

STATE OF MINNESOTA

Journal of the Senate

EIGHTY-SECOND LEGISLATURE

SEVENTY-SEVENTH DAY

St. Paul, Minnesota, Monday, March 4, 2002

The Senate met at 11:30 a.m. and was called to order by the President.

CALL OF THE SENATE

Senator Betzold imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Rev. Marven Tellers.

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

The roll was called, and the following Senators answered to their names:

Anderson	Fowler	Krentz	Orfield	Sabo
Bachmann	Frederickson	Langseth	Ourada	Samuelson
Belanger	Higgins	Larson	Pappas	Scheevel
Berg	Hottinger	Lesewski	Pariseau	Scheid
Berglin	Johnson, Debbie	Limmer	Pogemiller	Schwab
Betzold	Johnson, Doug	Lourey	Price	Solon, Y.P.
Chaudhary	Kelley, S.P.	Marty	Ranum	Stevens
Cohen	Kierlin	Metzen	Reiter	Stumpf
Day	Kinkel	Moe, R.D.	Rest	Tomassoni
Dille	Kiscaden	Moua	Ring	Vickerman
Fischbach	Kleis	Murphy	Robertson	Wiener
Foley	Knutson	Neuville	Robling	Wiger

The President declared a quorum present.

The reading of the Journal was dispensed with and the Journal, as printed and corrected, was approved.

MEMBERS EXCUSED

Senators Johnson, Dave; Johnson, Dean; Lessard; Olson; Oliver; Sams and Terwilliger were excused from the Session of today.

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received.

February 27, 2002

The Honorable Don Samuelson
President of the Senate

Dear President Samuelson:

It is my honor to inform you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. No. 3019.

Sincerely,
Jesse Ventura, Governor

February 28, 2002

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable Don Samuelson
President of the Senate

I have the honor to inform you that the following veto of H.F. No. 351, Chapter No. 220 of the 2002 Session of the State Legislature, having been reconsidered and repassed by the House of Representatives and the Senate, the objections of the Governor notwithstanding, is deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 2002	Date Filed 2002
	351	220	1:00 p.m. February 28	February 28

Sincerely,
Mary Kiffmeyer
Secretary of State

February 28, 2002

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable Don Samuelson
President of the Senate

I have the honor to inform you that the following enrolled Act of the 2002 Session of the State Legislature has been received from the Office of the Governor and is deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 2002	Date Filed 2002
3019		222	11:42 a.m. February 28	February 28

Sincerely,
Mary Kiffmeyer
Secretary of State

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith returned: S.F. No. 1471.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned February 28, 2002

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 1189, 2637, 2742, 2987, 1620, 2612, 2629, 3190, 3202, 3296, 2899, 3274, 3309 and 3344.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted February 28, 2002

FIRST READING OF HOUSE BILLS

The following bills were read the first time and referred to the committees indicated.

H.F. No. 1189: A bill for an act relating to annexation; providing for the election of municipal council members after certain annexations; amending Minnesota Statutes 2000, sections 414.031, subdivision 4a; and 414.09, subdivision 3.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1376.

H.F. No. 2637: A bill for an act relating to towns; providing for temporary officeholders; amending Minnesota Statutes 2000, section 367.03, by adding a subdivision.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2472, now on the Consent Calendar.

H.F. No. 2742: A bill for an act relating to state government; regulating contested case procedures; amending Minnesota Statutes 2000, sections 14.57; 14.59; 14.61; 14.62, subdivision 1, by adding a subdivision; 14.63; repealing Minnesota Statutes 2000, section 14.62, subdivision 2.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2757, now on General Orders.

H.F. No. 2987: A bill for an act relating to Cook county; authorizing the county to convey the Mineral Center cemetery to the Grand Portage Reservation.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2873, now on the Consent Calendar.

H.F. No. 1620: A bill for an act relating to annexation; strengthening the effect of an orderly annexation agreement; amending Minnesota Statutes 2000, section 414.0325, by adding a subdivision.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2210.

H.F. No. 2612: A bill for an act relating to occupations; revising circumstances in which the signature of a licensed architect, licensed engineer, licensed land surveyor, licensed landscape architect, licensed geoscientist, or certified interior designer is required; amending Minnesota Statutes 2000, section 326.12, subdivision 3.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2562, now on General Orders.

H.F. No. 2629: A bill for an act relating to professions; allowing retired individuals licensed by the board of architecture, engineering, land surveying, landscape architecture, geoscience, and interior design to use a retired professional designation; amending Minnesota Statutes 2000, section 326.02, subdivision 1.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2913, now on the Consent Calendar.

H.F. No. 3190: A bill for an act relating to corrections; requiring the juvenile court to send data relating to juvenile petitions to the statewide supervision system; amending Minnesota Statutes 2000, sections 260B.171, subdivision 2; 299C.09; 299C.147, subdivisions 3, 4; Minnesota Statutes 2001 Supplement, section 299C.147, subdivision 2.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 3111, now on General Orders.

H.F. No. 3202: A bill for an act relating to the city of Delano; increasing its public utilities commission from three to five members.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2801, now on the Consent Calendar.

H.F. No. 3296: A bill for an act relating to state employment; shifting social security administrative duties from the department of employee relations to the public employees retirement association; classifying data on employee's dependents as private; amending Minnesota Statutes 2000, sections 13.43, subdivision 4; 355.01, subdivision 5.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 3206.

H.F. No. 2899: A bill for an act relating to metropolitan government; making changes to the livable community provisions; amending Minnesota Statutes 2000, sections 473.253, subdivision 2; 473.254, subdivisions 1, 6; 473.255, subdivisions 1, 4.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2711, now on General Orders.

H.F. No. 3274: A bill for an act relating to military; providing certain protections to persons called or ordered to active service; proposing coding for new law in Minnesota Statutes, chapter 190.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 3068, now on General Orders.

H.F. No. 3309: A bill for an act relating to health; modifying provisions of licensed beds on layaway status; amending Minnesota Statutes 2000, section 144A.071, subdivision 4b.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 3082, now on the Consent Calendar.

H.F. No. 3344: A bill for an act relating to courts; authorizing a combined jurisdiction program in the second and fourth judicial districts; proposing coding for new law in Minnesota Statutes, chapter 484.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2892, now on the Consent Calendar.

REPORTS OF COMMITTEES

Senator Moe, R.D. moved that the Committee Reports at the Desk be now adopted, with the exception of the reports on S.F. Nos. 3353, 240 and 3176. The motion prevailed.

Senator Scheid from the Committee on Commerce, to which was referred

S.F. No. 2475: A bill for an act relating to motor vehicle fuel franchises; removing an expiration date; amending Minnesota Statutes 2001 Supplement, section 80C.147.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Senator Murphy from the Committee on Agriculture, General Legislation and Veterans Affairs, to which was referred

S.F. No. 3353: A bill for an act relating to agriculture; changing provisions of the agricultural chemical response and reimbursement law; amending Minnesota Statutes 2000, sections 18E.02, by adding a subdivision; 18E.03, subdivision 4; 18E.04, subdivision 3, by adding a subdivision; 18E.06; Minnesota Statutes 2001 Supplement, sections 18E.04, subdivisions 2, 4.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 17, delete "which" and insert "that"

Page 3, lines 2 to 24, delete the new language

Page 6, line 9, before "The" insert "Except for an emergency incident," and delete "50" and insert "60"

Page 6, line 11, delete "a subsequent" and insert "an" and after "incident" insert "within five years of a previous incident"

Page 6, line 12, delete "reexamination" and insert "recontamination"

And when so amended the bill do pass and be re-referred to the Committee on Finance.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Senator Johnson, Dean from the Committee on Transportation, to which was referred

S.F. No. 3310: A bill for an act relating to school buses; authorizing the commissioner of public safety to cancel the school bus driver's endorsement of a person who has been convicted of a gross misdemeanor or of multiple violations that show evidence of a risk to public safety; proposing coding for new law in Minnesota Statutes, chapter 171.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Senator Johnson, Dean from the Committee on Transportation, to which was referred

S.F. No. 3293: A bill for an act relating to highways; transferring three state highways and vacating one state highway; repealing Minnesota Statutes 2000, section 161.115, subdivisions 122, 197, 204, 233.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Senator Sams from the Committee on Health and Family Security, to which was referred

S.F. No. 3204: A bill for an act relating to human services; specifying that a county agency is not required to provide income support or cash assistance when specified state programs fail to do so; amending Minnesota Statutes 2000, section 261.063.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Senator Sams from the Committee on Health and Family Security, to which was referred

S.F. No. 240: A bill for an act relating to health occupations; creating licensure for dental assistants; amending Minnesota Statutes 2000, sections 116J.70, subdivision 2a; 144.054, subdivision 2; 150A.01, subdivisions 5 and 8; 150A.02, subdivision 1; 150A.03, subdivision 1;

150A.05, subdivision 2, and by adding a subdivision; 150A.06, subdivisions 2a, 2b, 5, and 6; 150A.08, subdivisions 1, 3, 4, 5, 6, and 8; 150A.081, subdivisions 1 and 2; 150A.09, subdivisions 1, 3, and 5; 150A.10, subdivision 2; 214.18, subdivision 5; and 352.91, subdivision 3g.

Reports the same back with the recommendation that the bill do pass.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Senator Anderson from the Committee on Jobs, Housing and Community Development, to which was referred

S.F. No. 2763: A bill for an act relating to employment; prohibiting employers from requiring employees or job applicants to pay for certain expenses such as background checks, credit checks, testing, or orientation; proposing coding for new law in Minnesota Statutes, chapter 181.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Senator Anderson from the Committee on Jobs, Housing and Community Development, to which was referred

S.F. No. 3140: A bill for an act relating to employment; providing that wage credits earned by certain school food service employees may be used for unemployment benefit purposes; amending Minnesota Statutes 2000, section 268.085, subdivision 8.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

Senator Anderson from the Committee on Jobs, Housing and Community Development, to which was referred

S.F. No. 3176: A bill for an act relating to economic development; repealing obsolete provisions relating to the Minnesota export finance authority and a business migration report; modifying conference and service center use in the Minnesota world trade center; modifying the urban initiative program; coordinating funding for wastewater and drinking water funding; extending availability of funding for travel information centers; increasing bonding authority for the public facilities authority; reinstating a repealed law; amending Minnesota Statutes 2000, sections 48.24, subdivision 5; 116J.58, subdivision 1; 116J.9665, subdivisions 1, 4, 6; 116M.14, subdivision 4; 116M.18, subdivisions 2, 3, 4, 5, 8, by adding a subdivision; 446A.07, subdivisions 4, 11; 446A.12, subdivision 1; Laws 2001, First Special Session chapter 4, article 1, section 2, subdivision 5; repealing Minnesota Statutes 2000, sections 116J.9672; 116J.9673.

Reports the same back with the recommendation that the bill be amended as follows:

Page 9, after line 23, insert:

"Sec. 13. Minnesota Statutes 2000, section 298.22, subdivision 7, is amended to read:

Subd. 7. [~~GIANTS RIDGE RECREATION AREA PROJECT AREA DEVELOPMENT AUTHORITY.~~] (a) In addition to the other powers granted in this section and other law and notwithstanding any limitations contained in subdivision 5, the commissioner, for purposes of fostering economic development and tourism within the Giants Ridge recreation area or the Ironworld Discovery Center area, may spend any money made available to the agency under section 298.28 to acquire real or personal property or interests therein by gift, purchase, or lease and may convey by lease, sale, or other means of conveyance or commitment any or all of those property interests ~~acquired~~ owned or administered by the commissioner within such areas.

(b) In furtherance of development of the Giants Ridge recreation area or the Ironworld Discovery Center area, the commissioner may establish and participate in charitable foundations

and nonprofit corporations, including a corporation within the meaning of section 317A.011, subdivision 6.

(c) The term "Giants Ridge recreation area" refers to an economic development project area established by the commissioner in furtherance of the powers delegated in this section within St. Louis county in the western portions of the town of White and in the eastern portion of the westerly, adjacent, unorganized township.

(d) The term "Ironworld Discovery Center area" refers to an economic development and tourism promotion project area established by the commissioner in furtherance of the powers delegated in this section within St. Louis county in the south portion of the town of Balkan.

Sec. 14. Minnesota Statutes 2000, section 298.22, is amended by adding a subdivision to read:

Subd. 9. [ECONOMIC DEVELOPMENT AND TRADE PROMOTION.] In the promotion of tourism, trade, and economic development, the commissioner may expend money made available to the agency under section 298.28 in the same manner as private persons, firms, corporations, and associations make expenditures for these purposes. An expenditure for food, lodging, or travel is not governed by the travel rules of the commissioner of employee relations."

Page 9, line 26, before "The" insert "(a)"

Page 9, line 36, after the stricken period, insert:

"(b) To be eligible for placement on the intended use plan:

(1) a project must be listed on the pollution control agency's project priority list;

(2) the applicant must submit a written request to the public facilities authority, including a brief description of the project, a project cost estimate and the requested loan amount, and a proposed project schedule; and

(3) for a construction loan, the project must have a facility plan approved by the pollution control agency.

(c)"

Page 10, line 1, after "shall" insert "annually"

Page 10, line 2, delete "a prioritized" and insert "its project priority"

Page 10, line 3, delete everything after "funding" and insert a period

Page 10, delete line 4

Page 10, line 5, delete everything before "The"

Page 10, delete section 14

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 7, after the semicolon, insert "modifying spending authority for the IRRRB;"

Page 1, line 15, delete "446A.07, subdivisions" and insert "298.22, subdivision 7, by adding a subdivision; 446A.07, subdivision"

Page 1, line 16, delete ", 11"

And when so amended the bill do pass and be re-referred to the Committee on Finance.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Senator Marty from the Committee on Judiciary, to which was re-referred

S.F. No. 3108: A bill for an act relating to human services; amending data and licensing definitions; clarifying exclusions from licensure, background study requirements, due process, training, and license delegations; amending fair hearing requirements; and clarifying a provision related to errors in the provision of therapeutic conduct to vulnerable adults; amending Minnesota Statutes 2000, sections 13.41, subdivision 1; 245A.02, by adding subdivisions; 626.557, subdivision 3a; Minnesota Statutes 2001 Supplement, sections 13.46, subdivisions 1, 4; 245A.03, subdivision 2; 245A.04, subdivisions 3, 3a, 3b, 3c; 245A.07, subdivisions 2a, 3; 245A.144; 245A.16, subdivision 1; 256.045, subdivisions 3b, 4; proposing coding for new law in Minnesota Statutes, chapter 245A.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 13.41, subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] As used in this section "licensing agency" means any board, department or agency of this state which is given the statutory authority to issue professional or other types of licenses, except the various agencies primarily administered by the commissioner of human services. Data pertaining to persons or agencies licensed or registered under authority of the commissioner of human services shall be administered pursuant to section 13.46, ~~subdivision 4.~~

Sec. 2. Minnesota Statutes 2001 Supplement, section 13.46, subdivision 1, is amended to read:

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

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

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

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

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

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

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

Sec. 3. Minnesota Statutes 2000, section 13.46, subdivision 3, is amended to read:

Subd. 3. [INVESTIGATIVE DATA.] (a) Data on persons, including data on vendors of services and data on licensees, that is collected, maintained, used, or disseminated by the welfare system in an investigation, authorized by statute and relating to the enforcement of rules or law, is

confidential data on individuals pursuant to section 13.02, subdivision 3, or protected nonpublic data not on individuals pursuant to section 13.02, subdivision 13, and shall not be disclosed except:

- (a) (1) pursuant to section 13.05;
- (b) (2) pursuant to statute or valid court order;
- (c) (3) to a party named in a civil or criminal proceeding, administrative or judicial, for preparation of defense; or
- (d) (4) to provide notices required or permitted by statute.

The data referred to in this subdivision shall be classified as public data upon its submission to an administrative law judge or court in an administrative or judicial proceeding. Inactive welfare investigative data shall be treated as provided in section 13.39, subdivision 3.

(b) Notwithstanding any other provision in law, the commissioner of human services shall provide all active and inactive investigative data, including the name of the reporter of alleged maltreatment under section 626.556 or 626.557, to the ombudsman for mental health and mental retardation upon the request of the ombudsman.

Sec. 4. Minnesota Statutes 2001 Supplement, section 13.46, subdivision 4, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) Upon request, not public data collected, maintained, used, or disseminated under this subdivision that relate to or are derived from a report of substantiated maltreatment as defined in section 626.556 or 626.557 may be exchanged with the department of health for purposes of completing background studies pursuant to section 144.057 and with the department of corrections for purposes of completing background studies pursuant to section 241.021.

(i) Data on individuals collected according to licensing activities under chapter 245A, and data on individuals collected by the commissioner of human services according to maltreatment investigations under sections 626.556 and 626.557, may be shared with the department of human rights, the department of health, the department of corrections, the ombudsman for mental health and retardation, and the individual's professional regulatory board when there is reason to believe that laws or standards under the jurisdiction of those agencies may have been violated.

(j) In addition to the notice of determinations required under section 626.556, subdivision 10f, if the commissioner or the local social services agency has determined that an individual is a substantiated perpetrator of maltreatment of a child based on sexual abuse, as defined in section

626.556, subdivision 2, and the commissioner or local social services agency knows that the individual is a person responsible for a child's care in another facility, the commissioner or local social services agency shall notify the head of that facility of this determination. The notification must include an explanation of the individual's available appeal rights and the status of any appeal. If a notice is given under this paragraph, the government entity making the notification shall provide a copy of the notice to the individual who is the subject of the notice.

Sec. 5. Minnesota Statutes 2001 Supplement, 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. 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 directly supervised by the individuals 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 or registration 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 or in a position allowing access to persons served by the program as provided for in statutes, unless the commissioner has provided written notice to the agency stating that:

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

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

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

(q) Termination of 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."

Delete the title and insert:

"A bill for an act relating to human services; amending data and licensing definitions; amending Minnesota Statutes 2000, sections 13.41, subdivision 1; 13.46, subdivision 3; Minnesota Statutes 2001 Supplement, sections 13.46, subdivisions 1, 4; 245A.04, subdivision 3."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Marty from the Committee on Judiciary, to which was referred

S.F. No. 1372: A bill for an act relating to data privacy; changing data privacy provisions; amending Minnesota Statutes 2000, sections 626.5551, subdivision 2; and 626.556, subdivisions 10, 11, and 11b.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 13.82, subdivision 8, is amended to read:

Subd. 8. [CHILD ABUSE IDENTITY DATA.] Active or inactive investigative data that identify a victim of child abuse or neglect reported under section 626.556 are private data on individuals. Active or inactive investigative data that identify a reporter of child abuse or neglect under section 626.556 are confidential data on individuals, unless the subject of the report compels disclosure under section 626.556, subdivision ~~4~~ 11f.

Sec. 2. Minnesota Statutes 2000, section 13.871, subdivision 6, is amended to read:

Subd. 6. [TRAINING; INVESTIGATION; APPREHENSION; REPORTS.] (a) [REPORTS OF GUNSHOT WOUNDS.] Disclosure of the name of a person making a report under section 626.52, subdivision 2, is governed by section 626.53.

(b) [CHILD ABUSE REPORT RECORDS.] Data contained in child abuse report records are classified under section 626.556.

(c) [INTERSTATE DATA EXCHANGE.] Disclosure of child abuse reports to agencies of another state is classified under section 626.556, subdivision 10g.

(d) [RELEASE TO FAMILY COURT SERVICES.] Release of child abuse data to a court services agency is authorized under section 626.556, subdivision 10h.

(e) [RELEASE OF DATA TO MANDATED REPORTERS.] Release of child abuse data to mandated reporters who have an ongoing responsibility for the health, education, or welfare of a child affected by the data is authorized under section 626.556, subdivision 10j.

(f) [RELEASE OF CHILD ABUSE INVESTIGATIVE RECORDS TO OTHER COUNTIES.] Release of child abuse investigative records to local welfare agencies is authorized under section 626.556, subdivision ~~40k~~ 11g.

(g) [CLASSIFYING AND SHARING RECORDS AND REPORTS OF CHILD ABUSE.] The classification of child abuse data and the sharing of records and reports of child abuse by and between local welfare agencies and law enforcement agencies are governed under section 626.556, subdivision ~~4~~ 11f.

(h) [DISCLOSURE OF INFORMATION NOT REQUIRED IN CERTAIN CASES.] Disclosure of certain data obtained from interviewing a minor is governed by section 626.556, subdivision 11a.

(i) [DATA RECEIVED FROM LAW ENFORCEMENT.] Classifying child abuse data received by certain agencies from law enforcement agencies is governed under section 626.556, subdivision 11b.

(j) [DISCLOSURE IN CHILD FATALITY CASES.] Disclosure of information relating to a child fatality is governed under section 626.556, subdivision 11d.

(k) [REPORTS OF ALCOHOL ABUSE.] Data on persons making reports under section 626.5563 are classified under section 626.5563, subdivision 5.

(l) [VULNERABLE ADULT REPORT RECORDS.] Data contained in vulnerable adult report records are classified under section 626.557, subdivision 12b.

(m) [ADULT PROTECTION TEAM INFORMATION SHARING.] Sharing of local welfare agency vulnerable adult data with a protection team is governed by section 626.5571, subdivision 3.

(n) [CHILD PROTECTION TEAM.] Data acquired by a case consultation committee or subcommittee of a child protection team are classified by section 626.558, subdivision 3.

(o) [CHILD MALTREATMENT REPORTS PEER REVIEW PANEL.] Sharing data of cases reviewed by the panel is governed under section 626.5593, subdivision 2.

(p) [PEACE OFFICER DISCIPLINE PROCEDURES.] Access by an officer under investigation to the investigating agency's investigative report on the officer is governed by section 626.89, subdivision 6.

Sec. 3. Minnesota Statutes 2001 Supplement, section 626.5551, subdivision 2, is amended to read:

Subd. 2. [USE OF ALTERNATIVE RESPONSE OR INVESTIGATION.] (a) Upon receipt of a report under section 626.556, the local welfare agency in a county that has established an alternative response program under this section shall determine whether to conduct an investigation using the traditional investigative model under section 626.556 or to use an alternative response as appropriate to prevent or provide a remedy for child maltreatment. Data collected and maintained for the purpose of using the alternative response system are classified in section 626.556, subdivision 11f.

(b) The local welfare agency may conduct an investigation of any report using the traditional investigative model under section 626.556. However, the local welfare agency must use the traditional investigative model under section 626.556 to investigate reports involving substantial child endangerment. For purposes of this subdivision, substantial child endangerment includes when a person responsible for a child's care, by act or omission, commits or attempts to commit an act against a child under their care that constitutes any of the following:

- (1) egregious harm as defined in section 260C.007, subdivision 14;
- (2) sexual abuse as defined in section 626.556, subdivision 2, paragraph (a);
- (3) abandonment under section 260C.301, subdivision 2;
- (4) neglect as defined in section 626.556, subdivision 2, paragraph (c), that substantially endangers the child's physical or mental health, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;
- (5) murder in the first, second, or third degree under section 609.185; 609.19; or 609.195;
- (6) manslaughter in the first or second degree under section 609.20 or 609.205;
- (7) assault in the first, second, or third degree under section 609.221; 609.222; or 609.223;
- (8) solicitation, inducement, and promotion of prostitution under section 609.322;
- (9) criminal sexual conduct under sections 609.342 to 609.3451;
- (10) solicitation of children to engage in sexual conduct under section 609.352;

(11) malicious punishment or neglect or endangerment of a child under section 609.377 or 609.378; or

(12) use of minor in sexual performance under section 617.246.

