Minnesota Statutes 2002, section 169.42, subdivisions 1, 5.

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

Peterson, Juhnke and Koenen introduced:

H. F. No. 1417, A bill for an act relating to taxation; sales and use; exempting certain camp fees; amend Minnesota Statutes 2002, section 297A.70, subdivision 16.

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

Sviggum introduced:

H. F. No. 1418, A bill for an act relating to human services; modifying the reimbursement rate for hospital services provided to a polio patient; amending Minnesota Statutes 2002, section 256B.31.

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

Jaros introduced:

H. F. No. 1419, A bill for an act relating to taxes; amending exemptions and subtractions for income tax; adjusting rates for income tax; modifying gasoline and fuel excise tax rates; imposing the sales tax on certain services; reducing the rates of the sales tax and sales tax on motor vehicles; abolishing certain sales tax exemptions; increasing cigarette and tobacco tax rates; amending Minnesota Statutes 2002, sections 290.01, subdivisions 19b, 19d; 290.05, subdivision 1; 290.06, subdivisions 2c, 2d; 290.091, subdivisions 1, 2, 6; 296A.07, subdivision 3; 296A.08, subdivision 2; 297A.61, subdivision 3; 297A.62, subdivision 1; 297A.82, subdivision 4; 297F.05, subdivisions 1, 3, 4; 297F.08, subdivision 7; 297F.09, subdivision 2; repealing Minnesota Statutes 2002, sections 290.01, subdivision 19e; 290.068; 290.191, subdivision 4; 297A.68, subdivisions 11, 30; 297A.69, subdivision 6.

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

Lesch introduced:

H. F. No. 1420, A bill for an act relating to municipalities; requiring a moratorium on use permits for large retail stores; requiring a report.

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

Zellers introduced:

H. F. No. 1421, A bill for an act relating to highways; authorizing state bonds for Central Avenue and Jefferson Highway project in Osseo.

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

Carlson, Latz, Fuller, Seifert and Pelowski introduced:

H. F. No. 1422, A bill for an act relating to higher education; modifying financial aid for postsecondary students; appropriating money; amending Minnesota Statutes 2002, sections 136A.101, subdivision 4; 136A.121, subdivision 6; 136A.125, subdivisions 1, 3; 136A.232; 136A.233; proposing coding for new law in Minnesota Statutes, chapters 136A; 136F; 137; repealing Minnesota Statutes 2002, sections 136A.1211; 136A.122.

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

Eken, Lieder, Penas and Lindgren introduced:

H. F. No. 1423, A bill for an act relating to capital improvements; appropriating money for the Marsh Creek flood mitigation project in the Wild Rice River watershed district in Mahnomen county; authorizing the sale of state bonds.

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

Murphy introduced:

H. F. No. 1424, A bill for an act relating to taxes; local sales and use tax; expanding the uses for the Hermantown local sales tax; amending Laws 1996, chapter 471, article 2, section 29.

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

Holberg, Smith and Solberg introduced:

H. F. No. 1425, A bill for an act relating to judgments; regulating stays of execution on money judgments; limiting bond amounts; amending Minnesota Statutes 2002, section 550.36.

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

Dorman introduced:

H. F. No. 1426, A bill for an act relating to workers' compensation; making technical changes; freezing the medical fee schedule conversion factor for one year; instructing the commissioner of commerce to establish a surcharge rate; amending Minnesota Statutes 2002, sections 79A.12, subdivision 2; 176.081, subdivision 1; 176.092, subdivision 1a; 176.129, subdivisions 1b, 2a; 176.135, subdivision 7; 176.136, subdivision 1a; 176.231, subdivision 5; 176.391, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 79.

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

Bernardy and Abrams introduced:

H. F. No. 1427, A bill for an act relating to public finance; validating bonds issued by Anoka county for public safety radio improvements.

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

Goodwin, Clark, Hilty, Mariani and Davnie introduced:

H. F. No. 1428, A bill for an act relating to foodshelves; appropriating money for certain foodshelf programs.

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

Borrell introduced:

H. F. No. 1429, A bill for an act relating to local government; prohibiting local government from providing services or goods that are provided by private business; repealing authority for municipal liquor stores; requiring a study by the state auditor; proposing coding for new law in Minnesota Statutes, chapter 340A.

The bill was read for the first time and referred to the Committee on Local Government and Metropolitan Affairs.