(c) Nothing in this section gives a county any broader authority to intervene, assess, or investigate a family other than under section 626.556.

(d) In addition, in all cases the local welfare agency shall notify the appropriate law enforcement agency as provided in section 626.556, subdivision 3.

(e) The local welfare agency shall begin an immediate investigation under section 626.556 if at any time when it is using an alternative response it determines that an investigation is required under paragraph (b) or would otherwise be appropriate. The local welfare agency may use an alternative response to a report that was initially referred for an investigation if the agency determines that a complete investigation is not required. In determining that a complete investigation is not required, the local welfare agency must document the reason for terminating the investigation and consult with:

(1) the local law enforcement agency, if the local law enforcement is involved, and notify the county attorney of the decision to terminate the investigation; or

(2) the county attorney, if the local law enforcement is not involved.

Sec. 4. Minnesota Statutes 2001 Supplement, section 626.556, subdivision 7, is amended to read:

Subd. 7. [REPORT.] An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required under subdivision 3 to report shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing to the appropriate police department, the county sheriff, the agency responsible for assessing or investigating the report, or the local welfare agency, unless the appropriate agency has informed the reporter that the oral information does not constitute a report under subdivision 10. Any report shall be of sufficient content to identify the child, any person believed to be responsible for the abuse or neglect of the child if the person is known, the nature and extent of the abuse or neglect and the name and address of the reporter. If requested, the local welfare agency or the agency responsible for assessing or investigating the report shall inform the reporter within ten days after the report is made, either orally or in writing, whether the report was accepted for assessment or investigation. Written reports received by a police department or the county sheriff shall be forwarded immediately to the local welfare agency or the agency responsible for assessing or investigating the report. The police department or the county sheriff may keep copies of reports received by them. Copies of written reports received by a local welfare department or the agency responsible for assessing or investigating the report shall be forwarded immediately to the local police department or the county sheriff.

~~A written copy of a report maintained by personnel of agencies, other than welfare or law enforcement agencies, which are subject to chapter 13 shall be confidential. An individual subject of the report may obtain access to the original report as provided by subdivision 11. Data under this subdivision are classified in subdivision 11e.~~

Sec. 5. Minnesota Statutes 2001 Supplement, section 626.556, subdivision 10, is amended to read:

Subd. 10. [DUTIES OF LOCAL WELFARE AGENCY AND LOCAL LAW ENFORCEMENT AGENCY UPON RECEIPT OF A REPORT.] (a) If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or individual functioning within the family unit as a person responsible for the child's care, the local welfare agency shall immediately conduct an assessment including gathering information on the existence of substance abuse and offer protective social services for purposes of preventing further abuses, safeguarding and enhancing the welfare of the abused or neglected minor, and preserving family life whenever possible. If the report alleges a violation of a criminal statute involving sexual abuse, physical

abuse, or neglect or endangerment, under section 609.378, the local law enforcement agency and local welfare agency shall coordinate the planning and execution of their respective investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of the results of its investigation. In cases of alleged child maltreatment resulting in death, the local agency may rely on the fact-finding efforts of a law enforcement investigation to make a determination of whether or not maltreatment occurred. When necessary the local welfare agency shall seek authority to remove the child from the custody of a parent, guardian, or adult with whom the child is living. In performing any of these duties, the local welfare agency shall maintain appropriate records.

If the assessment indicates there is a potential for abuse of alcohol or other drugs by the parent, guardian, or person responsible for the child's care, the local welfare agency shall conduct a chemical use assessment pursuant to Minnesota Rules, part 9530.6615. The local welfare agency shall report the determination of the chemical use assessment, and the recommendations and referrals for alcohol and other drug treatment services to the state authority on alcohol and drug abuse.

(b) When a local agency receives a report or otherwise has information indicating that a child who is a client, as defined in section 245.91, has been the subject of physical abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section 245.91, it shall, in addition to its other duties under this section, immediately inform the ombudsman established under sections 245.91 to 245.97. The commissioner of children, families, and learning shall inform the ombudsman established under sections 245.91 to 245.97 of reports regarding a child defined as a client in section 245.91 that maltreatment occurred at a school as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10.

(c) Authority of the local welfare agency responsible for assessing the child abuse or neglect report, the agency responsible for assessing or investigating the report, and of the local law enforcement agency for investigating the alleged abuse or neglect includes, but is not limited to, authority to interview, without parental consent, the alleged victim and any other minors who currently reside with or who have resided with the alleged offender. The interview may take place at school or at any facility or other place where the alleged victim or other minors might be found or the child may be transported to, and the interview conducted at, a place appropriate for the interview of a child designated by the local welfare agency or law enforcement agency. The interview may take place outside the presence of the alleged offender or parent, legal custodian, guardian, or school official. Except as provided in this paragraph, the parent, legal custodian, or guardian shall be notified by the responsible local welfare or law enforcement agency no later than the conclusion of the investigation or assessment that this interview has occurred. Notwithstanding rule 49.02 of the Minnesota rules of procedure for juvenile courts, the juvenile court may, after hearing on an ex parte motion by the local welfare agency, order that, where reasonable cause exists, the agency withhold notification of this interview from the parent, legal custodian, or guardian. If the interview took place or is to take place on school property, the order shall specify that school officials may not disclose to the parent, legal custodian, or guardian the contents of the notification of intent to interview the child on school property, as provided under this paragraph, and any other related information regarding the interview that may be a part of the child's school record. A copy of the order shall be sent by the local welfare or law enforcement agency to the appropriate school official.

(d) When the local welfare, local law enforcement agency, or the agency responsible for assessing or investigating a report of maltreatment determines that an interview should take place on school property, written notification of intent to interview the child on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property. For interviews conducted by the local welfare agency, the notification shall be signed by the chair of the local social services agency or the chair's designee. The notification shall be private data on individuals subject to the provisions of this paragraph. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notification or any other related information regarding the interview until notified in writing by the local welfare or law enforcement agency that the investigation or assessment has

been concluded, unless a school employee or agent is alleged to have maltreated the child. Until that time, the local welfare or law enforcement agency or the agency responsible for assessing or investigating a report of maltreatment shall be solely responsible for any disclosures regarding the nature of the assessment or investigation.

Except where the alleged offender is believed to be a school official or employee, the time and place, and manner of the interview on school premises shall be within the discretion of school officials, but the local welfare or law enforcement agency shall have the exclusive authority to determine who may attend the interview. The conditions as to time, place, and manner of the interview set by the school officials shall be reasonable and the interview shall be conducted not more than 24 hours after the receipt of the notification unless another time is considered necessary by agreement between the school officials and the local welfare or law enforcement agency. Where the school fails to comply with the provisions of this paragraph, the juvenile court may order the school to comply. Every effort must be made to reduce the disruption of the educational program of the child, other students, or school staff when an interview is conducted on school premises.

(e) Where the alleged offender or a person responsible for the care of the alleged victim or other minor prevents access to the victim or other minor by the local welfare agency, the juvenile court may order the parents, legal custodian, or guardian to produce the alleged victim or other minor for questioning by the local welfare agency or the local law enforcement agency outside the presence of the alleged offender or any person responsible for the child's care at reasonable places and times as specified by court order.

(f) Before making an order under paragraph (e), the court shall issue an order to show cause, either upon its own motion or upon a verified petition, specifying the basis for the requested interviews and fixing the time and place of the hearing. The order to show cause shall be served personally and shall be heard in the same manner as provided in other cases in the juvenile court. The court shall consider the need for appointment of a guardian ad litem to protect the best interests of the child. If appointed, the guardian ad litem shall be present at the hearing on the order to show cause.

(g) The commissioner of human services, the ombudsman for mental health and mental retardation, the local welfare agencies responsible for investigating reports, the commissioner of children, families, and learning, and the local law enforcement agencies have the right to enter facilities as defined in subdivision 2 and to inspect and copy the facility's records, including medical records, as part of the investigation. Notwithstanding the provisions of chapter 13, they also have the right to inform the facility under investigation that they are conducting an investigation, to disclose to the facility the names of the individuals under investigation for abusing or neglecting a child, and to provide the facility with a copy of the report and the investigative findings.

(h) The local welfare agency or the agency responsible for assessing or investigating the report shall collect available and relevant information to ascertain whether maltreatment occurred and whether protective services are needed. Information collected includes, when relevant, information with regard to the person reporting the alleged maltreatment, including the nature of the reporter's relationship to the child and to the alleged offender, and the basis of the reporter's knowledge for the report; the child allegedly being maltreated; the alleged offender; the child's caretaker; and other collateral sources having relevant information related to the alleged maltreatment. The local welfare agency or the agency responsible for assessing or investigating the report may make a determination of no maltreatment early in an assessment, and close the case and retain immunity, if the collected information shows no basis for a full assessment or investigation.

Information relevant to the assessment or investigation must be asked for, and may include:

(1) the child's sex and age, prior reports of maltreatment, information relating to developmental functioning, credibility of the child's statement, and whether the information provided under this clause is consistent with other information collected during the course of the assessment or investigation;

(2) the alleged offender's age, a record check for prior reports of maltreatment, and criminal charges and convictions. The local welfare agency or the agency responsible for assessing or investigating the report must provide the alleged offender with an opportunity to make a statement. The alleged offender may submit supporting documentation relevant to the assessment or investigation;

(3) collateral source information regarding the alleged maltreatment and care of the child. Collateral information includes, when relevant: (i) a medical examination of the child; (ii) prior medical records relating to the alleged maltreatment or the care of the child maintained by any facility, clinic, or health care professional and an interview with the treating professionals; and (iii) interviews with the child's caretakers, including the child's parent, guardian, foster parent, child care provider, teachers, counselors, family members, relatives, and other persons who may have knowledge regarding the alleged maltreatment and the care of the child; and

(4) information on the existence of domestic abuse and violence in the home of the child, and substance abuse.

~~Nothing in this paragraph precludes the local welfare agency, the local law enforcement agency, or the agency responsible for assessing or investigating the report from collecting other relevant information necessary to conduct the assessment or investigation. Notwithstanding section 13.384 or 144.335, the local welfare agency has access to medical data and records for purposes of clause (3). Notwithstanding the data's classification in the possession of any other agency, data acquired by the local welfare agency or the agency responsible for assessing or investigating the report during the course of the assessment or investigation are private data on individuals and must be maintained in accordance with subdivision 11. Data of the commissioner of children, families, and learning collected or maintained during and for the purpose of an investigation of alleged maltreatment in a school are governed by this section, notwithstanding the data's classification as educational, licensing, or personnel data under chapter 13.~~

In conducting an assessment or investigation involving a school facility as defined in subdivision 2, paragraph (f), the commissioner of children, families, and learning shall collect investigative reports and data that are relevant to a report of maltreatment and are from local law enforcement and the school facility.

(i) In the initial stages of an assessment or investigation, the local welfare agency shall conduct a face-to-face observation of the child reported to be maltreated and a face-to-face interview of the alleged offender. The interview with the alleged offender may be postponed if it would jeopardize an active law enforcement investigation.

(j) The local welfare agency shall use a question and answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. The following interviewing methods and procedures must be used whenever possible when collecting information:

(1) audio recordings of all interviews with witnesses and collateral sources; and

(2) in cases of alleged sexual abuse, audio-video recordings of each interview with the alleged victim and child witnesses.

(k) In conducting an assessment or investigation involving a school facility as defined in subdivision 2, paragraph (f), the commissioner of children, families, and learning shall collect available and relevant information and use the procedures in paragraphs (h), (i), and (j), provided that the commissioner may also base the assessment or investigation on investigative reports and data received from the school facility and local law enforcement, to the extent those investigations satisfy the requirements of paragraphs (h), (i), and (j).

Sec. 6. Minnesota Statutes 2001 Supplement, section 626.556, subdivision 10e, is amended to read:

Subd. 10e. [DETERMINATIONS.] Upon the conclusion of every assessment or investigation it conducts, the local welfare agency shall make two determinations: first, whether maltreatment has

occurred; and second, whether child protective services are needed. Upon the conclusion of an assessment or investigation by the commissioner of children, families, and learning, the commissioner shall determine whether maltreatment occurred and what corrective or protective action was taken by the school facility. If a determination is made that maltreatment has occurred, the commissioner shall report to the employer, the school board, and any appropriate licensing entity the determination that maltreatment occurred and what corrective or protective action was taken by the school facility. In all other cases, the commissioner shall inform the school board or employer that a report was received, the subject of the report, the date of the initial report, the category of maltreatment alleged as defined in paragraph (a), the fact that maltreatment was not determined, and a summary of the specific reasons for the determination. When maltreatment is determined in an investigation involving a facility, the investigating agency shall also determine whether the facility or individual was responsible, or whether both the facility and the individual were responsible for the maltreatment using the mitigating factors in paragraph (d). Determinations under this subdivision must be made based on a preponderance of the evidence ~~and are private data on individuals or nonpublic data as maintained by the commissioner of children, families, and learning.~~ Data under this subdivision are classified in subdivision 11f.

(a) For the purposes of this subdivision, "maltreatment" means any of the following acts or omissions:

- (1) physical abuse as defined in subdivision 2, paragraph (d);
- (2) neglect as defined in subdivision 2, paragraph (c);
- (3) sexual abuse as defined in subdivision 2, paragraph (a);
- (4) mental injury as defined in subdivision 2, paragraph (k); or
- (5) maltreatment of a child in a facility as defined in subdivision 2, paragraph (f).

(b) For the purposes of this subdivision, a determination that child protective services are needed means that the local welfare agency has documented conditions during the assessment or investigation sufficient to cause a child protection worker, as defined in section 626.559, subdivision 1, to conclude that a child is at significant risk of maltreatment if protective intervention is not provided and that the individuals responsible for the child's care have not taken or are not likely to take actions to protect the child from maltreatment or risk of maltreatment.

(c) This subdivision does not mean that maltreatment has occurred solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, in lieu of medical care. However, if lack of medical care may result in serious danger to the child's health, the local welfare agency may ensure that necessary medical services are provided to the child.

(d) When determining whether the facility or individual is the responsible party for determined maltreatment in a facility, the investigating agency shall consider at least the following mitigating factors:

(1) whether the actions of the facility or the individual caregivers were according to, and followed the terms of, an erroneous physician order, prescription, individual care plan, or directive; however, this is not a mitigating factor when the facility or caregiver was responsible for the issuance of the erroneous order, prescription, individual care plan, or directive or knew or should have known of the errors and took no reasonable measures to correct the defect before administering care;

(2) comparative responsibility between the facility, other caregivers, and requirements placed upon an employee, including the facility's compliance with related regulatory standards and the adequacy of facility policies and procedures, facility training, an individual's participation in the training, the caregiver's supervision, and facility staffing levels and the scope of the individual employee's authority and discretion; and

(3) whether the facility or individual followed professional standards in exercising professional judgment.

Individual counties may implement more detailed definitions or criteria that indicate which allegations to investigate, as long as a county's policies are consistent with the definitions in the statutes and rules and are approved by the county board. Each local welfare agency shall periodically inform mandated reporters under subdivision 3 who work in the county of the definitions of maltreatment in the statutes and rules and any additional definitions or criteria that have been approved by the county board.

Sec. 7. Minnesota Statutes 2000, section 626.556, subdivision 11c, is amended to read:

Subd. 11c. [WELFARE, COURT SERVICES AGENCY, AND SCHOOL RECORDS MAINTAINED.] Notwithstanding sections 138.163 and 138.17, records maintained or records derived from reports of abuse by local welfare agencies, agencies responsible for assessing or investigating the report, court services agencies, or schools under this section shall be destroyed as provided in paragraphs (a) to (d) by the responsible authority.

(a) If upon assessment or investigation there is no determination of maltreatment or the need for child protective services, the records must be maintained for a period of four years. Records under this paragraph may not be used for employment, background checks, or purposes other than to assist in future risk and safety assessments. Data maintained under this paragraph include information given to the agency by a person making a report under subdivision 3, notwithstanding that the agency determined that the information received does not constitute a report of maltreatment.

(b) All records relating to reports which, upon assessment or investigation, indicate either maltreatment or a need for child protective services shall be maintained for at least ten years after the date of the final entry in the case record.

(c) All records regarding a report of maltreatment, including any notification of intent to interview which was received by a school under subdivision 10, paragraph (d), shall be destroyed by the school when ordered to do so by the agency conducting the assessment or investigation. The agency shall order the destruction of the notification when other records relating to the report under investigation or assessment are destroyed under this subdivision.

(d) Private or confidential data released to a court services agency under subdivision 10h must be destroyed by the court services agency when ordered to do so by the local welfare agency that released the data. The local welfare agency or agency responsible for assessing or investigating the report shall order destruction of the data when other records relating to the assessment or investigation are destroyed under this subdivision.

Sec. 8. Minnesota Statutes 2000, section 626.556, is amended by adding a subdivision to read:

Subd. 11e. [CLASSIFICATION OF DATA IN REPORTS.] (a) Voluntary and mandatory reports of alleged maltreatment are private data on individuals as defined in section 13.02, subdivision 12, except that data identifying the reporter are confidential data as defined in section 13.02, subdivision 3. The identity of the reporter remains confidential after an investigation or assessment is complete.

(b) A written copy of a report made under subdivision 7 and maintained by personnel of government entities that are subject to chapter 13, other than welfare or law enforcement agencies, is confidential. An individual subject of the report may obtain access to the original report as provided by paragraph (a).

Sec. 9. Minnesota Statutes 2000, section 626.556, is amended by adding a subdivision to read:

Subd. 11f. [CLASSIFICATION OF DATA IN ENTITIES RESPONDING TO REPORT.] (a) Government data created, collected, or maintained as part of an assessment or investigation of an allegation of maltreatment made under subdivision 7 or elsewhere are treated as provided in this subdivision.

(b) When a local welfare agency chooses to use section 626.5551 to respond to a report of maltreatment, the data collected for the purpose of the assessment and for conducting an alternative response are private data on individuals as defined in section 13.02, except for the identity of the reporter, which is confidential.

(c) When a local welfare agency or an agency responsible for investigating a report chooses to investigate the report and not use the alternative response system, the investigative data, including data received from another government entity, are confidential data while the investigation is ongoing. Once a determination has been made under subdivision 10e, the data maintained by the local welfare agency or agency responsible for investigating a report, regardless of its source, become private data.

(d) When a law enforcement agency investigates a report of maltreatment as a crime, the data are subject to section 13.82.

(e) Data maintained by the commissioner of children, families, and learning are governed by this subdivision, notwithstanding the data's classification as educational, licensing, or personnel data under chapter 13.

(f) Notwithstanding sections 13.39; 13.46, subdivision 3; and 13.82, subdivision 7, the data continue to be private once a determination has been made under subdivision 10e, except that the identity of the reporter remains confidential.

(g) Data that would identify an individual who made a voluntary or mandatory report of alleged maltreatment of a child are confidential data on individuals wherever that data appear in reports, investigative data, or elsewhere in a law enforcement agency, a local welfare agency, or an agency responsible for investigating the report. An alleged or actual perpetrator of maltreatment may compel disclosure of the identity of the reporter only with the consent of the reporter or on a written finding by a court that the report was false and that there is evidence it was made in bad faith.

Sec. 10. Minnesota Statutes 2000, section 626.556, is amended by adding a subdivision to read:

Subd. 11g. [DATA COLLECTION AND SHARING.] (a) Nothing in this section precludes a local welfare agency or an agency responsible for investigating a report or a law enforcement agency from collecting other relevant information necessary to conduct the assessment or investigation.

(b) Notwithstanding section 13.384 or 144.335, the local welfare agency has access to medical data and records for purposes of subdivision 10, paragraph (h), clause (3).

(c) A local welfare agency or an agency responsible for investigating a report shall share confidential or private data with a law enforcement agency and a law enforcement agency shall share confidential data with a local welfare agency or an agency responsible for investigating a report. Data received by a local welfare agency or an agency responsible for investigating a report from a law enforcement agency are confidential data while the investigation is active.

(d) Reports received by a local law enforcement agency under subdivision 7 must be made available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners. Section 13.82, subdivisions 7, 8, and 9, apply to law enforcement data other than the reports.

(e) A local welfare agency or an agency responsible for the investigation of a report shall make all government data relating to a specific incident of neglect or abuse that is under investigation, petition, prosecution, or service provision and any data concerning any prior incidents of neglect or abuse involving any of the same persons available to the investigating, petitioning, prosecuting, or service provision authority, including county medical examiners or county coroners or their professional delegates.

(f) Records maintained under subdivision 11c, paragraph (a), may be shared with another local welfare agency that requests the information because it is conducting an investigation or providing services under this section.

(g) On the request of the legislative auditor, data on individuals maintained under this section must be released to the legislative auditor in order for the auditor to fulfill the auditor's duties under section 3.971. The auditor shall maintain the data in accordance with chapter 13.

(h) The commissioner of children, families, and learning must be provided with all requested data that are relevant to a report of maltreatment and are in possession of a school facility as defined in subdivision 2, paragraph (f), when the data are requested pursuant to an assessment or investigation of a maltreatment report of a student in a school. If the commissioner of children, families, and learning makes a determination of maltreatment involving an individual performing work within a school facility who is licensed by a board or other agency, the commissioner shall provide necessary and relevant information to the licensing entity to enable the entity to fulfill its statutory duties. Notwithstanding section 13.03, subdivision 4, data received by a licensing entity under this paragraph are governed by section 13.41 or other applicable law governing data of the receiving entity, except that this section applies to the classification of and access to data on the reporter of the maltreatment.

(i) The investigating agency shall exchange not public data with the child maltreatment review panel under section 256.022 if the data are pertinent and necessary for a review requested under section 256.022. Upon completion of the review, the not public data received by the review panel must be returned to the investigating agency.

(j) In conducting investigations and assessments under this section, the notice required by section 13.04, subdivision 2, need not be provided to a minor under the age of ten who is the alleged victim of abuse or neglect.

(k) Any person conducting an investigation or assessment under this section who intentionally discloses the identity of a reporter prior to the completion of the investigation is guilty of a misdemeanor.

(l) This section does not alter disclosure responsibilities under the rules of criminal procedure or the juvenile court rules.

Sec. 11. [REPEALER.]

Minnesota Statutes 2000, section 626.556, subdivisions 10k and 11, are repealed."