Smith and Murphy introduced:

H. F. No. 1430, A bill for an act relating to retirement; Minnesota state retirement system general plan, correctional plan, legislators plan, state patrol plan, judges plan, and various other plans covered by combined service annuity provisions; enhancing legislators plan service-in-more-than-one-fund provision; expanding use of combined service annuity provision by retirees of public safety plans; expanding entitlement to dependent child benefits in legislators plan and state patrol plan; creating financial incentives for Minnesota state retirement system general plan disabilitants to return to work; clarifying disability definitions in various plans; requiring disabilitant study; permitting earlier retirement in elected state officers plan and judges plan; reducing early retirement penalties in judges plan; clarifying Minnesota state retirement system excluded employee provision; requiring daily compounding of refund interest in various plans; enhancing judges plan refund interest rate; creating six year term certain annuity in Minnesota state retirement system general plan and unclassified plan; revising unclassified plan payout options; revising state patrol plan dependent child benefits; creating account in Minnesota state retirement system funded by increased unclassified plan employer contributions to reimburse Minnesota state retirement system general plan for losses from transfers from unclassified plan to general plan; amending Minnesota Statutes 2002, sections 3A.01, subdivision 2; 3A.03, subdivision 2; 3A.12, subdivision 1; 352.01, subdivisions 2b, 13; 352.113, by adding a subdivision; 352.12, subdivisions 1, 2a, 6, 7, 8, 11; 352.22, subdivisions 2, 3; 352.95, subdivisions 1, 2; 352B.01, subdivisions 10, 11; 352B.10; 352B.105; 352B.11, subdivisions 1, 2, by adding subdivisions; 352C.031, subdivision 2; 352D.02, subdivision 3; 352D.04, subdivision 2; 352D.065, subdivision 2; 352D.075, subdivisions 2, 3, by adding a subdivision; 356.30, subdivision 1; 356.441; 490.121, subdivision 10; 490.124, subdivisions 3, 12; repealing Minnesota Statutes 2002, sections 352.01, subdivision 13a; 352D.02, subdivision 5; 490.11.

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

Stang introduced:

H. F. No. 1431, A bill for an act relating to higher education; Minnesota state colleges and universities; making various clarifying, technical, and conforming changes; making changes to benefit provisions; expanding purchasing and contracting authority; providing for treatment of certain easements; authorizing the board of trustees to accept and manage federal money; amending Minnesota Statutes 2002, sections 136F.40, subdivision 2; 136F.45, subdivision 1; 136F.581, subdivisions 1, 2; 136F.59, subdivision 3; 136F.60, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 136F; repealing Minnesota Statutes 2002, sections 135A.033; 135A.053, subdivision 2; 136F.13; 136F.56; 136F.582; 136F.59, subdivision 2.

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

Ozment, Smith, Murphy and Rhodes introduced:

H. F. No. 1432, A bill for an act relating to state employment; providing voluntary unpaid leave options and early retirement incentives to state employees.

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

Wasiluk introduced:

H. F. No. 1433, A bill for an act relating to retirement; authorizing "rule of 85" retirement for certain teachers retirement association members.

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

Goodwin introduced:

H. F. No. 1434, A bill for an act relating to health; establishing an automatic external defibrillator acquisition and distribution program; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 144E.

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

Demmer introduced:

H. F. No. 1435, A bill for an act relating to retirement; public employees retirement association police and fire plan; authorizing survivor benefit for the survivor of a deceased member.

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

Jacobson and Wasiluk introduced:

H. F. No. 1436, A bill for an act relating to Ramsey county; separately stating county library levies on tax statements and truth in taxation notices; amending Minnesota Statutes 2002, section 275.065, subdivision 3; 276.04, subdivision 2.

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

Cornish, Cox, Borrell, Demmer and Wardlow introduced:

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.

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

Ozment, by request, introduced:

H. F. No. 1438, A bill for an act relating to taxation; providing that certain personal property at an electric generation facility is exempt from taxation; amending Minnesota Statutes 2002, section 272.02, by adding a subdivision.

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

Ozment, by request, introduced:

H. F. No. 1439, A bill for an act relating to taxation; providing that certain personal property at an electric generation facility is exempt from taxation; amending Minnesota Statutes 2002, section 272.02, by adding a subdivision.

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

Johnson, S., and Hausman introduced:

H. F. No. 1440, A bill for an act relating to health; enacting the Compassionate Use Act to protect seriously ill patients from prosecution and prison for using medicinal marijuana under a physician's supervision; imposing criminal penalties; authorizing rulemaking; proposing coding for new law in Minnesota Statutes, chapter 152.

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

Bernardy introduced:

H. F. No. 1441, A bill for an act relating to lawful gambling; providing for deposit of revenue from lawful gambling into a lawful gambling revenue fund; appropriating money; amending Minnesota Statutes 2002, section 297E.02, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 297E.

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

Krinkie and Wilkin introduced:

H. F. No. 1442, A bill for an act relating to local government aids; reducing aids to certain cities; amending Minnesota Statutes 2002, sections 477A.011, subdivision 36, by adding subdivisions; 477A.0132; 477A.03, subdivision 2.

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

Hilty, Rhodes and Entenza introduced:

H. F. No. 1443, A bill for an act relating to elections; moving the date of precinct caucuses from the first Tuesday in March to the third Tuesday in February; amending Minnesota Statutes 2002, section 202A.14, subdivision 1.

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

Bradley and Huntley introduced:

H. F. No. 1444, A bill for an act relating to human services; allowing medical assistance coverage for some over-the-counter drugs; amending Minnesota Statutes 2002, section 256B.0625, subdivision 13.

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

CONSENT CALENDAR

H. F. No. 1083, A bill for an act relating to motor fuels; updating specifications for petroleum products; amending Minnesota Statutes 2002, sections 41A.09, subdivision 2a; 239.761; 239.792; 296A.01, subdivisions 2, 7, 8, 14, 19, 20, 22, 23, 24, 25, 26, 28, by adding a subdivision.

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

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

Those who voted in the affirmative were:

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

The bill was passed and its title agreed to.

MOTION TO FIX TIME TO CONVENE

Paulsen moved that when the House adjourns today it adjourn until 3:00 p.m., Thursday, April 3, 2003. The motion prevailed.

**REPORT FROM THE COMMITTEE ON RULES AND
LEGISLATIVE ADMINISTRATION**

Paulsen from the Committee on Rules and Legislative Administration, pursuant to rule 1.21, designated the following bills to be placed on the Calendar for the Day for Wednesday, April 2, 2003:

S. F. Nos. 422, 187 and 112.

CALENDAR FOR THE DAY

S. F. No. 187 was reported to the House.

Seifert moved to amend S. F. No. 187 as follows:

Page 1, line 8, delete "section 37.26, is" and insert "sections 37.26 and 145.413, subdivision 1, are"

Delete the title and insert:

"A bill for an act relating to obsolete laws; repealing certain provisions; repealing Minnesota Statutes 2002, sections 37.26; 145.413, subdivision 1."

The motion prevailed and the amendment was adopted.

Holberg moved to amend S. F. No. 187, as amended, as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

Section 1. [SHORT TITLE.]

Sections 1 to 10 shall be known and may be cited as the "Woman's Right to Know Act."

Sec. 2. [145.4241] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] As used in sections 145.4241 to 145.4249, the following terms have the meaning given them.

Subd. 2. [ABORTION.] "Abortion" means the use or prescription of any instrument, medicine, drug, or any other substance or device to intentionally terminate the pregnancy of a female known to be pregnant, with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus.

Subd. 3. [ATTEMPT TO PERFORM AN ABORTION.] "Attempt to perform an abortion" means an act, or an omission of a statutorily required act, that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in the performance of an abortion in Minnesota in violation of sections 145.4241 to 145.4249.

Subd. 4. [MEDICAL EMERGENCY.] "Medical emergency" means any condition that, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant female as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.

Subd. 5. [PHYSICIAN.] "Physician" means a person licensed as a physician or osteopath under chapter 147.

Subd. 6. [PROBABLE GESTATIONAL AGE OF THE UNBORN CHILD.] "Probable gestational age of the unborn child" means what will, in the judgment of the physician, with reasonable probability, be the gestational age of the unborn child at the time the abortion is planned to be performed.

Subd. 7. [STABLE INTERNET WEB SITE.] "Stable Internet Web site" means a Web site that, to the extent reasonably practicable, is safeguarded from having its content altered other than by the commissioner of health.

Subd. 8. [UNBORN CHILD.] "Unborn child" means a member of the species Homo sapiens from fertilization until birth.

Sec. 3. [145.4242] [INFORMED CONSENT.]

No abortion shall be performed in this state except with the voluntary and informed consent of the female upon whom the abortion is to be performed. Except in the case of a medical emergency, consent to an abortion is voluntary and informed only if:

(1) the female is told the following, by telephone or in person, by the physician who is to perform the abortion or by a referring physician, at least 24 hours before the abortion:

(i) the particular medical risks associated with the particular abortion procedure to be employed including, when medically accurate, the risks of infection, hemorrhage, breast cancer, danger to subsequent pregnancies, and infertility;

(ii) the probable gestational age of the unborn child at the time the abortion is to be performed; and

(iii) the medical risks associated with carrying her child to term.