Delete the title and insert:

"A bill for an act relating to data practices; modifying provisions governing child maltreatment data; amending Minnesota Statutes 2000, sections 13.82, subdivision 8; 13.871, subdivision 6; 626.556, subdivision 11c, by adding subdivisions; Minnesota Statutes 2001 Supplement, sections 626.5551, subdivision 2; 626.556, subdivisions 7, 10, 10e; repealing Minnesota Statutes 2000, section 626.556, subdivisions 10k, 11."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Krentz from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2738: A bill for an act relating to natural resources; providing for maintenance of leased property; permitting aquatic plant grants; making certain state park permit exemptions; providing for federal law compliance; modifying certain appropriations; appropriating money; amending Minnesota Statutes 2000, sections 84.153; 84.975, by adding a subdivision; 85.054, by adding a subdivision; 97A.055, by adding a subdivision; Laws 2001, First Special Session chapter 2, section 5, subdivisions 2, 5, 6, 7, 8, 11; proposing coding for new law in Minnesota Statutes, chapter 97A.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

Senator Vickerman from the Committee on State and Local Government Operations, to which was referred

S.F. No. 3288: A bill for an act relating to public employment labor relations; extending the expiration of an interest arbitration provision governing firefighters; amending Minnesota Statutes 2000, section 179A.16, subdivision 7a.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Senator Vickerman from the Committee on State and Local Government Operations, to which was re-referred

S.F. No. 2611: A bill for an act relating to crime prevention; adopting a new compact for interstate adult offender supervision and repealing the existing compact; creating an advisory council on interstate adult offender supervision; requiring the appointment of a compact administrator; imposing criminal penalties for a violation of the new compact; appropriating money; amending Minnesota Statutes 2000, section 243.161; proposing coding for new law in Minnesota Statutes, chapter 243; repealing Minnesota Statutes 2000, section 243.16.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Senator Vickerman from the Committee on State and Local Government Operations, to which was re-referred

S.F. No. 3028: A bill for an act relating to education; authorizing the Minnesota commission on national and community service to create and delegate duties to a private, nonprofit corporation; amending Minnesota Statutes 2000, section 124D.385, subdivision 3, by adding a subdivision.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Senator Sams from the Committee on Health and Family Security, to which was referred

S.F. No. 3098: A bill for an act relating to human services; making technical changes to continuing care programs; amending Minnesota Statutes 2000, sections 256B.0915, subdivisions 4, 6, by adding a subdivision; 256B.431, subdivisions 14, 30; 256B.5012, subdivision 2; Minnesota Statutes 2001 Supplement, sections 256B.0913, subdivisions 4, 5, 8, 10, 12, 14; 256B.0915, subdivision 5; 256B.431, subdivisions 2e, 33; 256B.437, subdivision 3; 256B.76.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, after line 10, insert:

"Section 1. Minnesota Statutes 2001 Supplement, section 144A.071, subdivision 1a, is amended to read:

Subd. 1a. [DEFINITIONS.] For purposes of sections 144A.071 to 144A.073, the following terms have the meanings given them:

- (a) "Attached fixtures" has the meaning given in Minnesota Rules, part 9549.0020, subpart 6.
- (b) "Buildings" has the meaning given in Minnesota Rules, part 9549.0020, subpart 7.
- (c) "Capital assets" has the meaning given in section 256B.421, subdivision 16.

(d) "Commenced construction" means that all of the following conditions were met: the final working drawings and specifications were approved by the commissioner of health; the construction contracts were let; a timely construction schedule was developed, stipulating dates for beginning, achieving various stages, and completing construction; and all zoning and building permits were applied for.

(e) "Completion date" means the date on which a certificate of occupancy is issued for a construction project, or if a certificate of occupancy is not required, the date on which the construction project is available for facility use.

(f) "Construction" means any erection, building, alteration, reconstruction, modernization, or improvement necessary to comply with the nursing home licensure rules.

(g) "Construction project" means:

(1) a capital asset addition to, or replacement of a nursing home or certified boarding care home that results in new space or the remodeling of or renovations to existing facility space;

(2) the remodeling or renovation of existing facility space the use of which is modified as a result of the project described in clause (1). This existing space and the project described in clause (1) must be used for the functions as designated on the construction plans on completion of the project described in clause (1) for a period of not less than 24 months; or

(3) capital asset additions or replacements that are completed within 12 months before or after the completion date of the project described in clause (1).

(h) "New licensed" or "new certified beds" means:

(1) newly constructed beds in a facility or the construction of a new facility that would increase the total number of licensed nursing home beds or certified boarding care or nursing home beds in the state; or

(2) newly licensed nursing home beds or newly certified boarding care or nursing home beds that result from remodeling of the facility that involves relocation of beds but does not result in an increase in the total number of beds, except when the project involves the upgrade of boarding care beds to nursing home beds, as defined in section 144A.073, subdivision 1. "Remodeling" includes any of the type of conversion, renovation, replacement, or upgrading projects as defined in section 144A.073, subdivision 1.

(i) "Project construction costs" means the cost of the facility capital asset additions, replacements, renovations, or remodeling projects, construction site preparation costs, and related soft costs. Project construction costs include the cost of any remodeling or renovation of existing facility space which is modified as a result of the construction project. Project construction costs also includes the cost of new technology implemented as part of the construction project. Project construction costs also include the cost of new technology implemented as part of the construction project and depreciable equipment directly identified to the project. Any new technology and depreciable equipment included in the project construction costs shall, at the written election of the facility, be included in the facility's appraised value for purposes of Minnesota Rules, part 9549.0020, subpart 5, and debt incurred for its purchase shall be included as allowable debt for purposes of Minnesota Rules, part 9549.0060, subpart 5, items A and C. Any new technology and depreciable equipment included in the project construction costs that the facility elects not to include in its appraised value and allowable debt shall be treated as provided in section 256B.431, subdivision 17, paragraph (b). Written election under this paragraph must be included in the facility's request for the rate change related to the project, and this election may not be changed.

(j) "Technology" means information systems or devices that make documentation, charting, and staff time more efficient or encourage and allow for care through alternative settings including, but not limited to, touch screens, monitors, hand-helds, swipe cards, motion detectors, pagers, telemedicine, medication dispensers, and equipment to monitor vital signs and self-injections, and to observe skin and other conditions.

Sec. 2. Minnesota Statutes 2001 Supplement, section 144A.36, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] "Eligible nursing home" means any nursing home licensed under sections 144A.01 to 144A.155 and or any boarding care facility, certified by the appropriate authority under United States Code, title 42, sections 1396-1396p, to participate as a vendor in the medical assistance program established under chapter 256B.

Sec. 3. Minnesota Statutes 2000, section 147B.02, subdivision 9, is amended to read:

Subd. 9. [RENEWAL.] (a) To renew a license an applicant must:

(1) annually, or as determined by the board, complete a renewal application on a form provided by the board;

(2) submit the renewal fee;

(3) ~~provide evidence annually of one hour of continuing education in the subject of infection control, including blood-borne pathogen diseases;~~

(4) provide documentation of current and active NCCAOM certification; or

(5) (4) if licensed under subdivision 5 or 6, meet the same NCCAOM professional development activity requirements as those licensed under subdivision 7.

(b) An applicant shall submit any additional information requested by the board to clarify information presented in the renewal application. The information must be submitted within 30 days after the board's request, or the renewal request is nullified.

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

Subd. 2a. [ADULT DAY CARE.] "Adult day care" means a program operating less than 24 hours per day that provides functionally impaired adults with an individualized and coordinated set of services including health services, social services, and nutritional services that are directed at maintaining or improving the participants' capabilities for self-care. Adult day care does not include programs where adults gather or congregate primarily for purposes of socialization, education, supervision, caregiver respite, religious expression, exercise, or nutritious meals.

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

Subd. 2b. [ANNUAL OR ANNUALLY.] "Annual" or "annually" means prior to or within the same month of the subsequent calendar year.

Sec. 6. Minnesota Statutes 2001 Supplement, section 245A.03, subdivision 2, is amended to read:

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

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

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

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

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

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

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

another building that is directly contiguous to the building in which the nonresidential program is located;

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

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

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

(10) programs licensed by the commissioner of corrections;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) the same individual who is the direct payee of these specific waiver funds or paid by a fiscal agent, fiscal intermediary, or employer of record; and

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

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

(c) Nothing in this chapter shall be construed to require licensure for any services provided and funded according to an approved federal waiver plan where licensure is specifically identified as not being a condition for the services and funding.

Sec. 7. Minnesota Statutes 2001 Supplement, 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 ~~directly supervised by the individuals~~ 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 or registration 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 ~~or in a position allowing 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 as provided for in statutes, unless the commissioner has provided written notice to the agency stating that:~~

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

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

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

(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.

Sec. 8. Minnesota Statutes 2001 Supplement, section 245A.04, subdivision 3a, is amended to read:

Subd. 3a. [NOTIFICATION TO SUBJECT AND LICENSE HOLDER OF STUDY RESULTS; DETERMINATION OF RISK OF HARM.] (a) Within 15 working days, the commissioner shall notify the applicant, 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 ~~within sight or hearing~~ 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).

Sec. 9. Minnesota Statutes 2001 Supplement, 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 inaccurate. ~~If the basis of a reconsideration request is that a maltreatment determination or disposition under section 626.556 or 626.557 is incorrect, and the commissioner has issued a final order in an appeal of that determination or disposition under section 256.045 or 245A.08, subdivision 5, the commissioner's order is conclusive on the issue of maltreatment. If the individual did not request reconsideration of the maltreatment determination, the maltreatment determination is deemed conclusive; or~~

(2) the subject of the study does not pose a risk of harm to any person served by the applicant, 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 609.20 (manslaughter in the first degree), 609.205 (manslaughter in the second degree), criminal vehicular homicide under 609.21 (criminal vehicular homicide and injury), 609.215 (aiding suicide or aiding attempted suicide), felony violations under 609.221 to 609.2231 (assault in the first, second, third, or fourth degree), 609.713 (terroristic threats), 609.235 (use of drugs to injure or to facilitate crime), 609.24 (simple robbery), 609.245 (aggravated robbery), 609.25 (kidnapping), 609.255 (false imprisonment), 609.561 or 609.562 (arson in the first or second degree), 609.71 (riot), burglary in the first or second degree under 609.582 (burglary), 609.66 (dangerous weapon), 609.665 (spring guns), 609.67 (machine guns and short-barreled shotguns), 609.749 (harassment; stalking), 152.021 or 152.022 (controlled substance crime in the first or second degree), 152.023, subdivision 1, clause (3) or (4), or subdivision 2, clause (4) (controlled substance crime in the third degree), 152.024, subdivision 1, clause (2), (3), or (4) (controlled substance crime in the fourth degree), 609.224, subdivision 2, paragraph (c) (fifth-degree assault by a caregiver against a vulnerable adult), 609.228 (great bodily harm caused by distribution of drugs), 609.23 (mistreatment of persons confined), 609.231 (mistreatment of residents or patients), 609.2325 (criminal abuse of a vulnerable adult), 609.233 (criminal neglect of a vulnerable adult),

609.2335 (financial exploitation of a vulnerable adult), 609.234 (failure to report), 609.265 (abduction), 609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree), 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree), 609.268 (injury or death of an unborn child in the commission of a crime), 617.293 (disseminating or displaying harmful material to minors), a felony level conviction involving alcohol 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), 609.2661 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 commissioner's final order for an individual under this paragraph is conclusive on the issue of maltreatment and disqualification, including for purposes of subsequent studies conducted under subdivision 3, and 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.~~

(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, ~~the commissioner's final order for an individual under this paragraph is conclusive on the issue of maltreatment and disqualification, including for purposes of subsequent studies conducted under subdivision 3, and 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.~~

Sec. 10. Minnesota Statutes 2000, section 245A.04, is amended by adding a subdivision 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 256.045 or 245A.08, subdivision 5;

(ii) the individual did not request reconsideration on 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;

(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

(4) 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 256.045 or 245A.08, subdivision 5, or a court has issued a final decision;

(ii) the individual did not request reconsideration of the disqualification under this subdivision;
or

(iii) the individual did not request a hearing on the disqualification under section 256.045.

Sec. 11. Minnesota Statutes 2001 Supplement, section 245A.07, subdivision 2a, is amended to read:

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

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

(c) When the final order under paragraph (b) affirms an immediate suspension, and a final licensing sanction is issued under subdivision 3, and the license holder appeals that sanction, the license holder continues to be prohibited from operation of the program pending a final commissioner's order under section 245A.08, subdivision 5, regarding the final licensing sanction.

Sec. 12. Minnesota Statutes 2001 Supplement, section 245A.07, subdivision 3, is amended to read:

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

(a) If the license was suspended or revoked, the notice must inform the license holder of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8510 to 1400.8612 and successor rules. The license holder may appeal an order suspending or revoking a license. The appeal of an order suspending or revoking a license must be made in writing by certified mail and must be received by the commissioner within ten calendar days after the license

holder receives notice that the license has been suspended or revoked. Except as provided in subdivision 2a, paragraph (c), a timely appeal of an order suspending or revoking a license shall stay the suspension or revocation until the commissioner issues a final order.

(b)(1) If the license holder was ordered to pay a fine, the notice must inform the license holder of the responsibility for payment of fines and the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8510 to 1400.8612 and successor rules. The appeal of an order to pay a fine must be made in writing by certified mail and must be received by the commissioner within ten calendar days after the license holder receives notice that the fine has been ordered.

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

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

(4) Fines shall be assessed as follows: the license holder shall forfeit \$1,000 for each determination of maltreatment of a child under section 626.556 or the maltreatment of a vulnerable adult under section 626.557; the license holder shall forfeit \$200 for each occurrence of a violation of law or rule governing matters of health, safety, or supervision, including but not limited to the provision of adequate staff-to-child or adult ratios, and failure to submit a background study; and the license holder shall forfeit \$100 for each occurrence of a violation of law or rule other than those subject to a \$1,000 or \$200 fine above. For purposes of this section, "occurrence" means each violation identified in the commissioner's fine order.

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

Sec. 13. [245A.085] [CONSOLIDATION OF HEARINGS; RECONSIDERATION.]

Hearings authorized under this chapter and sections 256.045, 626.556, and 626.557, shall be consolidated if feasible and in accordance with other applicable statutes and rules. Reconsideration under sections 245A.04, subdivision 3c; 626.556, subdivision 10i; and 626.557, subdivision 9d, shall also be consolidated if feasible.

Sec. 14. Minnesota Statutes 2001 Supplement, section 245A.144, is amended to read:

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

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

syndrome, means of reducing the risk of sudden infant death syndrome in child care, and license holder communication with parents regarding reducing the risk of sudden infant death syndrome. Training for family and group family child care providers must be approved by the county licensing agency according to Minnesota Rules, part 9502.0385.

Sec. 15. Minnesota Statutes 2001 Supplement, section 245A.16, subdivision 1, is amended to read:

Subdivision 1. [DELEGATION OF AUTHORITY TO AGENCIES.] (a) County agencies and private agencies that have been designated or licensed by the commissioner to perform licensing functions and activities under section 245A.04, to recommend denial of applicants under section 245A.05, to issue correction orders, to issue variances, and recommend a conditional license under section 245A.06, or to recommend suspending or revoking a license or issuing a fine under section 245A.07, shall comply with rules and directives of the commissioner governing those functions and with this section. The following variances are excluded from the delegation of variance authority and may be issued only by the commissioner:

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

(2) adult foster care maximum capacity;

(3) adult foster care minimum age requirement;

(4) child foster care maximum age requirement;

(5) variances regarding disqualified individuals except that county agencies may issue variances under section 245A.04, subdivision 3e, regarding disqualified individuals when the county is responsible for conducting a consolidated reconsideration according to section 245A.04, subdivision 3b, paragraph (f), of a county maltreatment determination and a disqualification based on serious or recurring maltreatment; and

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

(b) County agencies must report information about disqualification reconsiderations under section 245A.04, subdivision 3b, paragraph (f), and variances granted under paragraph (a), clause (5), to the commissioner at least monthly in a format prescribed by the commissioner.

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

Sec. 16. Minnesota Statutes 2001 Supplement, section 256.045, subdivision 3b, is amended to read:

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

(1) committed maltreatment under section 626.556 or 626.557, which is serious or recurring;

(2) committed an act or acts meeting the definition of any of the crimes listed in section 245A.04, subdivision 3d, paragraph (a), clauses (1) to (4); or

(3) failed to make required reports under section 626.556 or 626.557, for incidents in which:

(i) ~~the final disposition under section 626.556 or 626.557 was substantiated maltreatment; and~~

(ii) ~~the maltreatment was recurring or serious; or substantiated serious or recurring~~

~~maltreatment of a minor under section 626.556 or of a vulnerable adult under section 626.557 for which there is a preponderance of evidence that the maltreatment occurred, and that the subject was responsible for the maltreatment that was serious or recurring.~~

(b) If the disqualification is affirmed, the state human services referee shall determine whether the individual poses a risk of harm in accordance with the requirements of section 245A.04, subdivision 3b.

(c) The state human services referee shall recommend an order to the commissioner of health, children, families, and learning, or human services, as applicable, who shall issue a final order. The commissioner shall affirm, reverse, or modify the final disposition. Any order of the commissioner issued in accordance with this subdivision is conclusive upon the parties unless appeal is taken in the manner provided in subdivision 7. ~~Except as provided under section 245A.04, subdivisions 3b, paragraphs (e) and (f), and 3c,~~ In any licensing appeal under chapter 245A and sections 144.50 to 144.58 and 144A.02 to 144A.46, the commissioner's determination as to maltreatment is conclusive, as provided under section 245A.04, subdivision 3f.

Sec. 17. Minnesota Statutes 2001 Supplement, section 256.045, subdivision 4, is amended to read:

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

(b) The private data obtained by subpoena in a hearing under subdivision 3, paragraph (a), clause (4), (8), or (9), must be subject to a protective order which prohibits its disclosure for any other purpose outside the hearing provided for in this section without prior order of the district court. Disclosure without court order is punishable by a sentence of not more than 90 days imprisonment or a fine of not more than \$700, or both. These restrictions on the use of private data do not prohibit access to the data under section 13.03, subdivision 6. Except for appeals under subdivision 3, paragraph (a), clauses (4), (5), (8), and (9), upon request, the county agency shall provide reimbursement for transportation, child care, photocopying, medical assessment, witness fee, and other necessary and reasonable costs incurred by the applicant, recipient, or former recipient in connection with the appeal. All evidence, except that privileged by law, commonly accepted by reasonable people in the conduct of their affairs as having probative value with respect to the issues shall be submitted at the hearing and such hearing shall not be "a contested case" within the meaning of section 14.02, subdivision 3. The agency must present its evidence prior to or at the hearing, and may not submit evidence after the hearing except by agreement of the parties at the hearing, provided the petitioner has the opportunity to respond.

(c) In hearings under subdivision 3, paragraph (a), clauses (4), (8), and (9), involving determinations of maltreatment or disqualification made by more than one county agency, by a county agency and a state agency, or by more than one state agency, the hearings may be consolidated into a single fair hearing upon the consent of all parties and the state human services referee.

Sec. 18. Minnesota Statutes 2000, section 256B.0625, is amended by adding a subdivision to read:

Subd. 44. [TARGETED CASE MANAGEMENT SERVICES.] Medical assistance covers case management services for vulnerable adults and adults with developmental disabilities, in accordance with section 256B.0924."

Page 15, line 7, delete "in the state's" and insert "as"

Page 15, line 8, after "program" insert "providers"

Page 27, line 35, before the period, insert ", unless they are delicensing five or fewer beds, or less than six percent of their total licensed bed capacity, whichever is greater, and are located in a county in the top three quartiles of beds per 1,000 persons aged 65 or older. Facilities delicensing five or fewer beds or less than six percent of their total licensed bed capacity, whichever is greater, in any three-month period without an approved closure plan are eligible to assign the amount calculated under subdivision 6 to themselves. If a facility is delicensing the greater of six or more beds, or six percent or more of its total licensed bed capacity, and does not have an approved closure plan or is not eligible for the adjustment under subdivision 6, the commissioner shall calculate the amount the facility would have been eligible to assign under subdivision 6, and shall use this amount to provide equal rate adjustments to the five nursing facilities with the lowest total operating payment rates in the state development region designated under section 462.385, in which the facility that delicensed beds is located" and delete "For delicensures adding up to"

Page 27, line 36, delete the new language

Page 28, lines 1 and 5, delete the new language

Page 28, line 6, delete the new language and reinstate the stricken language

Page 29, after line 6, insert:

"Sec. 34. Minnesota Statutes 2001 Supplement, section 256B.438, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] This section establishes the method and criteria used to determine resident reimbursement classifications based upon the assessments of residents of nursing homes and boarding care homes whose payment rates are established under section 256B.431, 256B.434, or 256B.435. Resident reimbursement classifications shall be established according to the 34 group, resource utilization groups, version III or RUG-III model as described in section 144.0724. Reimbursement classifications established under this section shall be implemented after June 30, 2002, but no later than January 1, 2003. Reimbursement classifications established under this section shall be implemented no earlier than six weeks after the commissioner mails notices of payment rates to the facilities."

Page 29, line 31, delete "by the legislature" and insert "in Laws 2001, First Special Session chapter 9, article 1, section 30"

Page 33, after line 35, insert:

"Sec. 37. Minnesota Statutes 2001 Supplement, section 626.556, subdivision 10i, is amended to read:

Subd. 10i. [ADMINISTRATIVE RECONSIDERATION OF FINAL DETERMINATION OF MALTREATMENT AND DISQUALIFICATION BASED ON SERIOUS OR RECURRING

MALTREATMENT; REVIEW PANEL.] (a) Except as provided under paragraph (e), an individual or facility that the commissioner of human services, a local social service agency, or the commissioner of children, families, and learning determines has maltreated a child, an interested person acting on behalf of the child, regardless of the determination, who contests the investigating agency's final determination regarding maltreatment, may request the investigating agency to reconsider its final determination regarding maltreatment. The request for reconsideration must be submitted in writing to the investigating agency within 15 calendar days after receipt of notice of the final determination regarding maltreatment or, if the request is made by an interested person who is not entitled to notice, within 15 days after receipt of the notice by the parent or guardian of the child. Effective January 1, 2002, an individual who was determined to have maltreated a child under this section and who was disqualified on the basis of serious or recurring maltreatment under section 245A.04, subdivision 3d, may request reconsideration of the maltreatment determination and the disqualification. 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 under section 245A.04, subdivision 3a.

(b) Except as provided under paragraphs (e) and (f), if the investigating agency denies the request or fails to act upon the request within 15 calendar days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045 may submit to the commissioner of human services or the commissioner of children, families, and learning a written request for a hearing under that section. Section 256.045 also governs hearings requested to contest a final determination of the commissioner of children, families, and learning. For reports involving maltreatment of a child in a facility, an interested person acting on behalf of the child may request a review by the child maltreatment review panel under section 256.022 if the investigating agency denies the request or fails to act upon the request or if the interested person contests a reconsidered determination. The investigating agency shall notify persons who request reconsideration of their rights under this paragraph. The request must be submitted in writing to the review panel and a copy sent to the investigating agency within 30 calendar days of receipt of notice of a denial of a request for reconsideration or of a reconsidered determination. The request must specifically identify the aspects of the agency determination with which the person is dissatisfied.

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

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

(e) Effective January 1, 2002, if an individual was disqualified under section 245A.04, subdivision 3d, on the basis of a determination of maltreatment, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under paragraph (a) and requested reconsideration of the disqualification under section 245A.04, subdivision 3b, reconsideration of the maltreatment determination and reconsideration of the disqualification shall be consolidated into a single reconsideration. If reconsideration of the maltreatment determination is denied or if the disqualification is not set aside or rescinded under section 245A.04, subdivision 3b, the individual may request a fair hearing under section 256.045. If an individual disqualified on the basis of a determination of maltreatment, which was serious or recurring requests a fair hearing under paragraph (b) on the maltreatment and the disqualification, the scope of the fair hearing shall include both the maltreatment determination and the disqualification.

(f) Effective January 1, 2002, if a maltreatment determination or a disqualification based on serious or recurring maltreatment 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. As provided for under section 245A.08, subdivision 2a, the scope of the contested case hearing shall include the maltreatment determination, disqualification, and licensing sanction or denial of a license. In such cases, a fair hearing regarding the maltreatment determination shall not be conducted under paragraph (b). If the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under section 245A.04, subdivision 3, the hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.

(g) For purposes of this subdivision, "interested person acting on behalf of the child" means a parent or legal guardian; stepparent; grandparent; guardian ad litem; adult stepbrother, stepsister, or sibling; or adult aunt or uncle; unless the person has been determined to be the perpetrator of the maltreatment.