The information required by this clause may be provided by telephone without conducting a physical examination or tests of the patient, in which case the information required to be provided may be based on facts supplied to the physician by the female and whatever other relevant information is reasonably available to the physician. It may not be provided by a tape recording, but must be provided during a consultation in which the physician is able to ask questions of the female and the female is able to ask questions of the physician. If a physical examination, tests, or the availability of other information to the physician subsequently indicate, in the medical judgment of the physician, a revision of the information previously supplied to the patient, that revised information may be communicated to the patient at any time prior to the performance of the abortion. Nothing in this section may be construed to preclude provision of required information in a language understood by the patient through a translator;

(2) the female is informed, by telephone or in person, by the physician who is to perform the abortion, by a referring physician, or by an agent of either physician at least 24 hours before the abortion:

(i) that medical assistance benefits may be available for prenatal care, childbirth, and neonatal care;

(ii) that the father is liable to assist in the support of her child, even in instances when the father has offered to pay for the abortion; and

(iii) that she has the right to review the printed materials described in section 145.4243, that these materials are available on a state-sponsored Web site, and what the Web site address is. The physician or the physician's agent shall orally inform the female that the materials have been provided by the state of Minnesota and that they describe

the unborn child, list agencies that offer alternatives to abortion, and contain information on fetal pain. If the female chooses to view the materials other than on the Web site, they shall either be given to her at least 24 hours before the abortion or mailed to her at least 72 hours before the abortion by certified mail, restricted delivery to addressee, which means the postal employee can only deliver the mail to the addressee.

The information required by this clause may be provided by a tape recording if provision is made to record or otherwise register specifically whether the female does or does not choose to have the printed materials given or mailed to her;

(3) the female certifies in writing, prior to the abortion, that the information described in clauses (1) and (2) has been furnished to her and that she has been informed of her opportunity to review the information referred to in clause (2), subclause (iii); and

(4) prior to the performance of the abortion, the physician who is to perform the abortion or the physician's agent obtains a copy of the written certification prescribed by clause (3) and retains it on file with the female's medical record for at least three years following the date of receipt.

Sec. 4. [145.4243] [PRINTED INFORMATION.]

(a) Within 90 days after the effective date of sections 145.4241 to 145.4249, the commissioner of health shall cause to be published, in English and in each language that is the primary language of two percent or more of the state's population, and shall cause to be available on the state Web site provided for under section 145.4244 the following printed materials in such a way as to ensure that the information is easily comprehensible:

(1) geographically indexed materials designed to inform the female of public and private agencies and services available to assist a female through pregnancy, upon childbirth, and while the child is dependent, including adoption agencies, which shall include a comprehensive list of the agencies available, a description of the services they offer, and a description of the manner, including telephone numbers, in which they might be contacted or, at the option of the commissioner of health, printed materials including a toll-free, 24-hours-a-day telephone number that may be called to obtain, orally or by a tape recorded message tailored to a zip code entered by the caller, such a list and description of agencies in the locality of the caller and of the services they offer;

(2) materials designed to inform the female of the probable anatomical and physiological characteristics of the unborn child at two-week gestational increments from the time when a female can be known to be pregnant to full term, including any relevant information on the possibility of the unborn child's survival and pictures or drawings representing the development of unborn children at two-week gestational increments, provided that any such pictures or drawings must contain the dimensions of the fetus and must be realistic and appropriate for the stage of pregnancy depicted. The materials shall be objective, nonjudgmental, and designed to convey only accurate scientific information about the unborn child at the various gestational ages. The material shall also contain objective information describing the methods of abortion procedures commonly employed, the medical risks commonly associated with each procedure, the possible detrimental psychological effects of abortion, and the medical risks commonly associated with carrying a child to term; and

(3) materials with the following information concerning an unborn child of 20 weeks gestational age and at two weeks gestational increments thereafter in such a way as to ensure that the information is easily comprehensible:

(i) the development of the nervous system of the unborn child;

(ii) fetal responsiveness to adverse stimuli and other indications of capacity to experience organic pain; and

(iii) the impact on fetal organic pain of each of the methods of abortion procedures commonly employed at this stage of pregnancy.

The material under this clause shall be objective, nonjudgmental, and designed to convey only accurate scientific information.