Sec. 38. Minnesota Statutes 2000, section 626.557, subdivision 3a, is amended to read:

Subd. 3a. [REPORT NOT REQUIRED.] The following events are not required to be reported under this section:

(a) A circumstance where federal law specifically prohibits a person from disclosing patient identifying information in connection with a report of suspected maltreatment, unless the vulnerable adult, or the vulnerable adult's guardian, conservator, or legal representative, has consented to disclosure in a manner which conforms to federal requirements. Facilities whose patients or residents are covered by such a federal law shall seek consent to the disclosure of suspected maltreatment from each patient or resident, or a guardian, conservator, or legal representative, upon the patient's or resident's admission to the facility. Persons who are prohibited by federal law from reporting an incident of suspected maltreatment shall immediately seek consent to make a report.

(b) Verbal or physical aggression occurring between patients, residents, or clients of a facility, or self-abusive behavior by these persons does not constitute abuse unless the behavior causes serious harm. The operator of the facility or a designee shall record incidents of aggression and self-abusive behavior to facilitate review by licensing agencies and county and local welfare agencies.

(c) Accidents as defined in section 626.5572, subdivision 3.

(d) Events occurring in a facility that result from an individual's ~~single mistake~~ error in the provision of therapeutic conduct to a vulnerable adult, as ~~defined~~ provided in section 626.5572, subdivision 17, paragraph (c), clause (4).

(e) Nothing in this section shall be construed to require a report of financial exploitation, as defined in section 626.5572, subdivision 9, solely on the basis of the transfer of money or property by gift or as compensation for services rendered.

Sec. 39. Minnesota Statutes 2001 Supplement, section 626.557, subdivision 9d, is amended to read:

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

maltreatment under section 245A.04, subdivision 3d, may request reconsideration of the maltreatment determination and the disqualification. 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 under section 245A.04, subdivision 3a.

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

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

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

(e) If an individual was disqualified under section 245A.04, subdivision 3d, on the basis of a determination of maltreatment, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under paragraph (a) and reconsideration of the disqualification under section 245A.04, subdivision 3b, reconsideration of the maltreatment determination and requested reconsideration of the disqualification shall be consolidated into a single reconsideration. If reconsideration of the maltreatment determination is denied or if the disqualification is not set aside or rescinded under section 245A.04, subdivision 3b, the individual may request a fair hearing under section 256.045. ~~If an individual who was disqualified on the basis of serious or recurring maltreatment requests a fair hearing under paragraph (b) on the maltreatment and the disqualification, the scope of the fair hearing shall include both the maltreatment determination and the disqualification.~~

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

(g) Until August 1, 2002, an individual or facility that was determined by the commissioner of human services or the commissioner of health to be responsible for neglect under section 626.5572, subdivision 17, after October 1, 1995, and before August 1, 2001, that believes that the finding of neglect does not meet an amended definition of neglect may request a reconsideration of the determination of neglect. The commissioner of human services or the commissioner of health shall mail a notice to the last known address of individuals who are eligible to seek this reconsideration. The request for reconsideration must state how the established findings no longer meet the elements of the definition of neglect. The commissioner shall review the request for reconsideration and make a determination within 15 calendar days. The commissioner's decision on this reconsideration is the final agency action.

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

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

Sec. 40. [REPEALER.]

Minnesota Statutes 2000, section 147B.01, subdivisions 8 and 15; and Minnesota Statutes 2001 Supplement, section 256B.0621, subdivision 1, are repealed."

Renumber the sections in sequence

Delete the title and insert:

"A bill for an act relating to human services; clarifying exclusions from department of human services licensure, background study requirements, due process, training, and license delegations; amending fair hearing requirements; clarifying a provision related to errors when providing therapeutic conduct to a vulnerable adult; making technical changes to continuing care programs; repealing references to the continuing education infectious disease requirement for licensed acupuncturists; expanding the definition of project construction costs and of eligible nursing home; clarifying implementation deadlines for reimbursement classifications; clarifying medical assistance covered services; amending Minnesota Statutes 2000, sections 147B.02, subdivision 9; 245A.02, by adding subdivisions; 245A.04, by adding a subdivision; 256B.0625, by adding a subdivision; 256B.0915, subdivisions 4, 6, by adding a subdivision; 256B.431, subdivisions 14, 30; 256B.5012, subdivision 2; 626.557, subdivision 3a; Minnesota Statutes 2001 Supplement, sections 144A.071, subdivision 1a; 144A.36, subdivision 1; 245A.03, subdivision 2; 245A.04, subdivisions 3, 3a, 3b; 245A.07, subdivisions 2a, 3; 245A.144; 245A.16, subdivision 1; 256.045, subdivisions 3b, 4; 256B.0913, subdivisions 4, 5, 8, 10, 12, 14; 256B.0915, subdivision 5; 256B.431, subdivisions 2e, 33; 256B.437, subdivision 3; 256B.438, subdivision 1; 256B.76; 626.556, subdivision 10i; 626.557, subdivision 9d; proposing coding for new law in Minnesota Statutes, chapter 245A; repealing Minnesota Statutes 2000, section 147B.01, subdivisions 8, 15; Minnesota Statutes 2001 Supplement, section 256B.0621, subdivision 1."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Vickerman from the Committee on State and Local Government Operations, to which was referred

S.F. No. 2546: A bill for an act relating to local government; directing the cities of Rockville and Pleasant Lake and the town of Rockville to joint develop a consolidation plan.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [CONSOLIDATION PLAN.]

Subdivision 1. [SUBJECTS; DEADLINE.] The cities of Rockville and Pleasant Lake and the town of Rockville may develop a consolidation plan within one year after the effective date of this act. The consolidation plan must address or expressly eliminate each subject mentioned or referred to in Minnesota Statutes, section 414.041, and any other matters pertinent to the consolidation. The plan must provide for the election of new municipal officers for the combined municipality.

The one-year planning period shall be considered a proceeding for the purposes of Minnesota Statutes, section 414.033, subdivision 6.

Subd. 2. [LOCAL HEARING.] The communities shall jointly conduct at least one hearing regarding the consolidation plan and to discuss the issues referred to in Minnesota Statutes, section 414.041, subdivision 3. Any hearings conducted under this provision must be preceded by at least two weeks' published notice in a legal newspaper of general circulation in the affected area. Changes may be made to the consolidation plan as a result of the hearings.

Subd. 3. [APPROVAL.] The consolidation plan must be approved by the governing body of each participating city and town in a joint resolution.

Subd. 4. [REFERENDA.] Once each governing body approves the consolidation plan, referenda shall be conducted at a general or special election in each of the three communities on the same day. Costs of the respective referenda shall be borne by the respective communities. A majority of those voting in each community must approve the proposed consolidation.

Subd. 5. [FILING; FINAL APPROVAL.] If the consolidation is approved in each referenda, the plan, joint resolution, and results of the referenda shall be filed with the director of the state office of strategic and long-range planning. The director may review and comment, but shall, within 30 days, order the consolidation of the communities in accordance with the provisions of the consolidation plan. The director may not alter the boundaries, procedures, or other provisions of the plan.

Subd. 6. [EFFECTIVE; NOTIFICATION.] The consolidation shall be effective upon the issuance of the consolidation order by the director. The director shall cause copies of the order to be mailed to the parties, the secretary of state, the department of revenue, the state demographer, and the affected county auditor.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day after its final enactment. No local approval is required."

Delete the title and insert:

"A bill for an act relating to local government; permitting the cities of Rockville and Pleasant Lake and the town of Rockville to jointly develop a consolidation plan; requiring a hearing, approval by the governing bodies, and referenda."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Johnson, Dean from the Committee on Transportation, to which was referred

S.F. No. 2218: A bill for an act relating to local government; establishing a town road maintenance revolving loan fund; appropriating money; amending Minnesota Statutes 2000, section 12.09, subdivision 5; proposing coding for new law in Minnesota Statutes, chapter 162.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

Senator Krentz from the Committee on Environment and Natural Resources, to which was re-referred

S.F. No. 1811: A bill for an act relating to drainage; modifying the requirement for approval of drainage activities; allowing transfer of a public drainage system to a water management authority; defining water management authority; amending Minnesota Statutes 2000, sections 103E.005, subdivision 16, by adding a subdivision; 103E.011, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 103E.

Reports the same back with the recommendation that the bill be amended as follows:

Page 6, line 7, before "an" insert "that all rights to" and after "outlet" insert "are preserved"

Page 6, line 8, delete "that" and insert "the rights to an outlet that existed on the date of transfer"

Page 6, delete line 9

Page 6, line 10, delete everything before the period

Page 6, line 16, delete "property right" and insert "drainage rights"

Page 6, line 18, after "(a)" insert "Except as provided in this section,"

Page 6, line 32, delete everything after "(b)"

Page 6, delete lines 33 to 36

Page 7, delete line 1

Page 7, line 2, delete everything before "Activities"

Page 7, line 4, after "in" insert "public"

And when so amended the bill do pass and be re-referred to the Committee on Taxes. Amendments adopted. Report adopted.

Senator Murphy from the Committee on Agriculture, General Legislation and Veterans Affairs, to which was referred

S.F. No. 3256: A bill for an act relating to agriculture; modifying limits on the sale of prepared foods at community events or farmers' markets; amending Minnesota Statutes 2000, section 28A.15, subdivision 9.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 11, strike "farmer's" and insert "farmers'"

Page 1, line 16, reinstate the stricken language

Page 1, delete line 17 and insert "inspected subject to state inspection." Prepared foods sold under this subdivision must be labeled to accurately reflect the name and address of the person preparing and selling the foods."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Vickerman from the Committee on State and Local Government Operations, to which was referred

S.F. No. 1376: A bill for an act relating to annexation; providing for the election of municipal council members after certain annexations; amending Minnesota Statutes 2000, sections 414.031, subdivision 4a; and 414.09, subdivision 3.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 9, strike "PROCEEDINGS INITIATED BY JOINT RESOLUTION" and insert "PROVIDING FOR ELECTION OF NEW MUNICIPAL OFFICERS"

Page 1, line 14, after the period, insert "The director of the office of strategic and long-range planning, or the director's designee, may also order an election of new municipal officers in accordance with section 414.09 as part of any other annexation order under this section if the director or the director's designee determines that such an election would be equitable."

Page 1, line 23, after "planning" insert ", or the director's designee,"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Vickerman from the Committee on State and Local Government Operations, to which was referred

S.F. No. 3322: A bill for an act relating to the metropolitan council; providing for the external use of existing service capacity; modifying the depreciation rate when assuming ownership of existing facilities; repealing obsolete rules; amending Minnesota Statutes 2000, sections 473.129, by adding a subdivision; 473.511, subdivision 4; repealing Minnesota Rules, parts 5900.0100; 5900.0200; 5900.0300; 5900.0400; 5900.0500; 5900.0600; 5900.0700; 5900.0800; 5900.0900; 5900.1000; 5900.1100; 5900.1200; 5900.1300; 5900.1400; 5900.1500; 5900.1600; 5900.1700; 5900.1800; 5900.1900; 5900.2000; 5900.2100; 5900.2200; 5900.2300; 5900.2400; 5900.2500; 5900.2600; 5900.2700; 5900.2800; 5900.2900; 5900.3000; 5900.3100; 5900.3200; 5900.3300; 5900.3400; 5900.3500; 5900.3600; 5900.3700; 5900.3800; 5900.3900; 5900.4000; 5900.4100; 5900.4200; 5900.4300; 5900.4400; 5900.4500; 5900.4600; 5900.4700; 5900.4800; 5900.4900; 5900.5000; 5900.5100; 5900.5200; 5900.5300; 5900.5400; 5900.5500; 5900.5600; 5900.5700; 5900.5800; 5900.5900; 5900.6000; 5900.6100; 5900.6200; 5900.6300; 5900.6400; 5900.6500; 5900.6800; 5900.6900; 5900.7000; 5900.7100; 5900.7200; 5900.7300; 5900.7400; 5900.7500.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Senator Vickerman from the Committee on State and Local Government Operations, to which was referred

S.F. No. 2890: A bill for an act relating to contracts; regulating public works contracts; proposing coding for new law in Minnesota Statutes, chapter 15.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Senator Vickerman from the Committee on State and Local Government Operations, to which was referred

S.F. No. 3168: A bill for an act relating to municipalities; providing for a bidding exception for certain water tank service contracts; amending Minnesota Statutes 2000, section 471.345, by adding a subdivision.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 471.345, is amended by adding a subdivision to read:

Subd. 5b. [WATER TANK SERVICE CONTRACTS.] A municipality may, by direct negotiation through the solicitation of requests for proposals, enter into a multiyear professional service contract for the engineering, repair, and maintenance of a water storage tank and appurtenant facilities owned, controlled, or operated by the municipality, if the contract contains:

(1) a provision that the municipality is not required to make total payments in a single year that exceed the water utility charges received by the municipality for that year;

(2) a provision requiring that the work performed be done under the review of a professional engineer licensed in the state of Minnesota attesting that the work will be performed in compliance with all applicable codes and engineering standards; and

(3) a provision that if, at the commencement of the contract, the water tank or appurtenant facilities requires engineering, repair, or service in order to bring the water tank or facilities into compliance with federal, state, or local requirements, the party contracting with the municipality is responsible for providing the engineering, repair, or service. The costs to bring the water tank or facilities into compliance must be itemized separately and charged to the municipality in payments spread over a period of not less than three years from the commencement of the contract.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Vickerman from the Committee on State and Local Government Operations, to which was referred

S.F. No. 2210: A bill for an act relating to annexation; strengthening the effect of an orderly annexation agreement; amending Minnesota Statutes 2000, section 414.0325, by adding a subdivision.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, after line 19, insert:

"Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment and applies to annexations ordered on or after that date."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Sams from the Committee on Health and Family Security, to which was referred

S.F. No. 3133: A bill for an act relating to health; requiring legislative approval before the commissioner of health adopts new or amended rules governing the Minnesota Clean Indoor Air Act; amending Minnesota Statutes 2000, section 144.417, subdivision 1.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 10, before "The" insert "(a)"

Page 1, line 13, after the period, insert:

"(b)"

Page 1, line 15, after the period, insert "This paragraph does not apply to a rule or severable portion of a rule governing smoking in office buildings, factories, warehouses, or similar places of work, or in health care facilities. This paragraph does not apply to a rule changing the definition of "restaurant" to make it the same as the definition in section 157.15, subdivision 12."

Amend the title as follows:

Page 1, line 3, after "adopts" insert "certain"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Marty from the Committee on Judiciary, to which was re-referred

S.F. No. 2827: A bill for an act relating to higher education; providing for registration of agents of student athletes; defining terms; providing penalties and remedies; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 81A.

Reports the same back with the recommendation that the bill be amended as follows:

Page 12, line 1, delete "to the prevailing"

Page 12, line 2, delete "party"

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Senator Marty from the Committee on Judiciary, to which was re-referred

S.F. No. 2957: A bill for an act relating to professions; requiring reporting of practice act violations to the board of dentistry; providing complainant immunity; amending Minnesota Statutes 2000, section 13.383, subdivision 13; proposing coding for new law in Minnesota Statutes, chapter 150A.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Senator Johnson, Dean from the Committee on Transportation, to which was referred

S.F. No. 3135: A bill for an act relating to motor vehicles; defining street-sweeping vehicles as special mobile equipment for vehicle registration purposes; amending Minnesota Statutes 2000, section 168.011, subdivision 22.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Senator Scheid from the Committee on Commerce, to which was referred

S.F. No. 3345: A bill for an act relating to insurance; regulating certain credit scoring procedures; proposing coding for new law in Minnesota Statutes, chapter 60K.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 7, delete "Subdivision 1. [REQUIREMENT.]" and after "writing" insert "private passenger automobile"

Page 1, delete lines 14 to 18

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Scheid from the Committee on Commerce, to which was referred

S.F. No. 2363: A bill for an act relating to insurance; regulating the reporting of insurance information; prohibiting credit scoring; amending Minnesota Statutes 2000, sections 72A.20, by adding a subdivision; 72A.491, subdivision 5.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 72A.20, is amended by adding a subdivision to read:

Subd. 36. [LIMITATIONS ON THE USE OF CREDIT INFORMATION.] (a) No insurer may reject, cancel, or nonrenew a policy of motor vehicle insurance as defined under section 65B.01 or a policy of homeowner's insurance as defined under section 65A.27, for any person in whole or in part on the basis of credit information, including a credit reporting product known as a "credit score" or "insurance score," without consideration of any other applicable underwriting factor.

(b) If credit information, credit scoring, or insurance scoring is to be used in underwriting, the

insurer must disclose to the consumer that credit information will be obtained and used as part of the insurance underwriting process.

(c) Insurance inquiries and nonconsumer-initiated inquiries must not be used as part of the insurance credit scoring or insurance scoring process.

(d) If a credit score, insurance score, or other credit information relating to a consumer, with respect to the types of insurance referred to in paragraph (a), is adversely impacted or cannot be generated because of the lack of a credit history, the insurer must exclude the use of credit as a factor in underwriting.

(e) Insurers must provide reasonable credit exemptions based upon prior credit histories for persons whose credit information is unduly influenced by extraordinary life events, such as catastrophic injury or the death of a spouse.

(f) A credit scoring or insurance scoring methodology must not be used by an insurer if the credit scoring or insurance scoring methodology incorporates the gender, race, nationality, or religion of an insured or applicant.

(g) Insurers that employ a credit scoring or insurance scoring system in underwriting must have on file with the commissioner:

- (1) the insurer's credit scoring or insurance scoring methodology; and
- (2) information that supports the insurer's use of a credit score or insurance score.

Information provided by an insurer to the commissioner under this subdivision is trade secret information under section 13.37.

Sec. 2. [INSURER FILING.]

Insurers described in section 1, paragraph (g), shall file the required information with the commissioner within 120 days of the effective date of this act, or prior to implementation of a credit scoring system by the insurer, if that date is later."

Delete the title and insert:

"A bill for an act relating to insurance; limiting the use of credit information; amending Minnesota Statutes 2000, section 72A.20, by adding a subdivision."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Murphy from the Committee on Agriculture, General Legislation and Veterans Affairs, to which was re-referred

S.F. No. 2664: A bill for an act relating to the environment; modifying prohibition on the release of pollutants into state waters; prohibiting permits for the construction of new open air swine basins; amending Minnesota Statutes 2000, section 97C.065; proposing coding for new law in Minnesota Statutes, chapter 116.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Senator Anderson from the Committee on Jobs, Housing and Community Development, to which was referred

S.F. No. 2871: A bill for an act relating to economic development; creating the greater Minnesota redevelopment program; proposing coding for new law in Minnesota Statutes, chapter 116J; repealing Minnesota Statutes 2000, sections 116J.561; 116J.562; 116J.563; 116J.564; 116J.565; 116J.566; 116J.567.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 116J.565, subdivision 1, is amended to read:

Subdivision 1. [CHARACTERISTICS.] (a) If applications for grants exceed the available appropriations, grants shall be made for sites that, in the commissioner's judgment, provide the highest return in public benefits for the public costs incurred. In making this judgment, the commissioner shall give priority to redevelopment projects with one or more of the following characteristics:

- (1) the need for redevelopment in conjunction with contamination remediation needs;
- (2) the redevelopment project meets current tax increment financing requirements for a redevelopment district and tax increments will contribute to the project;
- (3) the redevelopment potential within the municipality;
- (4) proximity to public transit if located in the metropolitan area; and
- (5) multijurisdictional projects that take into account the need for affordable housing, transportation, and environmental impact.

(b) The factors in paragraph (a), clauses (1) to (5), are not listed in a rank order of priority; rather the commissioner may weigh each factor, depending upon the facts and circumstances, as the commissioner considers appropriate. The commissioner may consider other factors that affect the net return of public benefits for completion of the redevelopment plan. The commissioner, notwithstanding the listing of priorities and the goal of maximizing the return of public benefits, shall make grants that distribute available money to sites both within and outside of the metropolitan area. The commissioner shall provide a written statement of the supporting reasons for each grant. Unless sufficient applications are not received within the first nine months of a fiscal year for qualifying sites outside of the metropolitan area, at least ~~25~~ 50 percent of the money provided as grants in a fiscal year must be made for sites located outside of the metropolitan area. The commissioner shall consult with the metropolitan council about metropolitan area grants."

Delete the title and insert:

"A bill for an act relating to economic development; regulating the geographic distribution of redevelopment grants; amending Minnesota Statutes 2000, section 116J.565, subdivision 1."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Anderson from the Committee on Jobs, Housing and Community Development, to which was referred

S.F. No. 3136: A bill for an act relating to workers' compensation; modifying payment provisions; modifying intervention procedures; amending Minnesota Statutes 2000, sections 176.092, subdivision 1, by adding a subdivision; 176.106, subdivision 6; 176.111, subdivision 22; 176.130, subdivisions 8, 9; 176.139, subdivision 2; 176.155, subdivision 2; 176.181, subdivision 3; 176.182; 176.185, subdivision 5a; 176.194, subdivision 3; 176.361; 176.84, subdivision 2; Minnesota Statutes 2001 Supplement, section 176.103, subdivision 3.

Reports the same back with the recommendation that the bill be amended as follows:

Page 4, after line 31, insert:

"Sec. 6. Minnesota Statutes 2000, section 176.129, is amended by adding a subdivision to read:

Subd. 1b. [DEFINITIONS.] (a) For purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Paid indemnity losses" means gross benefits paid for temporary total disability, economic

recovery compensation, permanent partial disability, temporary partial disability, impairment compensation, permanent total disability, vocational rehabilitation benefits, or dependency benefits, exclusive of medical and supplementary benefits. In the case of policy deductibles, paid indemnity losses includes all benefits paid, including the amount below deductible limits.

(c) "Standard workers' compensation premium" means the data service organization's designated statistical reporting pure premium after the application of experience rating plan adjustments, but prior to the application of premium discounts, policyholder dividends, other premium adjustments, expense constants, and other deviations from the designated statistical reporting pure premium.

Sec. 7. Minnesota Statutes 2000, section 176.129, is amended by adding a subdivision to read:

Subd. 2a. [PAYMENTS TO FUND.] (a) On or before April 1 of each year, all self-insured employers shall report paid indemnity losses and insurers shall report paid indemnity losses and standard workers' compensation premium in the form and manner prescribed by the commissioner. On June 1 of each year, the commissioner shall determine the total amount needed to pay all estimated liabilities, including administrative expenses, of the special compensation fund for the following fiscal year. The commissioner shall assess this amount against self-insured employers and insurers. The total amount of the assessment must be allocated between self-insured employers and insured employers based on paid indemnity losses for the preceding calendar year. The method of assessing self-insured employers must be based on paid indemnity losses. The method of assessing insured employers is based on premium, collectible through a policyholder surcharge. On or before June 30 of each year, the commissioner shall provide notification to each self-insured employer and insurer of amounts due. At least one-half of the payment shall be made to the commissioner for deposit into the special compensation fund on or before August 1 of the same calendar year. The remaining balance is due on February 1 of the following calendar year.

(b) The portion of the total amount that is collected from self-insured employers is equal to that proportion of the paid indemnity losses for the preceding calendar year, which the paid indemnity losses of all self-insured employers bore to the total paid indemnity losses made by all self-insured employers and insured employers during the preceding calendar year. The portion of the total amount that is collected from insured employers is equal to that proportion of the total paid indemnity losses on behalf of all insured employers bore to the total paid indemnity losses on behalf of all self-insured employers and insured employers during the preceding calendar year. The portion of the total assessment allocated to insured employers that is collected from each insured employer must be based on standard workers' compensation premium written in the state during the preceding calendar year. An employer who has ceased to be self-insured shall continue to be liable for assessments based on paid indemnity losses made by the employer in the preceding calendar year.

(c) Insurers shall collect the assessments from their insured employers through a surcharge based on premium, as provided in paragraph (a). Assessments when collected do not constitute an element of loss for the purpose of establishing rates for workers' compensation insurance, but for the purpose of collection are treated as separate costs imposed on insured employers. The premium surcharge is included in the definition of gross premium as defined in section 297I.01. An insurer may cancel a policy for nonpayment of the premium surcharge. The premium surcharge is excluded from the definition of premium except as otherwise provided in this paragraph.

Sec. 8. Minnesota Statutes 2000, section 176.129, subdivision 7, is amended to read:

Subd. 7. [REFUNDS.] In case deposit is or has been made under subdivision 2 and dependency later is shown, or if deposit is or has been made pursuant to subdivision 2 or 3 2a by mistake or inadvertence, or under circumstances that justice requires a refund, the state treasurer is authorized to refund the deposit under order of the commissioner, a compensation judge, the workers' compensation court of appeals, or a district court. Claims for refunds must be submitted to the commissioner within three years of the assessment due date. There is appropriated to the commissioner from the fund an amount sufficient to make the refund and payment.

Sec. 9. Minnesota Statutes 2000, section 176.129, subdivision 9, is amended to read:

Subd. 9. [POWERS OF FUND.] In addition to powers granted to the special compensation fund by this chapter the fund may do the following:

- (a) sue and be sued in its own name;
- (b) intervene in or commence an action under this chapter or any other law, including, but not limited to, intervention or action as a subrogee to the division's right in a third-party action, any proceeding under this chapter in which liability of the special compensation fund is an issue, or any proceeding which may result in other liability of the fund or to protect the legal right of the fund;
- (c) enter into settlements including but not limited to structured, annuity purchase agreements with appropriate parties under this chapter. Notwithstanding any other provision of this chapter, any settlement may provide that the fund partially or totally denies liability for payment of benefits, and no determination of employer insurance status and liability under section 176.183, subdivision 2, shall be required for approval of the stipulation for a settlement;
- (d) contract with another party to administer the special compensation fund;
- (e) take any other action which an insurer is permitted by law to take in operating within this chapter; and
- (f) conduct a financial audit of indemnity claim payments, premium, and assessments reported to the fund. This may be contracted by the fund to a private auditing firm.

Sec. 10. Minnesota Statutes 2001 Supplement, section 176.129, subdivision 10, is amended to read:

Subd. 10. [PENALTY.] Sums paid to the commissioner pursuant to this section shall be in the manner prescribed by the commissioner. The commissioner may impose a penalty payable to the commissioner for deposit in the assigned risk safety account of up to 15 percent of the amount due under this section but not less than \$1,000 in the event payment is not made or reports are not submitted in the manner prescribed.

Sec. 11. Minnesota Statutes 2001 Supplement, section 176.129, subdivision 13, is amended to read:

Subd. 13. [EMPLOYER REPORTS.] All employers and insurers shall make reports to the commissioner as required for the proper administration of this section and Minnesota Statutes 1990, section 176.131, and Minnesota Statutes 1994, section 176.132. Employers and insurers may not be reimbursed from the special compensation fund for any periods unless the employer or insurer is up to date with all past due and currently due assessments, penalties, and reports to the special compensation fund under ~~subdivision 3~~ this section.

[EFFECTIVE DATE.] This section is effective with assessments due after July 1, 2003."

Page 9, after line 20, insert:

"Sec. 20. Minnesota Statutes 2001 Supplement, section 176.194, subdivision 4, is amended to read:

Subd. 4. [PENALTIES.] The penalties for violations of subdivision 3, clauses (1) through (6) and (9), are as follows:

1st through 5th violation of each paragraph	written warning
6th through 10th violation of each paragraph	\$3,000 per violation
11 or more violations of each paragraph	in excess of five \$6,000 per violation in excess of ten

For violations of subdivision 3, clauses (7) and (8), the penalties are:

1st through 5th violation of each paragraph	\$3,000 per violation
6 or more violations of each paragraph	\$6,000 per violation in excess of five

The penalties under this section may be imposed in addition to other penalties under this chapter that might apply for the same violation. The penalties under this section are assessed by the commissioner and are payable to the commissioner for deposit in the assigned risk safety account. A party may object to the penalty and request a formal hearing under section 176.85. If an entity has more than 30 violations within any 12-month period, in addition to the monetary penalties provided, the commissioner may refer the matter to the commissioner of commerce with recommendation for suspension or revocation of the entity's (a) license to write workers' compensation insurance; (b) license to administer claims on behalf of a self-insured, the assigned risk plan, or the Minnesota insurance guaranty association; (c) authority to self-insure; or (d) license to adjust claims. The commissioner of commerce shall follow the procedures specified in section 176.195."

Page 13, after line 24, insert:

"Sec. 23. [REPEALER.]

Minnesota Statutes 2000, section 176.129, subdivisions 3, 4, and 4a, are repealed."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 3, after the second semicolon, insert "changing the calculation of special fund assessments;"

Page 1, line 6, after the second semicolon, insert "176.129, subdivisions 7, 9, by adding subdivisions;"

Page 1, delete line 11 and insert "2001 Supplement, sections 176.103, subdivision 3; 176.129, subdivisions 10, 13; 176.194, subdivision 4; repealing Minnesota Statutes 2000, section 176.129, subdivisions 3, 4, 4a."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Ranum from the Committee on Crime Prevention, to which was re-referred

S.F. No. 3055: A bill for an act relating to the metropolitan council; extending pension coverage to part-time metropolitan transit police officers; clarifying the jurisdiction of the metropolitan transit police; removing a restriction on the employment of metropolitan transit police officers on a part-time basis; authorizing metropolitan transit police officers to apply for and execute search warrants; amending Minnesota Statutes 2000, sections 353.64, subdivision 7a; 473.407, subdivisions 1, 2, 3, 4; 626.05, subdivision 2; Minnesota Statutes 2001 Supplement, sections 626.11; 626.13; repealing Minnesota Statutes 2000, section 473.407, subdivision 4a.

Reports the same back with the recommendation that the bill be amended as follows:

Pages 1 and 2, delete section 1

Page 4, line 9, strike "constable,"

Page 5, delete section 10

Page 5, line 18, delete "DATES" and insert "DATE"

Page 5, delete lines 19 to 22 and insert:

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

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete "extending"

Page 1, delete line 3

Page 1, line 4, delete "police officers;"

Page 1, line 10, delete "353.64, subdivision 7a;"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Sams from the Committee on Health and Family Security, to which was referred

S.F. No. 3126: A bill for an act relating to human services; making technical changes in health care programs; amending Minnesota Statutes 2000, sections 13.05, subdivision 4; 245.4932, subdivision 3; 245.50, subdivisions 1, 2, 5; 253B.045, subdivision 2; 256.01, subdivision 11; 256.023; 256.9685, subdivision 1; 256.9866; 256B.041, subdivision 5; 256B.0575; 256B.0629, subdivision 2; 256B.0915, subdivision 1c; 256B.0945, subdivision 4; 256B.19, subdivisions 1, 1d, 2b; 256B.692, subdivision 3; 256F.10, subdivision 9; 256F.13, subdivision 1; 256L.05, subdivision 3; 256L.07, subdivision 3; Minnesota Statutes 2001 Supplement, sections 245.474, subdivision 4; 256B.0623, subdivision 14; 256B.0625, subdivision 20; 256B.0915, subdivision 3; 256B.0924, subdivision 6; 256L.06, subdivision 3; Laws 2001, First Special Session chapter 9, article 2, section 76; repealing Minnesota Statutes 2000, sections 256.025; 256B.0635, subdivision 3; 256B.19, subdivision 1a; 256B.77, subdivision 24.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 13.05, subdivision 4, is amended to read:

Subd. 4. [LIMITATIONS ON COLLECTION AND USE OF DATA.] Private or confidential data on an individual shall not be collected, stored, used, or disseminated by political subdivisions, statewide systems, or state agencies for any purposes other than those stated to the individual at the time of collection in accordance with section 13.04, except as provided in this subdivision.

(a) Data collected prior to August 1, 1975, and which have not been treated as public data, may be used, stored, and disseminated for the purposes for which the data was originally collected or for purposes which are specifically approved by the commissioner as necessary to public health, safety, or welfare.

(b) Private or confidential data may be used and disseminated to individuals or agencies specifically authorized access to that data by state, local, or federal law enacted or promulgated after the collection of the data.

(c) Private or confidential data may be used and disseminated to individuals or agencies subsequent to the collection of the data when the responsible authority maintaining the data has requested approval for a new or different use or dissemination of the data and that request has been specifically approved by the commissioner as necessary to carry out a function assigned by law.

(d) Private data may be used by and disseminated to any person or agency if the individual subject or subjects of the data have given their informed consent. Whether a data subject has given informed consent shall be determined by rules of the commissioner. The format for informed

consent is as follows, unless otherwise prescribed by the HIPAA, Standards for Privacy of Individually Identifiable Health Information, 65 Fed. Reg. 82, 461 (2000) (to be codified as Code of Federal Regulations, title 45, section 164): informed consent shall not be deemed to have been given by an individual subject of the data by the signing of any statement authorizing any person or agency to disclose information about the individual to an insurer or its authorized representative, unless the statement is:

- (1) in plain language;
- (2) dated;
- (3) specific in designating the particular persons or agencies the data subject is authorizing to disclose information about the data subject;
- (4) specific as to the nature of the information the subject is authorizing to be disclosed;
- (5) specific as to the persons or agencies to whom the subject is authorizing information to be disclosed;
- (6) specific as to the purpose or purposes for which the information may be used by any of the parties named in clause (5), both at the time of the disclosure and at any time in the future;
- (7) specific as to its expiration date which should be within a reasonable period of time, not to exceed one year except in the case of authorizations given in connection with applications for life insurance or noncancelable or guaranteed renewable health insurance and identified as such, two years after the date of the policy.

The responsible authority may require a person requesting copies of data under this paragraph to pay the actual costs of making, certifying, and compiling the copies.

(e) Private or confidential data on an individual may be discussed at a meeting open to the public to the extent provided in section 13D.05.

Sec. 2. Minnesota Statutes 2001 Supplement, section 245.474, subdivision 4, is amended to read:

Subd. 4. [STAFF SAFETY TRAINING.] The commissioner shall ~~by rule~~ require all staff in mental health and support units at regional treatment centers who have contact with persons with mental illness or severe emotional disturbance to be appropriately trained in violence reduction and violence prevention and shall establish criteria for such training. Training programs shall be developed with input from consumer advocacy organizations and shall employ violence prevention techniques as preferable to physical interaction.

Sec. 3. Minnesota Statutes 2000, section 245.4932, subdivision 3, is amended to read:

Subd. 3. [PAYMENTS.] ~~Notwithstanding section 256.025, subdivision 2,~~ Payments under sections 245.493 to 245.496 to providers for services for which the collaborative elects to pay the nonfederal share of medical assistance shall only be made of federal earnings from services provided under sections 245.493 to 245.496.

Sec. 4. Minnesota Statutes 2000, section 253B.045, subdivision 2, is amended to read:

Subd. 2. [FACILITIES.] Each county or a group of counties shall maintain or provide by contract a facility for confinement of persons held temporarily for observation, evaluation, diagnosis, treatment, and care. When the temporary confinement is provided at a regional center, the commissioner shall charge the county of financial responsibility for the costs of confinement of persons hospitalized under section 253B.05, subdivisions 1 and 2, and section 253B.07, subdivision 2b, except that the commissioner shall bill the responsible ~~prepaid plan for medically necessary hospitalizations for individuals enrolled in a prepaid plan under contract to provide medical assistance, general assistance medical care, or MinnesotaCare services. If the prepaid plan determines under the terms of the medical assistance, general assistance medical care, or~~

~~MinnesotaCare contract that a hospitalization was not medically necessary health plan first. If the person has health plan coverage, but the hospitalization does not meet the criteria in subdivision 6 or section 62M.07, 62Q.53, or 62Q.535, the county is responsible. "County of financial responsibility" means the county in which the person resides at the time of confinement or, if the person has no residence in this state, the county which initiated the confinement. The charge shall be based on the commissioner's determination of the cost of care pursuant to section 246.50, subdivision 5. When there is a dispute as to which county is the county of financial responsibility, the county charged for the costs of confinement shall pay for them pending final determination of the dispute over financial responsibility. Disputes about the county of financial responsibility shall be submitted to the commissioner to be settled in the manner prescribed in section 256G.09.~~

Sec. 5. Minnesota Statutes 2000, section 256.01, subdivision 11, is amended to read:

Subd. 11. [CENTRALIZED DISBURSEMENT SYSTEM.] The state agency may establish a system for the centralized disbursement of food coupons, assistance payments, and related documents. Benefits shall be issued by the state or county ~~and funded under this section according to section 256.025, subdivision 3, and subject to section 256.017.~~

Sec. 6. Minnesota Statutes 2000, section 256.023, is amended to read:

256.023 [ONE HUNDRED PERCENT COUNTY ASSISTANCE.]

The commissioner of human services may maintain client records and issue public assistance benefits that are over state and federal standards or that are not required by state or federal law, providing the cost of benefits is paid by the counties to the department of human services. ~~Payment methods for this section shall be according to section 256.025, subdivision 3.~~

Sec. 7. Minnesota Statutes 2000, section 256.9685, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY.] (a) The commissioner shall establish procedures for determining medical assistance and general assistance medical care payment rates under a prospective payment system for inpatient hospital services in hospitals that qualify as vendors of medical assistance. The commissioner shall establish, by rule, procedures for implementing this section and sections 256.9686, 256.969, and 256.9695. Services must meet the requirements of section 256B.04, subdivision 15, or 256D.03, subdivision 7, paragraph (b), to be eligible for payment.

(b) The commissioner may reduce the types of inpatient hospital admissions that are required to be certified as medically necessary after notice in the State Register and a 30-day comment period.

Sec. 8. Minnesota Statutes 2000, section 256.9866, is amended to read:

256.9866 [COMMUNITY SERVICE AS A COUNTY OBLIGATION.]

Community service shall be an acceptable sentencing option but shall not reduce the state or federal share of any amount to be repaid or any subsequent recovery. Any reduction or offset of any such amount ordered by a court shall be treated as follows:

(1) any reduction in an overpayment amount, to include the amount ordered as restitution, shall not reduce the underlying amount established as an overpayment by the state or county agency;

(2) total overpayments shall continue as a debt owed and may be recovered by any civil or administrative means otherwise available to the state or county agency; and

(3) any amount ordered to be offset against any overpayment shall be deducted from the county share only of any recovery and shall be based on the prevailing state minimum wage. ~~To the extent that any deduction is in fact made against any state or county share, it shall be reimbursed from the county share of payments to be made under section 256.025.~~

Sec. 9. Minnesota Statutes 2000, section 256B.041, subdivision 5, is amended to read:

Subd. 5. [PAYMENT BY COUNTY TO STATE TREASURER.] If required by federal law or

rules promulgated thereunder, or by authorized rule of the state agency, each county shall pay to the state treasurer the portion of medical assistance paid by the state for which it is responsible. ~~The county's share of cost shall be ten percent of that portion not met by federal funds.~~

The county shall advance ~~ten percent of that portion of~~ medical assistance costs not met by federal funds, based upon estimates submitted by the state agency to the county agency, stating the estimated expenditures for the succeeding month. Upon the direction of the county agency, payment shall be made monthly by the county to the state for the estimated expenditures for each month. Adjustment of any overestimate or underestimate based on actual expenditures shall be made by the state agency by adjusting the estimate for any succeeding month.

~~Beginning July 1, 1991, the state will reimburse counties according to the payment schedule in section 256.025 for the county share of local agency expenditures under this subdivision from January 1, 1991, on. Payment to counties under this subdivision is subject to the provisions of section 256.017.~~

Sec. 10. Minnesota Statutes 2000, section 256B.0575, is amended to read:

256B.0575 [AVAILABILITY OF INCOME FOR INSTITUTIONALIZED PERSONS.]

When an institutionalized person is determined eligible for medical assistance, the income that exceeds the deductions in paragraphs (a) and (b) must be applied to the cost of institutional care.

(a) The following amounts must be deducted from the institutionalized person's income in the following order:

(1) the personal needs allowance under section 256B.35 or, for a veteran who does not have a spouse or child, or a surviving spouse of a veteran having no child, the amount of an improved pension received from the veteran's administration not exceeding \$90 per month;

(2) the personal allowance for disabled individuals under section 256B.36;

(3) if the institutionalized person has a legally appointed guardian or conservator, five percent of the recipient's gross monthly income up to \$100 as reimbursement for guardianship or conservatorship services;

(4) a monthly income allowance determined under section 256B.058, subdivision 2, but only to the extent income of the institutionalized spouse is made available to the community spouse;

(5) a monthly allowance for children under age 18 which, together with the net income of the children, would provide income equal to the medical assistance standard for families and children according to section 256B.056, subdivision 4, for a family size that includes only the minor children. This deduction applies only if the children do not live with the community spouse and only to the extent that the deduction is not included in the personal needs allowance under section 256B.35, subdivision 1, as child support garnished under a court order;

(6) a monthly family allowance for other family members, equal to one-third of the difference between 122 percent of the federal poverty guidelines and the monthly income for that family member;

(7) reparations payments made by the Federal Republic of Germany and reparations payments made by the Netherlands for victims of Nazi persecution between 1940 and 1945;

(8) all other exclusions from income for institutionalized persons as mandated by federal law; and

(9) amounts for reasonable expenses incurred for necessary medical or remedial care for the institutionalized ~~spouse~~ person that are not medical assistance covered expenses and that are not subject to payment by a third party.

For purposes of clause (6), "other family member" means a person who resides with the community spouse and who is a minor or dependent child, dependent parent, or dependent sibling

of either spouse. "Dependent" means a person who could be claimed as a dependent for federal income tax purposes under the Internal Revenue Code.

(b) Income shall be allocated to an institutionalized person for a period of up to three calendar months, in an amount equal to the medical assistance standard for a family size of one if:

(1) a physician certifies that the person is expected to reside in the long-term care facility for three calendar months or less;

(2) if the person has expenses of maintaining a residence in the community; and

(3) if one of the following circumstances apply:

(i) the person was not living together with a spouse or a family member as defined in paragraph (a) when the person entered a long-term care facility; or

(ii) the person and the person's spouse become institutionalized on the same date, in which case the allocation shall be applied to the income of one of the spouses.

For purposes of this paragraph, a person is determined to be residing in a licensed nursing home, regional treatment center, or medical institution if the person is expected to remain for a period of one full calendar month or more.

Sec. 11. Minnesota Statutes 2001 Supplement, section 256B.0623, subdivision 14, is amended to read:

Subd. 14. [BILLING WHEN SERVICES ARE PROVIDED BY QUALIFIED STATE STAFF.] When rehabilitative services are provided by qualified state staff who are assigned to pilot projects under section 245.4661, the county or other local entity to which the qualified state staff are assigned may consider these staff part of the local provider entity for which certification is sought under this section and may bill the medical assistance program for qualifying services provided by the qualified state staff. ~~Notwithstanding section 256.025, subdivision 2,~~ Payments for services provided by state staff who are assigned to adult mental health initiatives shall only be made from federal funds.

Sec. 12. Minnesota Statutes 2001 Supplement, section 256B.0625, subdivision 13, is amended to read:

Subd. 13. [DRUGS.] (a) Medical assistance covers drugs, except for fertility drugs when specifically used to enhance fertility, if prescribed by a licensed practitioner and dispensed by a licensed pharmacist, by a physician enrolled in the medical assistance program as a dispensing physician, or by a physician or a nurse practitioner employed by or under contract with a community health board as defined in section 145A.02, subdivision 5, for the purposes of communicable disease control. The commissioner, after receiving recommendations from professional medical associations and professional pharmacist associations, shall designate a formulary committee to advise the commissioner on the names of drugs for which payment is made, recommend a system for reimbursing providers on a set fee or charge basis rather than the present system, and develop methods encouraging use of generic drugs when they are less expensive and equally effective as trademark drugs. The formulary committee shall consist of nine members, four of whom shall be physicians who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, three of whom shall be pharmacists who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, a consumer representative, and a nursing home representative. Committee members shall serve three-year terms and shall serve without compensation. Members may be reappointed once.

(b) The commissioner shall establish a drug formulary. Its establishment and publication shall not be subject to the requirements of the Administrative Procedure Act, but the formulary committee shall review and comment on the formulary contents. The formulary committee shall review and recommend drugs which require prior authorization. The formulary committee may

recommend drugs for prior authorization directly to the commissioner, as long as opportunity for public input is provided. Prior authorization may be requested by the commissioner based on medical and clinical criteria before certain drugs are eligible for payment. Before a drug may be considered for prior authorization at the request of the commissioner:

(1) the drug formulary committee must develop criteria to be used for identifying drugs; the development of these criteria is not subject to the requirements of chapter 14, but the formulary committee shall provide opportunity for public input in developing criteria;

(2) the drug formulary committee must hold a public forum and receive public comment for an additional 15 days; and

(3) the commissioner must provide information to the formulary committee on the impact that placing the drug on prior authorization will have on the quality of patient care and information regarding whether the drug is subject to clinical abuse or misuse. Prior authorization may be required by the commissioner before certain formulary drugs are eligible for payment. The formulary shall not include:

(i) drugs or products for which there is no federal funding;

(ii) over-the-counter drugs, except for antacids, acetaminophen, family planning products, aspirin, insulin, products for the treatment of lice, vitamins for adults with documented vitamin deficiencies, vitamins for children under the age of seven and pregnant or nursing women, and any other over-the-counter drug identified by the commissioner, in consultation with the drug formulary committee, as necessary, appropriate, and cost-effective for the treatment of certain specified chronic diseases, conditions or disorders, and this determination shall not be subject to the requirements of chapter 14;

(iii) anorectics, except that medically necessary anorectics shall be covered for a recipient previously diagnosed as having pickwickian syndrome and currently diagnosed as having diabetes and being morbidly obese;

(iv) drugs for which medical value has not been established; and

(v) drugs from manufacturers who have not signed a rebate agreement with the Department of Health and Human Services pursuant to section 1927 of title XIX of the Social Security Act.

The commissioner shall publish conditions for prohibiting payment for specific drugs after considering the formulary committee's recommendations. An honorarium of \$100 per meeting and reimbursement for mileage shall be paid to each committee member in attendance.

(c) The basis for determining the amount of payment shall be the lower of the actual acquisition costs of the drugs plus a fixed dispensing fee; the maximum allowable cost set by the federal government or by the commissioner plus the fixed dispensing fee; or the usual and customary price charged to the public. The amount of payment basis must be reduced to reflect all discount amounts applied to the charge by any provider/insurer agreement or contract for submitted charges to medical assistance programs. The net submitted charge may not be greater than the patient liability for the service. The pharmacy dispensing fee shall be \$3.65, except that the dispensing fee for intravenous solutions which must be compounded by the pharmacist shall be \$8 per bag, \$14 per bag for cancer chemotherapy products, and \$30 per bag for total parenteral nutritional products dispensed in one liter quantities, or \$44 per bag for total parenteral nutritional products dispensed in quantities greater than one liter. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. The actual acquisition cost of a drug shall be estimated by the commissioner, at average wholesale price minus nine percent, except that where a drug has had its wholesale price reduced as a result of the actions of the National Association of Medicaid Fraud Control Units, the estimated actual acquisition cost shall be the reduced average wholesale price, without the nine percent deduction. The maximum allowable cost of a multisource drug may be set by the commissioner and it shall be comparable to, but no higher than, the maximum amount paid by other third-party payors in this state who have maximum allowable cost programs. The commissioner shall set maximum allowable costs for multisource drugs that are not on the

federal upper limit list as described in United States Code, title 42, chapter 7, section 1396r-8(e), the Social Security Act, and Code of Federal Regulations, title 42, part 447, section 447.332. Establishment of the amount of payment for drugs shall not be subject to the requirements of the Administrative Procedure Act. An additional dispensing fee of \$.30 may be added to the dispensing fee paid to pharmacists for legend drug prescriptions dispensed to residents of long-term care facilities when a unit dose blister card system, approved by the department, is used. Under this type of dispensing system, the pharmacist must dispense a 30-day supply of drug. The National Drug Code (NDC) from the drug container used to fill the blister card must be identified on the claim to the department. The unit dose blister card containing the drug must meet the packaging standards set forth in Minnesota Rules, part 6800.2700, that govern the return of unused drugs to the pharmacy for reuse. The pharmacy provider will be required to credit the department for the actual acquisition cost of all unused drugs that are eligible for reuse. Over-the-counter medications must be dispensed in the manufacturer's unopened package. The commissioner may permit the drug clozapine to be dispensed in a quantity that is less than a 30-day supply. Whenever a generically equivalent product is available, payment shall be on the basis of the actual acquisition cost of the generic drug, unless the prescriber specifically indicates "dispense as written - brand necessary" on the prescription as required by section 151.21, subdivision 2.