(b) The materials referred to in this section must be printed in a typeface large enough to be clearly legible. The Web site provided for under section 145.4244 shall be maintained at a minimum resolution of 70 DPI (dots per inch). All pictures appearing on the Web site shall be a minimum of 200x300 pixels. All letters on the Web site shall be a minimum of 11-point font. All information and pictures shall be accessible with an industry standard browser, requiring no additional plug-ins. The materials required under this section must be available at no cost from the commissioner of health upon request and in appropriate number to any person, facility, or hospital.

Sec. 5. [145.4244] [INTERNET WEB SITE.]

The commissioner of health shall develop and maintain a stable Internet Web site to provide the information described under section 145.4243. No information regarding who uses the Web site shall be collected or maintained. The commissioner of health shall monitor the Web site on a weekly basis to prevent and correct tampering.

Sec. 6. [145.4245] [PROCEDURE IN CASE OF MEDICAL EMERGENCY.]

When a medical emergency compels the performance of an abortion, the physician shall inform the female, prior to the abortion if possible, of the medical indications supporting the physician's judgment that an abortion is necessary to avert her death or that a 24-hour delay will create serious risk of substantial and irreversible impairment of a major bodily function.

Sec. 7. [145.4246] [REPORTING REQUIREMENTS.]

Subdivision 1. [REPORTING FORM.] Within 90 days after the effective date of sections 145.4241 to 145.4249, the commissioner of health shall prepare a reporting form for physicians containing a reprint of sections 145.4241 to 145.4249 and listing:

(1) the number of females to whom the physician provided the information described in section 145.4242, clause (1); of that number, the number provided by telephone and the number provided in person; and of each of those numbers, the number provided in the capacity of a referring physician and the number provided in the capacity of a physician who is to perform the abortion;

(2) the number of females to whom the physician or an agent of the physician provided the information described in section 145.4242, clause (2); of that number, the number provided by telephone and the number provided in person; of each of those numbers, the number provided in the capacity of a referring physician and the number provided in the capacity of a physician who is to perform the abortion; and of each of those numbers, the number provided by the physician and the number provided by an agent of the physician;

(3) the number of females who availed themselves of the opportunity to obtain a copy of the printed information described in section 145.4243 other than on the Web site and the number who did not; and of each of those numbers, the number who, to the best of the reporting physician's information and belief, went on to obtain the abortion; and

(4) the number of abortions performed by the physician in which information otherwise required to be provided at least 24 hours before the abortion was not so provided because an immediate abortion was necessary to avert the female's death and the number of abortions in which such information was not so provided because a delay would create serious risk of substantial and irreversible impairment of a major bodily function.

Subd. 2. [DISTRIBUTION OF FORMS.] The commissioner of health shall ensure that copies of the reporting forms described in subdivision 1 are provided:

(1) by December 1, 2003, and by December 1 of each subsequent year thereafter to all physicians licensed to practice in this state; and

(2) to each physician who subsequently becomes newly licensed to practice in this state, at the same time as official notification to that physician that the physician is so licensed.

Subd. 3. [REPORTING REQUIREMENT.] By April 1, 2005, and by April 1 of each subsequent year thereafter, each physician who provided, or whose agent provided, information to one or more females in accordance with section 145.4242 during the previous calendar year shall submit to the commissioner of health a copy of the form described in subdivision 1 with the requested data entered accurately and completely.

Subd. 4. [ADDITIONAL REPORTING.] Nothing in this section shall be construed to preclude the voluntary or required submission of other reports or forms regarding abortions.

Subd. 5. [FAILURE TO REPORT AS REQUIRED.] Reports that are not submitted by the end of a grace period of 30 days following the due date shall be subject to a late fee of \$500 for each additional 30-day period or portion of a 30-day period they are overdue. Any physician required to report according to this section who has not submitted a report, or has submitted only an incomplete report, more than one year following the due date, may, in an action brought by the commissioner of health, be directed by a court of competent jurisdiction to submit a complete report within a period stated by court order or be subject to sanctions for civil contempt.

Subd. 6. [PUBLIC STATISTICS.] By July 1, 2005, and by July 1 of each subsequent year thereafter, the commissioner of health shall issue a public report providing statistics for the previous calendar year compiled from all of the reports covering that year submitted according to this section for each of the items listed in subdivision 1. Each report shall also provide the statistics for all previous calendar years, adjusted to reflect any additional information from late or corrected reports. The commissioner of health shall take care to ensure that none of the information included in the public reports could reasonably lead to the identification of any individual providing or provided information according to section 145.4242.