(d) For purposes of this subdivision, "multisource drugs" means covered outpatient drugs, excluding innovator multisource drugs for which there are two or more drug products, which:

(1) are related as therapeutically equivalent under the Food and Drug Administration's most recent publication of "Approved Drug Products with Therapeutic Equivalence Evaluations";

(2) are pharmaceutically equivalent and bioequivalent as determined by the Food and Drug Administration; and

(3) are sold or marketed in Minnesota.

"Innovator multisource drug" means a multisource drug that was originally marketed under an original new drug application approved by the Food and Drug Administration.

(e) The basis for determining the amount of payment for drugs administered in an outpatient setting shall be the lower of the usual and customary cost submitted by the provider; the average wholesale price minus five percent; or the maximum allowable cost set by the federal government under United States Code, title 42, chapter 7, section 1396r-8(e), and Code of Federal Regulations, title 42, section 447.332, or by the commissioner under paragraph (c).

Sec. 13. Minnesota Statutes 2001 Supplement, section 256B.0625, subdivision 20, is amended to read:

Subd. 20. [MENTAL HEALTH CASE MANAGEMENT.] (a) To the extent authorized by rule of the state agency, medical assistance covers case management services to persons with serious and persistent mental illness and children with severe emotional disturbance. Services provided under this section must meet the relevant standards in sections 245.461 to 245.4888, the Comprehensive Adult and Children's Mental Health Acts, Minnesota Rules, parts 9520.0900 to 9520.0926, and 9505.0322, excluding subpart 10.

(b) Entities meeting program standards set out in rules governing family community support services as defined in section 245.4871, subdivision 17, are eligible for medical assistance reimbursement for case management services for children with severe emotional disturbance when these services meet the program standards in Minnesota Rules, parts 9520.0900 to 9520.0926 and 9505.0322, excluding subparts 6 and 10.

(c) Medical assistance and MinnesotaCare payment for mental health case management shall be made on a monthly basis. In order to receive payment for an eligible child, the provider must document at least a face-to-face contact with the child, the child's parents, or the child's legal representative. To receive payment for an eligible adult, the provider must document:

(1) at least a face-to-face contact with the adult or the adult's legal representative; or

(2) at least a telephone contact with the adult or the adult's legal representative and document a face-to-face contact with the adult or the adult's legal representative within the preceding two months.

(d) Payment for mental health case management provided by county or state staff shall be based on the monthly rate methodology under section 256B.094, subdivision 6, paragraph (b), with separate rates calculated for child welfare and mental health, and within mental health, separate rates for children and adults.

(e) Payment for mental health case management provided by Indian health services or by agencies operated by Indian tribes may be made according to this section or other relevant federally approved rate setting methodology.

(f) Payment for mental health case management provided by vendors who contract with a county or Indian tribe shall be based on a monthly rate negotiated by the host county or tribe. The negotiated rate must not exceed the rate charged by the vendor for the same service to other payers. If the service is provided by a team of contracted vendors, the county or tribe may negotiate a team rate with a vendor who is a member of the team. The team shall determine how to distribute the rate among its members. No reimbursement received by contracted vendors shall be returned to the county or tribe, except to reimburse the county or tribe for advance funding provided by the county or tribe to the vendor.

(g) If the service is provided by a team which includes contracted vendors, tribal staff, and county or state staff, the costs for county or state staff participation in the team shall be included in the rate for county-provided services. In this case, the contracted vendor, the tribal agency, and the county may each receive separate payment for services provided by each entity in the same month. In order to prevent duplication of services, each entity must document, in the recipient's file, the need for team case management and a description of the roles of the team members.

(h) The commissioner shall calculate the nonfederal share of actual medical assistance and general assistance medical care payments for each county, based on the higher of calendar year 1995 or 1996, by service date, project that amount forward to 1999, and transfer one-half of the result from medical assistance and general assistance medical care to each county's mental health grants under sections 245.4886 and 256E.12 for calendar year 1999. The annualized minimum amount added to each county's mental health grant shall be \$3,000 per year for children and \$5,000 per year for adults. The commissioner may reduce the statewide growth factor in order to fund these minimums. The annualized total amount transferred shall become part of the base for future mental health grants for each county.

(i) Any net increase in revenue to the county or tribe as a result of the change in this section must be used to provide expanded mental health services as defined in sections 245.461 to 245.4888, the Comprehensive Adult and Children's Mental Health Acts, excluding inpatient and residential treatment. For adults, increased revenue may also be used for services and consumer supports which are part of adult mental health projects approved under Laws 1997, chapter 203, article 7, section 25. For children, increased revenue may also be used for respite care and nonresidential individualized rehabilitation services as defined in section 245.492, subdivisions 17 and 23. "Increased revenue" has the meaning given in Minnesota Rules, part 9520.0903, subpart 3.

(j) Notwithstanding section 256B.19, subdivision 1, the nonfederal share of costs for mental health case management shall be provided by the recipient's county of responsibility, as defined in sections 256G.01 to 256G.12, from sources other than federal funds or funds used to match other federal funds. If the service is provided by a tribal agency, the nonfederal share, if any, shall be provided by the recipient's tribe.

(k) The commissioner may suspend, reduce, or terminate the reimbursement to a provider that does not meet the reporting or other requirements of this section. The county of responsibility, as defined in sections 256G.01 to 256G.12, or, if applicable, the tribal agency, is responsible for any federal disallowances. The county or tribe may share this responsibility with its contracted vendors.

(l) The commissioner shall set aside a portion of the federal funds earned under this section to repay the special revenue maximization account under section 256.01, subdivision 2, clause (15). The repayment is limited to:

- (1) the costs of developing and implementing this section; and
- (2) programming the information systems.

(m) ~~Notwithstanding section 256.025, subdivision 2,~~ Payments to counties and tribal agencies for case management expenditures under this section shall only be made from federal earnings from services provided under this section. Payments to county-contracted vendors shall include both the federal earnings and the county share.

(n) Notwithstanding section 256B.041, county payments for the cost of mental health case management services provided by county or state staff shall not be made to the state treasurer. For the purposes of mental health case management services provided by county or state staff under this section, the centralized disbursement of payments to counties under section 256B.041 consists only of federal earnings from services provided under this section.

(o) Case management services under this subdivision do not include therapy, treatment, legal, or outreach services.

(p) If the recipient is a resident of a nursing facility, intermediate care facility, or hospital, and the recipient's institutional care is paid by medical assistance, payment for case management services under this subdivision is limited to the last 180 days of the recipient's residency in that facility and may not exceed more than six months in a calendar year.

(q) Payment for case management services under this subdivision shall not duplicate payments made under other program authorities for the same purpose.

(r) By July 1, 2000, the commissioner shall evaluate the effectiveness of the changes required by this section, including changes in number of persons receiving mental health case management, changes in hours of service per person, and changes in caseload size.

(s) For each calendar year beginning with the calendar year 2001, the annualized amount of state funds for each county determined under paragraph (h) shall be adjusted by the county's percentage change in the average number of clients per month who received case management under this section during the fiscal year that ended six months prior to the calendar year in question, in comparison to the prior fiscal year.

(t) For counties receiving the minimum allocation of \$3,000 or \$5,000 described in paragraph (h), the adjustment in paragraph (s) shall be determined so that the county receives the higher of the following amounts:

- (1) a continuation of the minimum allocation in paragraph (h); or
- (2) an amount based on that county's average number of clients per month who received case management under this section during the fiscal year that ended six months prior to the calendar year in question, times the average statewide grant per person per month for counties not receiving the minimum allocation.

(u) The adjustments in paragraphs (s) and (t) shall be calculated separately for children and adults.

Sec. 14. Minnesota Statutes 2000, section 256B.0625, subdivision 27, is amended to read:

Subd. 27. [ORGAN AND TISSUE TRANSPLANTS.] Medical assistance coverage for organ and tissue transplant procedures is limited to those procedures covered by the Medicare program; ~~heart-lung transplants for persons with primary pulmonary hypertension and or approved by the Advisory Committee on Organ and Tissue Transplants. All organ transplants must be performed at Minnesota transplant centers meeting united network for organ sharing criteria to perform~~

~~heart-lung transplants; lung transplants using cadaveric donors and performed at Minnesota transplant centers meeting united network for organ sharing criteria to perform lung transplants; pancreas transplants for uremic diabetic recipients of kidney transplants and performed at Minnesota facilities meeting united network for organ sharing criteria to perform pancreas transplants; and allogeneic bone marrow transplants for persons with stage III or IV Hodgkin's disease or at Medicare-approved organ transplant centers. Stem cell or bone marrow transplant centers must meet the standards established by the Foundation for the Accreditation of Hematopoietic Cell Therapy or be approved by the Advisory Committee on Organ and Tissue Transplants. Transplant procedures must comply with all applicable laws, rules, and regulations governing (1) coverage by the Medicare program, (2) federal financial participation by the Medicaid program, and (3) coverage by the Minnesota medical assistance program. Transplant centers must meet american society of hematology and clinical oncology criteria for bone marrow transplants and be located in Minnesota to receive reimbursement for bone marrow Transplants performed out of Minnesota or the local trade area must be prior authorized.~~

Sec. 15. Minnesota Statutes 2000, section 256B.0629, subdivision 2, is amended to read:

Subd. 2. [FUNCTION AND OBJECTIVES.] ~~The advisory committee shall meet at least twice a year.~~ The committee's activities include, but are not limited to:

(1) collection of information on the efficacy and experience of various forms of transplantation not approved by Medicare;

(2) collection of information from Minnesota transplant providers on available services, success rates, and the current status of transplant activity in the state;

(3) development of guidelines for determining when and under what conditions organ and tissue transplants not approved by Medicare should be eligible for reimbursement by medical assistance and general assistance medical care;

(4) providing recommendations, ~~at least annually,~~ to the commissioner on: (i) organ and tissue transplant procedures, beyond those approved by Medicare, that should also be eligible for reimbursement under medical assistance and general assistance medical care; and (ii) which transplant centers should be eligible for reimbursement from medical assistance and general assistance medical care.

Sec. 16. Minnesota Statutes 2000, section 256B.0915, subdivision 1c, is amended to read:

Subd. 1c. [CASE MANAGEMENT ACTIVITIES UNDER THE STATE PLAN.] The commissioner shall seek an amendment to the home and community-based services waiver for the elderly to implement the provisions of subdivisions 1a and 1b. If the commissioner is unable to secure the approval of the secretary of health and human services for the requested waiver amendment by December 31, 1993, the commissioner shall amend the medical assistance state plan to provide that case management provided under the home and community-based services waiver for the elderly is performed by counties as an administrative function for the proper and effective administration of the state medical assistance plan. ~~Notwithstanding section 256.025, subdivision 3,~~ The state shall reimburse counties for the nonfederal share of costs for case management performed as an administrative function under the home and community-based services waiver for the elderly.

Sec. 17. Minnesota Statutes 2001 Supplement, section 256B.0915, subdivision 3, is amended to read:

Subd. 3. [LIMITS OF CASES, RATES, PAYMENTS, AND FORECASTING.] (a) The number of medical assistance waiver recipients that a county may serve must be allocated according to the number of medical assistance waiver cases open on July 1 of each fiscal year. Additional recipients may be served with the approval of the commissioner.

(b) The monthly limit for the cost of waived services to an individual elderly waiver client shall be the weighted average monthly nursing facility rate of the case mix resident class to which the elderly waiver client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059,

less the recipient's maintenance needs allowance as described in subdivision 1d, paragraph (a), until the first day of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented. Effective on the first day of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented and the first day of each subsequent state fiscal year, the monthly limit for the cost of waived services to an individual elderly waiver client shall be the rate of the case mix resident class to which the waiver client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, in effect on the last day of the previous state fiscal year, adjusted by the greater of any legislatively adopted home and community-based services cost-of-living percentage increase or any legislatively adopted statewide percent rate increase for nursing facilities.

(c) If extended medical supplies and equipment or environmental modifications are or will be purchased for an elderly waiver client, the costs may be prorated for up to 12 consecutive months beginning with the month of purchase. If the monthly cost of a recipient's waived services exceeds the monthly limit established in paragraph (b), the annual cost of all waived services shall be determined. In this event, the annual cost of all waived services shall not exceed 12 times the monthly limit of waived services as described in paragraph (b).

(d) For a person who is a nursing facility resident at the time of requesting a determination of eligibility for elderly waived services, a monthly conversion limit for the cost of elderly waived services may be requested. The monthly conversion limit for the cost of elderly waiver services shall be the resident class assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, for that resident in the nursing facility where the resident currently resides until July 1 of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented. Effective on July 1 of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented, the monthly conversion limit for the cost of elderly waiver services shall be the per diem nursing facility rate as determined by the resident assessment system as described in section 256B.437 for that resident in the nursing facility where the resident currently resides multiplied by 365 and divided by 12, less the recipient's maintenance needs allowance as described in subdivision 1d. The limit under this clause only applies to persons discharged from a nursing facility after a minimum 30-day stay and found eligible for waived services on or after July 1, 1997. The following costs must be included in determining the total monthly costs for the waiver client:

(1) cost of all waived services, including extended medical supplies and equipment and environmental modifications; and

(2) cost of skilled nursing, home health aide, and personal care services reimbursable by medical assistance.

(e) Medical assistance funding for skilled nursing services, private duty nursing, home health aide, and personal care services for waiver recipients must be approved by the case manager and included in the individual care plan.

(f) A county is not required to contract with a provider of supplies and equipment if the monthly cost of the supplies and equipment is less than \$250.

(g) The adult foster care rate shall be considered a difficulty of care payment and shall not include room and board. The adult foster care service rate shall be negotiated between the county agency and the foster care provider. The elderly waiver payment for the foster care service in combination with the payment for all other elderly waiver services, including case management, must not exceed the limit specified in paragraph (b).

(h) Payment for assisted living service shall be a monthly rate negotiated and authorized by the county agency based on an individualized service plan for each resident and may not cover direct rent or food costs.

(1) The individualized monthly negotiated payment for assisted living services as described in

section 256B.0913, subdivision 5, paragraph (g) or (h), and residential care services as described in section 256B.0913, subdivision 5, paragraph (f), shall not exceed the nonfederal share, in effect on July 1 of the state fiscal year for which the rate limit is being calculated, of the greater of either the statewide or any of the geographic groups' weighted average monthly nursing facility rate of the case mix resident class to which the elderly waiver eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, less the maintenance needs allowance as described in subdivision 1d, paragraph (a), until the July 1 of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented. Effective on July 1 of the state fiscal year in which the resident assessment system as described in section 256B.437 for nursing home rate determination is implemented and July 1 of each subsequent state fiscal year, the individualized monthly negotiated payment for the services described in this clause shall not exceed the limit described in this clause which was in effect on June 30 of the previous state fiscal year and which has been adjusted by the greater of any legislatively adopted home and community-based services cost-of-living percentage increase or any legislatively adopted statewide percent rate increase for nursing facilities.

(2) The individualized monthly negotiated payment for assisted living services described in section 144A.4605 and delivered by a provider licensed by the department of health as a class A home care provider or an assisted living home care provider and provided in a building that is registered as a housing with services establishment under chapter 144D and that provides 24-hour supervision in combination with the payment for other elderly waiver services, including case management, must not exceed the limit specified in paragraph (b).

(i) The county shall negotiate individual service rates with vendors and may authorize payment for actual costs up to the county's current approved rate. Persons or agencies must be employed by or under a contract with the county agency or the public health nursing agency of the local board of health in order to receive funding under the elderly waiver program, except as a provider of supplies and equipment when the monthly cost of the supplies and equipment is less than \$250.

(j) Reimbursement for the medical assistance recipients under the approved waiver shall be made from the medical assistance account through the invoice processing procedures of the department's Medicaid Management Information System (MMIS), only with the approval of the client's case manager. The budget for the state share of the Medicaid expenditures shall be forecasted with the medical assistance budget, and shall be consistent with the approved waiver.

(k) To improve access to community services and eliminate payment disparities between the alternative care program and the elderly waiver, the commissioner shall establish statewide maximum service rate limits and eliminate county-specific service rate limits.

(1) Effective July 1, 2001, for service rate limits, except those described or defined in paragraphs (g) and (h), the rate limit for each service shall be the greater of the alternative care statewide maximum rate or the elderly waiver statewide maximum rate.

(2) Counties may negotiate individual service rates with vendors for actual costs up to the statewide maximum service rate limit.

~~(4) Beginning July 1, 1991, the state shall reimburse counties according to the payment schedule in section 256.025 for the county share of costs incurred under this subdivision on or after January 1, 1991, for individuals who are receiving medical assistance.~~

Sec. 18. Minnesota Statutes 2001 Supplement, section 256B.0924, subdivision 6, is amended to read:

Subd. 6. [PAYMENT FOR TARGETED CASE MANAGEMENT.] (a) Medical assistance and MinnesotaCare payment for targeted case management shall be made on a monthly basis. In order to receive payment for an eligible adult, the provider must document at least one contact per month and not more than two consecutive months without a face-to-face contact with the adult or the adult's legal representative.

(b) Payment for targeted case management provided by county staff under this subdivision

shall be based on the monthly rate methodology under section 256B.094, subdivision 6, paragraph (b), calculated as one combined average rate together with adult mental health case management under section 256B.0625, subdivision 20, except for calendar year 2002. In calendar year 2002, the rate for case management under this section shall be the same as the rate for adult mental health case management in effect as of December 31, 2001. Billing and payment must identify the recipient's primary population group to allow tracking of revenues.

(c) Payment for targeted case management provided by county-contracted vendors shall be based on a monthly rate negotiated by the host county. The negotiated rate must not exceed the rate charged by the vendor for the same service to other payers. If the service is provided by a team of contracted vendors, the county may negotiate a team rate with a vendor who is a member of the team. The team shall determine how to distribute the rate among its members. No reimbursement received by contracted vendors shall be returned to the county, except to reimburse the county for advance funding provided by the county to the vendor.

(d) If the service is provided by a team that includes contracted vendors and county staff, the costs for county staff participation on the team shall be included in the rate for county-provided services. In this case, the contracted vendor and the county may each receive separate payment for services provided by each entity in the same month. In order to prevent duplication of services, the county must document, in the recipient's file, the need for team targeted case management and a description of the different roles of the team members.

(e) Notwithstanding section 256B.19, subdivision 1, the nonfederal share of costs for targeted case management shall be provided by the recipient's county of responsibility, as defined in sections 256G.01 to 256G.12, from sources other than federal funds or funds used to match other federal funds.

(f) The commissioner may suspend, reduce, or terminate reimbursement to a provider that does not meet the reporting or other requirements of this section. The county of responsibility, as defined in sections 256G.01 to 256G.12, is responsible for any federal disallowances. The county may share this responsibility with its contracted vendors.

(g) The commissioner shall set aside five percent of the federal funds received under this section for use in reimbursing the state for costs of developing and implementing this section.

(h) ~~Notwithstanding section 256.025, subdivision 2,~~ Payments to counties for targeted case management expenditures under this section shall only be made from federal earnings from services provided under this section. Payments to contracted vendors shall include both the federal earnings and the county share.

(i) Notwithstanding section 256B.041, county payments for the cost of case management services provided by county staff shall not be made to the state treasurer. For the purposes of targeted case management services provided by county staff under this section, the centralized disbursement of payments to counties under section 256B.041 consists only of federal earnings from services provided under this section.

(j) If the recipient is a resident of a nursing facility, intermediate care facility, or hospital, and the recipient's institutional care is paid by medical assistance, payment for targeted case management services under this subdivision is limited to the last 180 days of the recipient's residency in that facility and may not exceed more than six months in a calendar year.

(k) Payment for targeted case management services under this subdivision shall not duplicate payments made under other program authorities for the same purpose.

(l) Any growth in targeted case management services and cost increases under this section shall be the responsibility of the counties.

Sec. 19. Minnesota Statutes 2000, section 256B.0945, subdivision 4, is amended to read:

Subd. 4. [PAYMENT RATES.] (a) ~~Notwithstanding sections 256.025, subdivision 2;~~ 256B.19; and 256B.041, payments to counties for residential services provided by a residential facility shall

only be made of federal earnings for services provided under this section, and the nonfederal share of costs for services provided under this section shall be paid by the county from sources other than federal funds or funds used to match other federal funds. Payment to counties for services provided according to subdivision 2, paragraph (a), shall be the federal share of the contract rate. Payment to counties for services provided according to subdivision 2, paragraph (b), shall be a proportion of the per day contract rate that relates to rehabilitative mental health services and shall not include payment for costs or services that are billed to the IV-E program as room and board.

(b) The commissioner shall set aside a portion not to exceed five percent of the federal funds earned under this section to cover the state costs of administering this section. Any unexpended funds from the set-aside shall be distributed to the counties in proportion to their earnings under this section.

Sec. 20. Minnesota Statutes 2000, section 256B.19, subdivision 1, is amended to read:

Subdivision 1. [DIVISION OF COST.] The state and county share of medical assistance costs not paid by federal funds shall be as follows:

- (1) ~~ninety percent state funds and ten percent county funds, unless otherwise provided below;~~
- (2) beginning January 1, 1992, 50 percent state funds and 50 percent county funds for the cost of placement of severely emotionally disturbed children in regional treatment centers.

For counties that participate in a Medicaid demonstration project under sections 256B.69 and 256B.71, the division of the nonfederal share of medical assistance expenses for payments made to prepaid health plans or for payments made to health maintenance organizations in the form of prepaid capitation payments, this division of medical assistance expenses shall be 95 percent by the state and five percent by the county of financial responsibility.

In counties where prepaid health plans are under contract to the commissioner to provide services to medical assistance recipients, the cost of court ordered treatment ordered without consulting the prepaid health plan that does not include diagnostic evaluation, recommendation, and referral for treatment by the prepaid health plan is the responsibility of the county of financial responsibility.

Sec. 21. Minnesota Statutes 2000, section 256B.19, subdivision 1d, is amended to read:

Subd. 1d. [PORTION OF NONFEDERAL SHARE TO BE PAID BY CERTAIN COUNTIES.] In addition to the percentage contribution paid by a county under subdivision 1, the governmental units designated in this subdivision shall be responsible for an additional portion of the nonfederal share of medical assistance cost. For purposes of this subdivision, "designated governmental unit" means the counties of Becker, Beltrami, Clearwater, Cook, Dodge, Hubbard, Itasca, Lake, Pennington, Pipestone, Ramsey, St. Louis, Steele, Todd, Traverse, and Wadena.