Subd. 7. [CONSOLIDATION.] The commissioner of health may consolidate the forms or reports described in this section with other forms or reports to achieve administrative convenience or fiscal savings or to reduce the burden of reporting requirements.

Sec. 8. [145.4247] [REMEDIES.]

Subdivision 1. [CIVIL REMEDIES.] Any person upon whom an abortion has been performed without complying with sections 145.4241 to 145.4249 may maintain an action against the person who performed the abortion in knowing or reckless violation of sections 145.4241 to 145.4249 for actual and punitive damages. Any person upon whom an abortion has been attempted without complying with sections 145.4241 to 145.4249 may maintain an action against the person who attempted to perform the abortion in knowing or reckless violation of sections 145.4241 to 145.4249 for actual and punitive damages. No civil liability may be assessed for failure to comply with section 145.4242, clause (2), item (iii), or that portion of section 145.4242, clause (2), requiring written

certification that the female has been informed of her opportunity to review the information referred to in section 145.4242, clause (2), item (iii), unless the commissioner of health has made the printed materials or Web site address available at the time the physician or the physician's agent is required to inform the female of her right to review them.

Subd. 2. [SUIT TO COMPEL STATISTICAL REPORT.] If the commissioner of health fails to issue the public report required under section 145.4246, subdivision 6, or fails in any way to enforce this act, any group of ten or more citizens of this state may seek an injunction in a court of competent jurisdiction against the commissioner of health requiring that a complete report be issued within a period stated by court order. Failure to abide by such an injunction shall subject the commissioner to sanctions for civil contempt.

Subd. 3. [ATTORNEY FEES.] If judgment is rendered in favor of the plaintiff in any action described in this section, the court shall also render judgment for reasonable attorney fees in favor of the plaintiff against the defendant. If judgment is rendered in favor of the defendant and the court finds that the plaintiff's suit was frivolous and brought in bad faith, the court shall also render judgment for reasonable attorney fees in favor of the defendant against the plaintiff.

Subd. 4. [PROTECTION OF PRIVACY IN COURT PROCEEDINGS.] In every civil action brought under sections 145.4241 to 145.4249, the court shall rule whether the anonymity of any female upon whom an abortion has been performed or attempted shall be preserved from public disclosure if she does not give her consent to such disclosure. The court, upon motion or sua sponte, shall make such a ruling and, upon determining that her anonymity should be preserved, shall issue orders to the parties, witnesses, and counsel and shall direct the sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the extent necessary to safeguard her identity from public disclosure. Each order must be accompanied by specific written findings explaining why the anonymity of the female should be preserved from public disclosure, why the order is essential to that end, how the order is narrowly tailored to serve that interest, and why no reasonable, less restrictive alternative exists. In the absence of written consent of the female upon whom an abortion has been performed or attempted, anyone, other than a public official, who brings an action under subdivision 1, shall do so under a pseudonym. This section may not be construed to conceal the identity of the plaintiff or of witnesses from the defendant.

Sec. 9. [145.4248] [SEVERABILITY.]

If any one or more provision, section, subsection, sentence, clause, phrase, or word of sections 145.4241 to 145.4249 or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the balance of sections 145.4241 to 145.4249 shall remain effective notwithstanding such unconstitutionality. The legislature hereby declares that it would have passed sections 145.4241 to 145.4249, and each provision, section, subsection, sentence, clause, phrase, or word thereof, irrespective of the fact that any one or more provision, section, subsection, sentence, clause, phrase, or word be declared unconstitutional.

Sec. 10. [145.4249] [SUPREME COURT JURISDICTION.]

The Minnesota supreme court has original jurisdiction over an action challenging the constitutionality of sections 145.4241 to 145.4249 and shall expedite the resolution of the action.

Sec. 11. [APPROPRIATION.]

\$274,000 in fiscal year 2004 and \$214,000 in fiscal year 2005 are appropriated from the general fund to the commissioner of health for the purposes of this act. The base for this program in fiscal year 2006 and thereafter is \$207,000.

ARTICLE 2

Section 1. Minnesota Statutes 2002, section 145.4134, is amended to read:

145.4134 [COMMISSIONER'S PUBLIC REPORT.]

(a) By July 1 of each year, except for 1998 and 1999 information, the commissioner shall issue a public report providing statistics for the previous calendar year compiled from the data submitted under sections 145.4131 to 145.4133 and sections 145.4241 to 145.4249. For 1998 and 1999 information, the report shall be issued October 1, 2000. Each report shall provide the statistics for all previous calendar years, adjusted to reflect any additional information from late or corrected reports. The commissioner shall ensure that none of the information included in the public reports can reasonably lead to identification of an individual having performed or having had an abortion. All data included on the forms under sections 145.4131 to 145.4133 and sections 145.4241 to 145.4249 must be included in the public report, except that the commissioner shall maintain as confidential, data which alone or in combination may constitute information from which an individual having performed or having had an abortion may be identified using epidemiologic principles. The commissioner shall submit the report to the senate health and family security committee and the house health and human services committee.