Beginning in 1994, each of the governmental units designated in this subdivision shall transfer before noon on May 31 to the state Medicaid agency an amount equal to the number of licensed beds in any nursing home owned and operated by the county, with the county named as licensee, multiplied by \$5,723. If two or more counties own and operate a nursing home, the payment shall be prorated. These sums shall be part of the designated governmental unit's portion of the nonfederal share of medical assistance costs, ~~but shall not be subject to payback provisions of section 256.025.~~

Sec. 22. Minnesota Statutes 2000, section 256B.19, subdivision 2b, is amended to read:

Subd. 2b. [PILOT PROJECT REIMBURSEMENT.] In counties where a pilot or demonstration project is operated under the medical assistance program, the state may pay 100 percent of the administrative costs for the pilot or demonstration project after June 30, 1990. ~~Reimbursement for these costs is subject to section 256.025.~~

Sec. 23. Minnesota Statutes 2000, section 256B.37, subdivision 5a, is amended to read:

Subd. 5a. [SUPPLEMENTAL PAYMENT BY MEDICAL ASSISTANCE.] Medical assistance payment will not be made when either covered charges are paid in full by a third party or the provider has an agreement to accept payment for less than charges as payment in full. Payment for patients that are simultaneously covered by medical assistance and a liable third party other than Medicare will be determined as the lesser of clauses (1) to (3):

- (1) the patient liability according to the provider/insurer agreement;
- (2) covered charges minus the third party payment amount; or
- (3) the medical assistance rate minus the third party payment amount.

A negative difference will not be implemented.

All providers must reduce their submitted charge to medical assistance programs to reflect all discount amounts applied to the charge by any provider/insurer agreement or contract. The net submitted charge may not be greater than the patient liability for the service.

Sec. 24. Minnesota Statutes 2000, section 256B.692, subdivision 3, is amended to read:

Subd. 3. [REQUIREMENTS OF THE COUNTY BOARD.] A county board that intends to purchase or provide health care under this section, which may include purchasing all or part of these services from health plans or individual providers on a fee-for-service basis, or providing these services directly, must demonstrate the ability to follow and agree to the following requirements:

(1) purchase all covered services for a fixed payment from the state that does not exceed the estimated state and federal cost that would have occurred under the prepaid medical assistance and general assistance medical care programs;

(2) ensure that covered services are accessible to all enrollees and that enrollees have a reasonable choice of providers, health plans, or networks when possible. If the county is also a provider of service, the county board shall develop a process to ensure that providers employed by the county are not the sole referral source and are not the sole provider of health care services if other providers, which meet the same quality and cost requirements are available;

(3) issue payments to participating vendors or networks in a timely manner;

(4) establish a process to ensure and improve the quality of care provided;

(5) provide appropriate quality and other required data in a format required by the state;

(6) provide a system for advocacy, enrollee protection, and complaints and appeals that is independent of care providers or other risk bearers and complies with section 256B.69;

(7) ~~for counties within the seven-county metropolitan area,~~ ensure that the implementation and operation of the Minnesota senior health options demonstration project and the Minnesota disability health options demonstration project, authorized under section 256B.69, subdivision 23, will not be impeded;

(8) ensure that all recipients that are enrolled in the prepaid medical assistance or general assistance medical care program will be transferred to county-based purchasing without utilizing the department's fee-for-service claims payment system;

(9) ensure that all recipients who are required to participate in county-based purchasing are given sufficient information prior to enrollment in order to make informed decisions; and

(10) ensure that the state and the medical assistance and general assistance medical care recipients will be held harmless for the payment of obligations incurred by the county if the county, or a health plan providing services on behalf of the county, or a provider participating in county-based purchasing becomes insolvent, and the state has made the payments due to the county under this section.

Sec. 25. Minnesota Statutes 2000, section 256F.10, subdivision 9, is amended to read:

Subd. 9. [PAYMENTS.] ~~Notwithstanding section 256.025, subdivision 2,~~ Payments to certified providers for child welfare targeted case management expenditures under section 256B.094 and this section shall only be made of federal earnings from services provided under section 256B.094 and this section. Payments to contracted vendors shall include both the federal earnings and the nonfederal share.

Sec. 26. Minnesota Statutes 2000, section 256F.13, subdivision 1, is amended to read:

Subdivision 1. [FEDERAL REVENUE ENHANCEMENT.] (a) [DUTIES OF THE COMMISSIONER OF HUMAN SERVICES.] The commissioner of human services may enter into an agreement with one or more family services collaboratives to enhance federal reimbursement under Title IV-E of the Social Security Act and federal administrative reimbursement under Title XIX of the Social Security Act. The commissioner may contract with the department of children, families, and learning for purposes of transferring the federal reimbursement to the commissioner of children, families, and learning to be distributed to the collaboratives according to clause (2). The commissioner shall have the following authority and responsibilities regarding family services collaboratives:

(1) the commissioner shall submit amendments to state plans and seek waivers as necessary to implement the provisions of this section;

(2) the commissioner shall pay the federal reimbursement earned under this subdivision to each collaborative based on their earnings. ~~Notwithstanding section 256.025, subdivision 2,~~ Payments to collaboratives for expenditures under this subdivision will only be made of federal earnings from services provided by the collaborative;

(3) the commissioner shall review expenditures of family services collaboratives using reports specified in the agreement with the collaborative to ensure that the base level of expenditures is continued and new federal reimbursement is used to expand education, social, health, or health-related services to young children and their families;

(4) the commissioner may reduce, suspend, or eliminate a family services collaborative's obligations to continue the base level of expenditures or expansion of services if the commissioner determines that one or more of the following conditions apply:

(i) imposition of levy limits that significantly reduce available funds for social, health, or health-related services to families and children;

(ii) reduction in the net tax capacity of the taxable property eligible to be taxed by the lead county or subcontractor that significantly reduces available funds for education, social, health, or health-related services to families and children;

(iii) reduction in the number of children under age 19 in the county, collaborative service delivery area, subcontractor's district, or catchment area when compared to the number in the base year using the most recent data provided by the state demographer's office; or

(iv) termination of the federal revenue earned under the family services collaborative agreement;

(5) the commissioner shall not use the federal reimbursement earned under this subdivision in determining the allocation or distribution of other funds to counties or collaboratives;

(6) the commissioner may suspend, reduce, or terminate the federal reimbursement to a provider that does not meet the reporting or other requirements of this subdivision;

(7) the commissioner shall recover from the family services collaborative any federal fiscal disallowances or sanctions for audit exceptions directly attributable to the family services collaborative's actions in the integrated fund, or the proportional share if federal fiscal disallowances or sanctions are based on a statewide random sample; and

(8) the commissioner shall establish criteria for the family services collaborative for the accounting and financial management system that will support claims for federal reimbursement.

(b) [FAMILY SERVICES COLLABORATIVE RESPONSIBILITIES.] The family services collaborative shall have the following authority and responsibilities regarding federal revenue enhancement:

(1) the family services collaborative shall be the party with which the commissioner contracts. A lead county shall be designated as the fiscal agency for reporting, claiming, and receiving payments;

(2) the family services collaboratives may enter into subcontracts with other counties, school districts, special education cooperatives, municipalities, and other public and nonprofit entities for purposes of identifying and claiming eligible expenditures to enhance federal reimbursement, or to expand education, social, health, or health-related services to families and children;

(3) the family services collaborative must continue the base level of expenditures for education, social, health, or health-related services to families and children from any state, county, federal, or other public or private funding source which, in the absence of the new federal reimbursement earned under this subdivision, would have been available for those services, except as provided in subdivision 1, paragraph (a), clause (4). The base year for purposes of this subdivision shall be the four-quarter calendar year ending at least two calendar quarters before the first calendar quarter in which the new federal reimbursement is earned;

(4) the family services collaborative must use all new federal reimbursement resulting from federal revenue enhancement to expand expenditures for education, social, health, or health-related services to families and children beyond the base level, except as provided in subdivision 1, paragraph (a), clause (4);

(5) the family services collaborative must ensure that expenditures submitted for federal reimbursement are not made from federal funds or funds used to match other federal funds. Notwithstanding section 256B.19, subdivision 1, for the purposes of family services collaborative expenditures under agreement with the department, the nonfederal share of costs shall be provided by the family services collaborative from sources other than federal funds or funds used to match other federal funds;

(6) the family services collaborative must develop and maintain an accounting and financial management system adequate to support all claims for federal reimbursement, including a clear audit trail and any provisions specified in the agreement; and

(7) the family services collaborative shall submit an annual report to the commissioner as specified in the agreement.

Sec. 27. Minnesota Statutes 2000, section 256L.05, subdivision 3, is amended to read:

Subd. 3. [EFFECTIVE DATE OF COVERAGE.] (a) The effective date of coverage is the first day of the month following the month in which eligibility is approved and the first premium payment has been received. As provided in section 256B.057, coverage for newborns is automatic from the date of birth and must be coordinated with other health coverage. The effective date of coverage for eligible newly adoptive children added to a family receiving covered health services is the date of entry into the family. The effective date of coverage for other new recipients added to the family receiving covered health services is the first day of the month following the month in which eligibility is approved or at renewal, whichever the family receiving covered health services prefers. All eligibility criteria must be met by the family at the time the new family member is added. The income of the new family member is included with the family's gross income and the adjusted premium begins in the month the new family member is added.

(b) The initial premium must be received eight by the last working days ~~prior to the end day~~ of the month for coverage to begin the first day of the following month.

(c) Benefits are not available until the day following discharge if an enrollee is hospitalized on the first day of coverage.

(d) Notwithstanding any other law to the contrary, benefits under sections 256L.01 to 256L.18 are secondary to a plan of insurance or benefit program under which an eligible person may have coverage and the commissioner shall use cost avoidance techniques to ensure coordination of any other health coverage for eligible persons. The commissioner shall identify eligible persons who may have coverage or benefits under other plans of insurance or who become eligible for medical assistance.

Sec. 28. Minnesota Statutes 2001 Supplement, section 256L.06, subdivision 3, is amended to read:

Subd. 3. [ADMINISTRATION AND COMMISSIONER'S DUTIES.] (a) Premiums are dedicated to the commissioner for MinnesotaCare.

(b) The commissioner shall develop and implement procedures to: (1) require enrollees to report changes in income; (2) adjust sliding scale premium payments, based upon changes in enrollee income; and (3) disenroll enrollees from MinnesotaCare for failure to pay required premiums. Failure to pay includes payment with a dishonored check, a returned automatic bank withdrawal, or a refused credit card or debit card payment. The commissioner may demand a guaranteed form of payment, including a cashier's check or a money order, as the only means to replace a dishonored, returned, or refused payment.

(c) Premiums are calculated on a calendar month basis and may be paid on a monthly, quarterly, or annual basis, with the first payment due upon notice from the commissioner of the premium amount required. The commissioner shall inform applicants and enrollees of these premium payment options. Premium payment is required before enrollment is complete and to maintain eligibility in MinnesotaCare. Premium payments received before noon are credited the same day. Premium payments received after noon are credited on the next working day.

(d) Nonpayment of the premium will result in disenrollment from the plan effective for the calendar month for which the premium was due. Persons disenrolled for nonpayment or who voluntarily terminate coverage from the program may not reenroll until four calendar months have elapsed. Persons disenrolled for nonpayment who pay all past due premiums as well as current premiums due, including premiums due for the period of disenrollment, within 20 days of disenrollment, shall be reenrolled retroactively to the first day of disenrollment. Persons disenrolled for nonpayment or who voluntarily terminate coverage from the program may not reenroll for four calendar months unless the person demonstrates good cause for nonpayment. Good cause does not exist if a person chooses to pay other family expenses instead of the premium. The commissioner shall define good cause in rule.

Sec. 29. Minnesota Statutes 2000, section 256L.07, subdivision 3, is amended to read:

Subd. 3. [OTHER HEALTH COVERAGE.] (a) Families and individuals enrolled in the MinnesotaCare program must have no health coverage while enrolled or for at least four months prior to application and renewal. Children enrolled in the original children's health plan and children in families with income equal to or less than 150 percent of the federal poverty guidelines, who have other health insurance, are eligible if the coverage:

(1) lacks two or more of the following:

- (i) basic hospital insurance;
- (ii) medical-surgical insurance;
- (iii) prescription drug coverage;
- (iv) dental coverage; or
- (v) vision coverage;

(2) requires a deductible of \$100 or more per person per year; or

(3) lacks coverage because the child has exceeded the maximum coverage for a particular diagnosis or the policy excludes a particular diagnosis.

The commissioner may change this eligibility criterion for sliding scale premiums in order to remain within the limits of available appropriations. The requirement of no health coverage does not apply to newborns.

(b) Medical assistance, general assistance medical care, and the Civilian Health and Medical Program of the Uniformed Service, CHAMPUS, or other coverage provided under United States Code, title 10, subtitle A, part II, chapter 55, are not considered insurance or health coverage for purposes of the four-month requirement described in this subdivision.

(c) For purposes of this subdivision, Medicare Part A or B coverage under title XVIII of the Social Security Act, United States Code, title 42, sections 1395c to 1395w-4, is considered health coverage. An applicant or enrollee may not refuse Medicare coverage to establish eligibility for MinnesotaCare.

(d) Applicants who were recipients of medical assistance or general assistance medical care within one month of application must meet the provisions of this subdivision and subdivision 2.

Sec. 30. Laws 2001, First Special Session chapter 9, article 2, section 76, is amended to read:

Sec. 76. [REPEALER.]

(a) Minnesota Statutes 2000, section ~~256B.0635, subdivision 3,~~ and 256B.19, subdivision 1b, are is repealed effective July 1, 2001.

(b) Minnesota Statutes 2000, section 256L.02, subdivision 4, is repealed effective January 1, 2003.

Sec. 31. [REVISOR INSTRUCTION.]

In the next edition of Minnesota Statutes and Minnesota Rules, the revisor shall replace the terms "Health Care Financing Administration" and "federal Department of Health, Education and Welfare" with "Centers for Medicare and Medicaid Services" wherever it refers to the federal agency that provides funding for the medical assistance program.

Sec. 32. [REPEALER.]

(a) Minnesota Statutes 2000, section 256B.0635, subdivision 3, is repealed effective July 1, 2002.

(b) Minnesota Statutes 2000, sections 256.025; 256B.19, subdivision 1a; and 256B.77, subdivision 24, are repealed."

Amend the title as follows:

Page 1, line 5, delete "245.50, subdivisions 1, 2, 5;"

Page 1, line 8, after the second semicolon, insert "256B.0625, subdivision 27;"

Page 1, line 10, after the semicolon, insert "256B.37, subdivision 5a;"

Page 1, line 15, delete "subdivision 20" and insert "subdivisions 13, 20"

And when so amended the bill do pass. Amendments adopted. Report adopted.

SECOND READING OF SENATE BILLS

S.F. Nos. 2475, 3310, 3293, 3204, 2763, 3108, 1372, 3288, 2611, 3028, 3098, 2546, 3256, 1376, 3322, 2890, 3168, 2210, 3133, 2957, 3135, 3345, 2363, 2664, 2871, 3136, 3055 and 3126 were read the second time.

MOTIONS AND RESOLUTIONS

Senator Scheid moved that the name of Senator Moua be added as a co-author to S.F. No. 3163. The motion prevailed.

Senator Berglin moved that her name be stricken as a co-author to S.F. No. 3171. The motion prevailed.

Senator Kleis moved that the names of Senators Krentz and Schwab be added as co-authors to S.F. No. 3290. The motion prevailed.

Senator Scheid introduced--

Senate Resolution No. 180: A Senate resolution congratulating Dean Erik Eriksson on receiving an Eagle Scout award based on his dedication and service to the Boy Scouts of America.

Referred to the Committee on Rules and Administration.

Senator Kiscaden moved that S.F. No. 3211, No. 97 on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

Pursuant to Rule 26, Senator Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 3208 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 3208: A bill for an act relating to public employment; modifying procedures for legislative approval or disapproval of collective bargaining agreements and arbitration awards; amending Minnesota Statutes 2000, section 3.855, subdivision 2.

CALL OF THE SENATE

Senator Hottinger imposed a call of the Senate for the balance of the proceedings on S.F. No. 3208. The Sergeant at Arms was instructed to bring in the absent members.

S.F. No. 3208 was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 35 and nays 23, as follows:

Those who voted in the affirmative were:

Anderson	Hottinger	Marty	Pogemiller	Samuelson
Berglin	Johnson, Doug	Metzen	Price	Scheid
Betzold	Kelley, S.P.	Moe, R.D.	Ranum	Solon, Y.P.
Chaudhary	Kinkel	Moua	Rest	Stumpf
Cohen	Krentz	Murphy	Ring	Tomassoni
Foley	Langseth	Orfield	Robertson	Wiener
Higgins	Lourey	Pappas	Sabo	Wiger

Those who voted in the negative were:

Bachmann	Fischbach	Kiscaden	Neuville	Scheevel
Belanger	Fowler	Kleis	Ourada	Stevens
Berg	Frederickson	Larson	Pariseau	Vickerman
Day	Johnson, Debbie	Lesewski	Reiter	
Dille	Kierlin	Limmer	Robling	

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Senator Moe, R.D. moved that the Senate take up the Consent Calendar. The motion prevailed.

CONSENT CALENDAR

S.F. No. 2445: A bill for an act relating to crimes; modifying the school trespass law; prescribing penalties; amending Minnesota Statutes 2000, section 609.605, subdivision 4.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Foley	Krentz	Ourada	Sabo
Bachmann	Fowler	Larson	Pappas	Samuelson
Belanger	Frederickson	Lesewski	Pariseau	Scheevel
Berg	Higgins	Limmer	Pogemiller	Scheid
Berglin	Hottinger	Lourey	Price	Solon, Y.P.
Betzold	Johnson, Debbie	Marty	Ranum	Stevens
Chaudhary	Johnson, Doug	Metzen	Reiter	Stumpf
Cohen	Kelley, S.P.	Moua	Rest	Tomassoni
Day	Kierlin	Murphy	Ring	Vickerman
Dille	Kinkel	Neuville	Robertson	Wiener
Fischbach	Kleis	Orfield	Robling	Wiger

So the bill passed and its title was agreed to.

S.F. No. 2590: A bill for an act relating to Carlton and Pine counties; permitting the appointment of the county recorder.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 48 and nays 8, as follows:

Those who voted in the affirmative were:

Anderson	Frederickson	Larson	Pappas	Scheid
Belanger	Higgins	Limmer	Pariseau	Solon, Y.P.
Berg	Hottinger	Lourey	Pogemiller	Stevens
Berglin	Johnson, Doug	Marty	Price	Stumpf
Betzold	Kelley, S.P.	Metzen	Ranum	Tomassoni
Chaudhary	Kierlin	Moua	Rest	Vickerman
Cohen	Kinkel	Murphy	Ring	Wiener
Fischbach	Kiscaden	Neuville	Robertson	Wiger
Foley	Krentz	Orfield	Robling	
Fowler	Langseth	Ourada	Sabo	

Those who voted in the negative were:

Bachmann	Johnson, Debbie	Lesewski	Samuelson	Scheevel
Dille	Kleis	Reiter		

So the bill passed and its title was agreed to.

H.F. No. 3196: A bill for an act relating to state government; department of administration; clarifying ethical provisions in state procurement law; authorizing the commissioner of administration to adopt rules relating to state archaeology; repealing obsolete technology authority; repealing statutory authority for the citizens council on Voyageurs National Park;

amending Minnesota Statutes 2000, sections 16C.04, subdivisions 1, 2; 138.31, by adding a subdivision; 138.36, by adding a subdivision; 138.38; 138.39; 138.41, subdivision 1; repealing Minnesota Statutes 2000, sections 13.6401, subdivision 3; 16B.415; 84B.11.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 54 and nays 1, as follows:

Those who voted in the affirmative were:

Anderson	Frederickson	Larson	Pappas	Samuelson
Bachmann	Higgins	Lesewski	Pariseau	Scheevel
Berg	Hottinger	Limmer	Pogemiller	Scheid
Berglin	Johnson, Debbie	Lourey	Price	Solon, Y.P.
Betzold	Kelley, S.P.	Marty	Ranum	Stevens
Chaudhary	Kierlin	Metzen	Reiter	Stumpf
Cohen	Kinkel	Moua	Rest	Tomassoni
Dille	Kiscaden	Murphy	Ring	Vickerman
Fischbach	Kleis	Neuville	Robertson	Wiener
Foley	Krentz	Orfield	Robling	Wiger
Fowler	Langseth	Ourada	Sabo	

Those who voted in the negative were:

Johnson, Doug

So the bill passed and its title was agreed to.

H.F. No. 3062: A bill for an act relating to the courts; repealing limitations on the term of service for judges in Hennepin and Ramsey county juvenile courts; repealing Minnesota Statutes 2000, section 260.019, subdivisions 2, 3, 4.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Fowler	Krentz	Ourada	Sabo
Bachmann	Frederickson	Langseth	Pappas	Samuelson
Belanger	Higgins	Larson	Pariseau	Scheevel
Berg	Hottinger	Lesewski	Pogemiller	Scheid
Berglin	Johnson, Debbie	Limmer	Price	Solon, Y.P.
Betzold	Johnson, Doug	Lourey	Ranum	Stevens
Chaudhary	Kelley, S.P.	Metzen	Reiter	Stumpf
Cohen	Kierlin	Moua	Rest	Tomassoni
Dille	Kinkel	Murphy	Ring	Vickerman
Fischbach	Kiscaden	Neuville	Robertson	Wiener
Foley	Kleis	Orfield	Robling	Wiger

So the bill passed and its title was agreed to.

S.F. No. 2945: A bill for an act relating to Nobles county; permitting the appointment of the auditor-treasurer and recorder.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 48 and nays 8, as follows:

Those who voted in the affirmative were:

Anderson	Belanger	Berg	Berglin	Betzold
----------	----------	------	---------	---------

Chaudhary	Johnson, Doug	Lourey	Pogemiller	Solon, Y.P.
Cohen	Kelley, S.P.	Marty	Price	Stevens
Day	Kierlin	Metzen	Ranum	Stumpf
Fischbach	Kinkel	Moua	Rest	Tomassoni
Foley	Kiscaden	Murphy	Ring	Vickerman
Fowler	Krentz	Neuville	Robertson	Wiener
Frederickson	Langseth	Orfield	Robling	Wiger
Higgins	Larson	Ourada	Sabo	
Hottinger	Limmer	Pappas	Scheid	

Those who voted in the negative were:

Bachmann	Johnson, Debbie	Lesewski	Reiter	Scheevel
Dille	Kleis	Pariseau		

So the bill passed and its title was agreed to.

H.F. No. 2695: A bill for an act relating to retirement; correcting Minneapolis firefighters relief association provisions; amending certain administrative procedures; amending Minnesota Statutes 2001 Supplement, sections 423C.01, subdivisions 17, 25; 423C.03, subdivisions 4, 6; 423C.04, subdivisions 1, 4; 423C.05, subdivisions 5, 6, 7, 9.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Fowler	Krentz	Orfield	Sabo
Bachmann	Frederickson	Langseth	Ourada	Samuelson
Belanger	Higgins	Larson	Pariseau	Scheevel
Berg	Hottinger	Lesewski	Pogemiller	Scheid
Berglin	Johnson, Debbie	Limmer	Price	Solon, Y.P.
Betzold	Johnson, Doug	Lourey	Ranum	Stevens
Cohen	Kelley, S.P.	Marty	Reiter	Stumpf
Day	Kierlin	Metzen	Rest	Tomassoni
Dille	Kinkel	Moua	Ring	Vickerman
Fischbach	Kiscaden	Murphy	Robertson	Wiener
Foley	Kleis	Neuville	Robling	Wiger

So the bill passed and its title was agreed to.