(b) The commissioner may, by rules adopted under chapter 14, alter the submission dates established under sections 145.4131 to 145.4133 for administrative convenience, fiscal savings, or other valid reason, provided that physicians or facilities and the commissioner of human services submit the required information once each year and the commissioner issues a report once each year.

Sec. 2. [REPEALER.]

Minnesota Statutes 2002, section 145.413, subdivision 1, is repealed. Notwithstanding Minnesota Statutes, section 14.05, repeal of section 145.413, subdivision 1, does not repeal rules adopted under that subdivision.

Delete the title and insert:

"A bill for an act relating to health; requiring informed consent of a female upon whom an abortion is performed; providing civil remedies; repealing an obsolete law; appropriating money; amending Minnesota Statutes 2002, section 145.4134; proposing coding for new law in Minnesota Statutes, chapter 145; repealing Minnesota Statutes 2002, section 145.413, subdivision 1."

POINT OF ORDER

Ellison raised a point of order pursuant to rule 3.21 that the Holberg amendment was not in order. The Speaker ruled the point of order not well taken and the Holberg amendment in order.

Ellison appealed the decision of the Speaker.

A roll call was requested and properly seconded.

CALL OF THE HOUSE

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

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

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

The vote was taken on the question "Shall the decision of the Speaker stand as the judgment of the House?" and the roll was called. There were 82 yeas and 49 nays as follows:

Those who voted in the affirmative were:

Abeler	DeLaForest	Harder	Lanning	Paulsen	Swenson
Adolphson	Demmer	Heidgerken	Lindgren	Pelowski	Sykora
Anderson, B.	Dempsey	Holberg	Lindner	Penas	Tingelstad
Anderson, J.	Dill	Hoppe	Lipman	Powell	Urdahl
Beard	Dorman	Howes	Magnus	Ruth	Vandever
Blaine	Eastlund	Jacobson	Marquart	Samuelson	Walz
Borrell	Eken	Johnson, J.	McNamara	Seagren	Wardlow
Boudreau	Erickson	Kielkucki	Nelson, C.	Seifert	Westerberg
Bradley	Finstad	Klinzing	Nelson, P.	Severson	Westrom
Brod	Fuller	Knoblach	Nornes	Simpson	Wilkin
Buesgens	Gerlach	Koenen	Olsen, S.	Smith	Zellers
Cornish	Gunther	Kohls	Olson, M.	Soderstrom	Spk. Sviggum
Cox	Haas	Krinkie	Otremba	Stang	
Davids	Hackbarth	Kuisle	Ozment	Strachan	

Those who voted in the negative were:

Abrams	Entenza	Jaros	Mahoney	Paymar	Thissen
Anderson, I.	Erhardt	Johnson, S.	Mariani	Peterson	Wagenius
Atkins	Goodwin	Juhnke	Meslow	Pugh	Walker
Bernardy	Greiling	Kahn	Mullery	Rhodes	Wasiluk
Biernat	Hausman	Larson	Murphy	Rukavina	
Carlson	Hilstrom	Latz	Nelson, M.	Sertich	
Clark	Hilty	Lenczewski	Opatz	Sieben	
Davnie	Hornstein	Lesch	Osterman	Slawik	
Ellison	Huntley	Lieder	Otto	Thao	

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

NOTICE OF INTENT TO MOVE RECONSIDERATION

Pursuant to rule 3.14, Kahn gave notice of her intent to move reconsideration of the Seifert amendment to S. F. No. 187, as amended. S. F. No. 187, as amended, was laid over.

Otto and Paymar were excused for the remainder of today's session.

S. F. No. 112 was reported to the House.

Thissen and Lipman moved to amend S. F. No. 112 as follows:

Page 16, line 6, after the semicolon, insert "or"

Page 16, line 8, delete "; or" and insert a period

Page 16, delete lines 9 and 10

Page 30, line 5, delete ", whenever feasible."

Page 30, line 7, after the first "and" insert ", whenever feasible."

Page 30, line 9, after the period, insert "Any power not specifically granted to the guardian, following a written finding by the court of a demonstrated need for that power, is retained by the ward."