S.F. No. 2828: A bill for an act relating to education finance; modifying a limitation on the ability of the board of trustees of the Minnesota state colleges and universities and intermediate school districts to enter into certain property agreements; amending Minnesota Statutes 2000, section 136F.68.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 56 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Fowler	Langseth	Pariseau	Scheid
Bachmann	Frederickson	Lesewski	Pogemiller	Solon, Y.P.
Belanger	Higgins	Limmer	Price	Stevens
Berg	Hottinger	Lourey	Ranum	Stumpf
Berglin	Johnson, Debbie	Marty	Reiter	Tomassoni
Betzold	Johnson, Doug	Metzen	Rest	Vickerman
Chaudhary	Kelley, S.P.	Moua	Ring	Wiener
Cohen	Kierlin	Murphy	Robertson	Wiger
Day	Kinkel	Neuville	Robling	
Dille	Kiscaden	Orfield	Sabo	
Fischbach	Kleis	Ourada	Samuelson	
Foley	Krentz	Pappas	Scheevel	

So the bill passed and its title was agreed to.

S.F. No. 2573: A bill for an act relating to education; allowing independent school district No. 801, Browns Valley, to begin the school year as early as August 27 to accommodate Browns Valley high school students enrolled in school in Sisseton, South Dakota and Sisseton, South Dakota elementary students enrolled in school in Browns Valley; making this authorization applicable to the 2001-2002 school year and later.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 57 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Fowler	Langseth	Pappas	Scheevel
Bachmann	Frederickson	Larson	Pariseau	Scheid
Belanger	Higgins	Lesewski	Pogemiller	Solon, Y.P.
Berg	Hottinger	Limmer	Price	Stevens
Berglin	Johnson, Debbie	Lourey	Ranum	Stumpf
Betzold	Johnson, Doug	Marty	Reiter	Tomassoni
Chaudhary	Kelley, S.P.	Metzen	Rest	Vickerman
Cohen	Kierlin	Moua	Ring	Wiener
Day	Kinkel	Murphy	Robertson	Wiger
Dille	Kiscaden	Neuville	Robling	
Fischbach	Kleis	Orfield	Sabo	
Foley	Krentz	Ourada	Samuelson	

So the bill passed and its title was agreed to.

H.F. No. 2992: A bill for an act relating to professions; modifying terms of temporary licensure for occupational therapists; amending Minnesota Statutes 2000, section 148.6418, subdivision 5.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 54 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Fowler	Langseth	Ourada	Sabo
Bachmann	Frederickson	Larson	Pappas	Samuelson
Belanger	Higgins	Lesewski	Pariseau	Scheevel
Berglin	Hottinger	Limmer	Pogemiller	Scheid
Betzold	Johnson, Debbie	Lourey	Price	Solon, Y.P.
Chaudhary	Johnson, Doug	Marty	Ranum	Stevens
Cohen	Kierlin	Metzen	Reiter	Stumpf
Day	Kinkel	Moua	Rest	Tomassoni
Dille	Kiscaden	Murphy	Ring	Wiener
Fischbach	Kleis	Neuville	Robertson	Wiger
Foley	Krentz	Orfield	Robling	

So the bill passed and its title was agreed to.

H.F. No. 3148: A bill for an act relating to health occupations; modifying registration requirements for speech-language pathologists and audiologists whose registrations have lapsed for more than three years; amending Minnesota Statutes 2000, section 148.518, subdivision 2.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 54 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Fowler	Krentz	Orfield	Robling
Bachmann	Frederickson	Langseth	Ourada	Sabo
Belanger	Higgins	Larson	Pappas	Samuelson
Berg	Hottinger	Lesewski	Pariseau	Scheevel
Berglin	Johnson, Debbie	Limmer	Pogemiller	Stevens
Betzold	Johnson, Doug	Lourey	Price	Stumpf
Chaudhary	Kelley, S.P.	Marty	Ranum	Tomassoni
Day	Kierlin	Metzen	Reiter	Vickerman
Dille	Kinkel	Moua	Rest	Wiener
Fischbach	Kiscaden	Murphy	Ring	Wiger
Foley	Kleis	Neuville	Robertson	

So the bill passed and its title was agreed to.

S.F. No. 2834: A bill for an act relating to Steele county; permitting the appointment of the county recorder.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 48 and nays 7, as follows:

Those who voted in the affirmative were:

Anderson	Frederickson	Larson	Pappas	Scheid
Belanger	Hottinger	Limmer	Pariseau	Solon, Y.P.
Berglin	Johnson, Debbie	Lourey	Pogemiller	Stevens
Betzold	Johnson, Doug	Marty	Price	Stumpf
Chaudhary	Kelley, S.P.	Metzen	Ranum	Tomassoni
Cohen	Kierlin	Moua	Rest	Vickerman
Day	Kinkel	Murphy	Ring	Wiener
Fischbach	Kiscaden	Neuville	Robertson	Wiger
Foley	Krentz	Orfield	Robling	
Fowler	Langseth	Ourada	Sabo	

Those who voted in the negative were:

Bachmann	Kleis	Reiter	Samuelson	Scheevel
Dille	Lesewski			

So the bill passed and its title was agreed to.

H.F. No. 2624: A bill for an act relating to the city of Shakopee; increasing its public utilities commission from three to five members.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 56 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Fowler	Larson	Pariseau	Scheid
Bachmann	Frederickson	Lesewski	Pogemiller	Solon, Y.P.
Belanger	Hottinger	Limmer	Price	Stevens
Berg	Johnson, Debbie	Lourey	Ranum	Stumpf
Berglin	Johnson, Doug	Marty	Reiter	Tomassoni
Betzold	Kelley, S.P.	Metzen	Rest	Vickerman
Chaudhary	Kierlin	Moua	Ring	Wiener
Cohen	Kinkel	Murphy	Robertson	Wiger
Day	Kiscaden	Neuville	Robling	
Dille	Kleis	Orfield	Sabo	
Fischbach	Krentz	Ourada	Samuelson	
Foley	Langseth	Pappas	Scheevel	

So the bill passed and its title was agreed to.

S.F. No. 2814: A bill for an act relating to cooperatives; authorizing electronic voting; amending Minnesota Statutes 2000, sections 308A.311, subdivisions 4, 5; 308A.635, subdivisions 4, 6.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 55 and nays 1, as follows:

Those who voted in the affirmative were:

Anderson	Foley	Krentz	Orfield	Sabo
Bachmann	Fowler	Langseth	Pappas	Samuelson
Belanger	Frederickson	Larson	Pariseau	Scheevel
Berg	Hottinger	Lesewski	Pogemiller	Scheid
Berglin	Johnson, Debbie	Limmer	Price	Solon, Y.P.
Betzold	Johnson, Doug	Lourey	Ranum	Stevens
Chaudhary	Kelley, S.P.	Marty	Reiter	Stumpf
Cohen	Kierlin	Metzen	Rest	Tomassoni
Day	Kinkel	Moua	Ring	Vickerman
Dille	Kiscaden	Murphy	Robertson	Wiener
Fischbach	Kleis	Neuville	Robling	Wiger

Those who voted in the negative were:

Ourada

So the bill passed and its title was agreed to.

S.F. No. 1000: A bill for an act relating to eminent domain; modifying provisions governing appointment of commissioners; providing for hearing and notice requirements; amending Minnesota Statutes 2000, sections 117.075; 469.012, subdivision 1.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 56 and nays 0, as follows:

Those who voted in the affirmative were:

Bachmann	Frederickson	Larson	Pariseau	Scheid
Belanger	Higgins	Lesewski	Pogemiller	Solon, Y.P.
Berg	Hottinger	Limmer	Price	Stevens
Berglin	Johnson, Debbie	Lourey	Ranum	Stumpf
Betzold	Johnson, Doug	Marty	Reiter	Tomassoni
Chaudhary	Kelley, S.P.	Metzen	Rest	Vickerman
Cohen	Kierlin	Moua	Ring	Wiener
Day	Kinkel	Murphy	Robertson	Wiger
Dille	Kiscaden	Neuville	Robling	
Fischbach	Kleis	Orfield	Sabo	
Foley	Krentz	Ourada	Samuelson	
Fowler	Langseth	Pappas	Scheevel	

So the bill passed and its title was agreed to.

S.F. No. 3162: A bill for an act relating to Murray county; permitting the appointment of the county recorder.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 49 and nays 5, as follows:

Those who voted in the affirmative were:

Bachmann	Frederickson	Langseth	Ourada	Sabo
Belanger	Higgins	Larson	Pappas	Scheid
Berg	Hottinger	Limmer	Pariseau	Solon, Y.P.
Berglin	Johnson, Debbie	Lourey	Pogemiller	Stevens
Betzold	Johnson, Doug	Marty	Price	Stumpf
Chaudhary	Kelley, S.P.	Metzen	Ranum	Tomassoni
Cohen	Kierlin	Moua	Rest	Vickerman
Fischbach	Kinkel	Murphy	Ring	Wiener
Foley	Kiscaden	Neuville	Robertson	Wiger
Fowler	Krentz	Orfield	Robling	

Those who voted in the negative were:

Dille	Kleis	Lesewski	Reiter	Scheevel
-------	-------	----------	--------	----------

So the bill passed and its title was agreed to.

S.F. No. 2900: A bill for an act relating to local government; allowing a city to establish cartways; amending Minnesota Statutes 2000, section 415.01.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 55 and nays 1, as follows:

Those who voted in the affirmative were:

Bachmann	Fowler	Krentz	Ourada	Sabo
Belanger	Frederickson	Langseth	Pappas	Samuelson
Berg	Higgins	Larson	Pariseau	Scheevel
Berglin	Hottinger	Lesewski	Pogemiller	Scheid
Betzold	Johnson, Debbie	Lourey	Price	Solon, Y.P.
Chaudhary	Johnson, Doug	Marty	Ranum	Stevens
Cohen	Kelley, S.P.	Metzen	Reiter	Stumpf
Day	Kierlin	Moua	Rest	Tomassoni
Dille	Kinkel	Murphy	Ring	Vickerman
Fischbach	Kiscaden	Neuville	Robertson	Wiener
Foley	Kleis	Orfield	Robling	Wiger

Those who voted in the negative were:

Limmer

So the bill passed and its title was agreed to.

S.F. No. 3278: A bill for an act relating to drivers' licenses; requiring commissioner of public safety to adopt rules requiring education in organ donation as part of driver education programs; requiring commissioner to include information on organ and tissue donation in the driver's manual; amending Minnesota Statutes 2000, section 171.13, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 171.

Was read the third time and placed on its final passage.

Pursuant to Rule 41, Senator Kleis moved that he be excused from voting on S.F. No. 3278. The motion prevailed.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 53 and nays 1, as follows:

Those who voted in the affirmative were:

Bachmann	Cohen	Frederickson	Kinkel	Lourey
Belanger	Day	Higgins	Kiscaden	Marty
Berg	Dille	Hottinger	Krentz	Metzen
Berglin	Fischbach	Johnson, Debbie	Langseth	Moua
Betzold	Foley	Johnson, Doug	Larson	Murphy
Chaudhary	Fowler	Kierlin	Lesewski	Neuville

Orfield	Price	Robertson	Scheid	Vickerman
Ourada	Ranum	Robling	Solon, Y.P.	Wiener
Pappas	Reiter	Sabo	Stevens	Wiger
Pariseau	Rest	Samuelson	Stumpf	
Pogemiller	Ring	Scheevel	Tomassoni	

Those who voted in the negative were:

Limmer

So the bill passed and its title was agreed to.

S.F. No. 3045: A bill for an act relating to domestic abuse; authorizing extension of the domestic fatality review team pilot project in the fourth judicial district.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

Bachmann	Frederickson	Langseth	Ourada	Sabo
Belanger	Higgins	Larson	Pappas	Samuelson
Berg	Hottinger	Lesewski	Pariseau	Scheevel
Berglin	Johnson, Debbie	Limmer	Pogemiller	Scheid
Betzold	Johnson, Doug	Lourey	Price	Solon, Y.P.
Cohen	Kelley, S.P.	Marty	Ranum	Stevens
Day	Kierlin	Metzen	Reiter	Stumpf
Dille	Kinkel	Moua	Rest	Tomassoni
Fischbach	Kiscaden	Murphy	Ring	Vickerman
Foley	Kleis	Neuville	Robertson	Wiener
Fowler	Krentz	Orfield	Robling	Wiger

So the bill passed and its title was agreed to.

S.F. No. 3154: 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 2000, sections 182.65, subdivision 2; 182.656, subdivision 1; 182.666, subdivision 2.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

Bachmann	Fowler	Krentz	Orfield	Robling
Belanger	Frederickson	Langseth	Ourada	Sabo
Berg	Higgins	Larson	Pappas	Samuelson
Berglin	Hottinger	Lesewski	Pariseau	Scheevel
Betzold	Johnson, Debbie	Limmer	Pogemiller	Scheid
Chaudhary	Johnson, Doug	Lourey	Price	Stevens
Cohen	Kelley, S.P.	Marty	Ranum	Stumpf
Day	Kierlin	Metzen	Reiter	Tomassoni
Dille	Kinkel	Moua	Rest	Vickerman
Fischbach	Kiscaden	Murphy	Ring	Wiener
Foley	Kleis	Neuville	Robertson	Wiger

So the bill passed and its title was agreed to.

H.F. No. 3116: A bill for an act relating to natural resources; modifying certain responsibilities of the advisory committee and the legislative commission on Minnesota resources regarding the environmental and natural resources trust fund; modifying availability of funds for disbursement; providing a penalty for failure to comply with restrictions on certain state-funded acquisitions of

land; requiring recipients of certain state funding for acquisitions of interests in land to record a notice of funding agreement regarding the interests; amending Minnesota Statutes 2000, sections 116P.06, subdivision 2; 116P.07; 116P.11; Minnesota Statutes 2001 Supplement, section 116P.15.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

Bachmann	Fowler	Krentz	Orfield	Sabo
Belanger	Frederickson	Langseth	Ourada	Samuelson
Berg	Higgins	Larson	Pariseau	Scheevel
Berglin	Hottinger	Lesewski	Pogemiller	Scheid
Betzold	Johnson, Debbie	Limmer	Price	Solon, Y.P.
Chaudhary	Johnson, Doug	Lourey	Ranum	Stevens
Cohen	Kelley, S.P.	Marty	Reiter	Stumpf
Day	Kierlin	Metzen	Rest	Tomassoni
Dille	Kinkel	Moua	Ring	Vickerman
Fischbach	Kiscaden	Murphy	Robertson	Wiener
Foley	Kleis	Neuville	Robling	Wiger

So the bill passed and its title was agreed to.

S.F. No. 2631: A bill for an act relating to game and fish; restricting the taking of fish on certain waters; amending Minnesota Statutes 2000, section 97C.025.

Senator Kinkel moved to amend S.F. No. 2631 as follows:

Page 2, line 14, delete "(a)" and insert "(b)"

The motion prevailed. So the amendment was adopted.

S.F. No. 2631 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 56 and nays 0, as follows:

Those who voted in the affirmative were:

Bachmann	Frederickson	Larson	Pariseau	Scheid
Belanger	Higgins	Lesewski	Pogemiller	Solon, Y.P.
Berg	Hottinger	Limmer	Price	Stevens
Berglin	Johnson, Debbie	Lourey	Ranum	Stumpf
Betzold	Johnson, Doug	Marty	Reiter	Tomassoni
Chaudhary	Kelley, S.P.	Metzen	Rest	Vickerman
Cohen	Kierlin	Moua	Ring	Wiener
Day	Kinkel	Murphy	Robertson	Wiger
Dille	Kiscaden	Neuville	Robling	
Fischbach	Kleis	Orfield	Sabo	
Foley	Krentz	Ourada	Samuelson	
Fowler	Langseth	Pappas	Scheevel	

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

H.F. No. 2642: A bill for an act relating to mines; modifying a reporting requirement for the inspector of mines; amending Minnesota Statutes 2000, section 180.11.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

Bachmann	Fowler	Krentz	Orfield	Robling
Belanger	Frederickson	Langseth	Ourada	Samuelson
Berg	Higgins	Larson	Pappas	Scheevel
Berglin	Hottinger	Lesewski	Pariseau	Scheid
Betzold	Johnson, Debbie	Limmer	Pogemiller	Solon, Y.P.
Chaudhary	Johnson, Doug	Lourey	Price	Stevens
Cohen	Kelley, S.P.	Marty	Ranum	Stumpf
Day	Kierlin	Metzen	Reiter	Tomassoni
Dille	Kinkel	Moua	Rest	Vickerman
Fischbach	Kiscaden	Murphy	Ring	Wiener
Foley	Kleis	Neuville	Robertson	Wiger

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Reports of Committees and Second Reading of Senate Bills.

REPORTS OF COMMITTEES

Senator Moe, R.D. moved that the Committee Report at the Desk be now adopted. The motion prevailed.

Senator Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 21, together with the committee report thereon,

S.F. No. 3193: A bill for an act relating to professions; modifying provisions relating to electricians; adding power limited licensing classifications; requiring rulemaking; amending Minnesota Statutes 2000, sections 326.01, subdivisions 5, 6d, 6g, by adding subdivisions; 326.241, subdivision 1; 326.242, subdivisions 1, 2, 3, 5, 6, 6a, 6b, 6c, 7, 8, 10, 12, by adding subdivisions; 326.2421, subdivisions 2, 3, 4, 9; 326.244, subdivisions 1a, 2, 5, 6; 326.245; Minnesota Statutes 2001 Supplement, section 326.243.

Reports the same back with the recommendation that the report from the Committee on State and Local Government Operations, shown in the Journal for February 25, 2002, be adopted; that committee recommendation being:

"the bill do pass". Report adopted.

SECOND READING OF SENATE BILLS

S.F. No. 3193 was read the second time.

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Johnson, Doug moved that S.F. No. 2944, No. 50 on General Orders, be stricken and re-referred to the Committee on Taxes. The motion prevailed.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time and referred to the committees indicated.

Senator Dille introduced--

S.F. No. 3414: A bill for an act relating to agriculture; clarifying a definition related to the Minnesota extension service; amending Minnesota Statutes 2000, section 38.331, subdivision 2.

Referred to the Committee on Agriculture, General Legislation and Veterans Affairs.

Senator Kierlin introduced--

S.F. No. 3415: A bill for an act relating to taxation; eliminating the authority of the commissioner of revenue to terminate income tax reciprocity; amending Minnesota Statutes 2000, section 290.081.

Referred to the Committee on Taxes.

Senator Langseth introduced--

S.F. No. 3416: A bill for an act relating to taxation; authorizing the city of Moorhead to impose a tax levy for payment of certain obligations to which tax increments are pledged.

Referred to the Committee on Taxes.

Senators Larson and Hottinger introduced--

S.F. No. 3417: A bill for an act relating to insurance; regulating public adjusters; amending Minnesota Statutes 2000, section 72B.14.

Referred to the Committee on Commerce.

Senator Kelley, S.P. introduced--

S.F. No. 3418: A bill for an act relating to taxes; sales and use taxes; imposing the sales tax on certain installation charges; amending Minnesota Statutes 2001 Supplement, section 297A.61, subdivision 3.

Referred to the Committee on Taxes.

Senator Foley introduced--

S.F. No. 3419: A bill for an act relating to taxation; providing a valuation exclusion for certain improvements to commercial property; amending Minnesota Statutes 2000, section 273.11, by adding a subdivision.

Referred to the Committee on Taxes.

Senators Johnson, Doug and Moe, R.D. introduced--

S.F. No. 3420: A bill for an act relating to metropolitan government; requiring the metropolitan airports commission to submit proposed budgets to legislative committees; amending Minnesota Statutes 2000, section 473.661, by adding a subdivision.

Referred to the Committee on Finance.

MEMBERS EXCUSED

Senator Lourey was excused from the Session of today from 11:30 a.m. to 12:45 p.m. Senator Schwab was excused from the Session of today at 12:00 noon. Senator Knutson was excused from

the Session of today at 12:35 p.m. Senator Chaudhary was excused from the Session of today from 1:15 to 1:30 and 1:45 to 2:00 p.m. Senator Anderson was excused from the Session of today at 1:40 p.m.

ADJOURNMENT

Senator Moe, R.D. moved that the Senate do now adjourn until 12:00 noon, Wednesday, March 6, 2002. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

INDEX TO DAILY JOURNAL

Monday, March 4, 2002

EXECUTIVE AND OFFICIAL COMMUNICATIONS

Pages 4861 to 4862

CHAPTER LAWS

S.F. Nos.	H.F. Nos.	Session Laws Chapter No.	Page
	351	220	4862 4862

MESSAGES FROM THE HOUSE AND FIRST READINGS OF HOUSE FILES

S.F. Nos.	Message Page	H.F. Nos.	Message Page	1st Reading Page
1471	4862	1189	4863	4863
		1620	4863	4863
		2612	4863	4863
		2629	4863	4863
		2637	4863	4863
		2742	4863	4863
		2899	4863	4864
		2987	4863	4863
		3190	4863	4864
		3202	4863	4864
		3274	4863	4864
		3296	4863	4864
		3309	4863	4864
		3344	4863	4864

REPORTS OF COMMITTEES AND SECOND READINGS

S.F. Nos.	Report Page	2nd Reading Page	H.F. Nos.	Report Page	2nd Reading Page
240	4864				
240	4865				
1372	4876	4937			
1376	4910	4937			
1811	4909				
2210	4912	4937			
2218	4909				
2363	4913	4937			
2475	4864	4937			
2546	4908	4937			

2611	.....4886	4937
2664	.....4914	4937
2738	.....4885	
2763	.....4866	4937
2827	.....4912	
2871	.....4914	4937
2890	.....4911	4937
2957	.....4913	4937
3028	.....4886	4937
3055	.....4918	4937
3098	.....4886	4937
3108	.....4868	4937
3126	.....4919	4937
3133	.....4912	4937
3135	.....4913	4937
3136	.....4915	4937
3140	.....4866	
3168	.....4911	4937
3176	.....4864	
3176	.....4866	
3193	.....4948	4948
3204	.....4865	4937
3256	.....4910	4937
3288	.....4886	4937
3293	.....4865	4937
3310	.....4865	4937
3322	.....4911	4937
3345	.....4913	4937
3353	.....4864	
3353	.....4865	

MOTIONS AND RESOLUTIONS

S.F. Nos.	Page	H.F. Nos.	Page
2944	.....4948		
3163	.....4938		
3171	.....4938		
3211	.....4938		
3290	.....4938		
Sen. Res.			
No. 180	.....4938		

CONSENT CALENDAR

S.F. Nos.	Page	H.F. Nos.	Page
1000	.....4944	2624	.....4943
2445	.....4939	2642	.....4947
2573	.....4942	2695	.....4941
2590	.....4939	2992	.....4942
2631	.....4947	3062	.....4940
2814	.....4944	3116	.....4946
2828	.....4941	3148	.....4942
2834	.....4943	3196	.....4939
2900	.....4945		
2945	.....4940		
3045	.....4946		
3154	.....4946		
3162	.....4944		
3278	.....4945		

SPECIAL ORDERS

S.F. Nos.	Page	H.F. Nos.	Page
3208	.....4938		

INTRODUCTION AND FIRST READING OF SENATE BILLS

S.F. Nos. 3414 to 3420Page 4949
------------------------	----------------