Page 80, line 21, delete "and" and insert a semicolon

Page 80, line 23, delete the comma and insert "; and by article 1, section 50;"

The motion prevailed and the amendment was adopted.

S. F. No. 112, A bill for an act relating to probate; adopting article 5 of the Uniform Probate Code relating to guardianship and conservatorship; amending Minnesota Statutes 2002, sections 145C.09, by adding a subdivision; 201.014, subdivision 2; 201.15, subdivision 1; 245A.041; 507.04; 524.2-502; 524.3-203; proposing coding for new law in Minnesota Statutes, chapter 524; repealing Minnesota Statutes 2002, sections 524.5-505; 525.539; 525.54; 525.541; 525.542; 525.543; 525.544; 525.545; 525.55; 525.5501; 525.551; 525.5515; 525.552; 525.56; 525.561; 525.562; 525.57; 525.58; 525.581; 525.582; 525.583; 525.59; 525.591; 525.60; 525.61; 525.615; 525.6155; 525.616; 525.6165; 525.617; 525.6175; 525.618; 525.6185; 525.619; 525.6192; 525.6194; 525.6195; 525.6196; 525.6197; 525.6198; 525.6199; 525.62; 525.63; 525.64; 525.641; 525.642; 525.65; 525.651; 525.652; 525.66; 525.661; 525.662; 525.67; 525.68; 525.69; 525.691; 525.692; 525.70; 525.702; 525.703; 525.705.

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

The question was taken on the passage of the bill and the roll was called. There were 121 yeas and 9 nays as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Buesgens	Finstad	Krinkie	Opatz	Vandevveer
Erickson	Kielkucki	Olson, M.	Seifert	

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

Paulsen moved that the remaining bills on the Calendar for the Day be continued. The motion prevailed.

CALL OF THE HOUSE LIFTED

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

MOTIONS AND RESOLUTIONS

Olsen, S., moved that the name of Sieben be added as an author on H. F. No. 202. The motion prevailed.

Cox moved that the name of Otto be added as an author on H. F. No. 257. The motion prevailed.

McNamara moved that his name be stricken and the name of Ozment be shown as chief author on H. F. No. 335. The motion prevailed.

Murphy moved that the name of Otto be added as an author on H. F. No. 470. The motion prevailed.

Ellison moved that the name of Hausman be added as an author on H. F. No. 1037. The motion prevailed.

Lanning moved that the names of Nelson, C.; Urdahl and Nornes be added as authors on H. F. No. 1093. The motion prevailed.

Dorman moved that the name of Zellers be added as an author on H. F. No. 1105. The motion prevailed.

Krinkie moved that the name of Demmer be added as an author on H. F. No. 1109. The motion prevailed.

Otto moved that her name be stricken as an author on H. F. No. 1122. The motion prevailed.

Abeler moved that the name of Penas be added as an author on H. F. No. 1309. The motion prevailed.

Wagenius moved that the names of Kahn and Lenczewski be added as authors on H. F. No. 1327. The motion prevailed.

Westrom moved that the name of Magnus be added as an author on H. F. No. 1333. The motion prevailed.

Paymar moved that the name of Kahn be added as an author on H. F. No. 1349. The motion prevailed.

Finstad moved that the name of Urdahl be added as an author on H. F. No. 1361. The motion prevailed.

Peterson moved that his name be stricken as an author on H. F. No. 1378. The motion prevailed.

Walker moved that the name of Clark be added as an author on H. F. No. 1411. The motion prevailed.

Krinkie moved that H. F. No. 688 be recalled from the Committee on Transportation Policy and be re-referred to the Committee on Taxes. The motion prevailed.

Hackbarth moved that H. F. No. 902 be recalled from the Committee on Transportation Finance and be re-referred to the Committee on Environment and Natural Resources Policy. The motion prevailed.

Wagenius moved that H. F. No. 1179 be recalled from the Committee on Ways and Means and be re-referred to the Committee on Capital Investment. The motion prevailed.

Tingelstad and Walker introduced:

House Resolution No. 7, A House resolution relating to the rights of children in foster care.

The resolution was referred to the Committee on Civil Law.

Erickson and Buesgens introduced:

House Concurrent Resolution No. 3, A House concurrent resolution relating to gambling; requesting renegotiation of tribal-state gambling compacts.

The concurrent resolution was referred to the Committee on Rules and Legislative Administration.

ADJOURNMENT

Paulsen moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 3:00 p.m., Thursday, April 3, 2003.

EDWARD A. BURDICK, Chief Clerk, House of Representatives

