

STATE OF MINNESOTA

Journal of the Senate

EIGHTY-SECOND LEGISLATURE

FIFTY-SEVENTH DAY

St. Paul, Minnesota, Friday, May 18, 2001

The Senate met at 9:00 a.m. and was called to order by the President.

CALL OF THE SENATE

Senator Johnson, Debbie 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. Bernard A. Reiser.

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

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

The President declared a quorum present.

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received.

May 17, 2001

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. Nos. 510, 780, 824, 333, 859, 2005, 1269, 1613, 1826, 910 and 560.

Sincerely,
Jesse Ventura, Governor

May 17, 2001

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 Acts of the 2001 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 2001	Date Filed 2001
	208	Res. No. 4	10:28 a.m. May 17	May 17
510		105	10:35 a.m. May 17	May 17
780		106	10:36 a.m. May 17	May 17
824		107	10:38 a.m. May 17	May 17
333		108	10:33 a.m. May 17	May 17
859		109	10:25 a.m. May 17	May 17
	926	110	10:29 a.m. May 17	May 17
	1248	111	10:40 a.m. May 17	May 17
	1596	112	10:26 a.m. May 17	May 17
2005		113	10:26 a.m. May 17	May 17
1269		115	10:41 a.m. May 17	May 17
1613		116	10:31 a.m. May 17	May 17
1826		117	10:24 a.m. May 17	May 17
910		119	10:27 a.m. May 17	May 17
560		120	10:30 a.m. May 17	May 17

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, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 1434: A bill for an act relating to waters; providing for administrative penalty orders; modifying water appropriation permit provisions; establishing fees; providing civil penalties; amending Minnesota Statutes 2000, sections 103G.271, subdivisions 1, 5, and 5a; and 103G.301, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 103G.

Senate File No. 1434 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 16, 2001

CONCURRENCE AND REPASSAGE

Senator Price moved that the Senate concur in the amendments by the House to S.F. No. 1434 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1434: A bill for an act relating to waters; modifying water appropriation permit provisions; establishing fees; requiring cooperation with a dam inventory; amending Minnesota Statutes 2000, sections 103G.271, subdivisions 1, 5, and 5a; and 103G.301, subdivision 2.

Was read the third time, as amended by the House, and placed on its repassage.

The question was taken on the repassage of the bill, as amended.

The roll was called, and there were yeas 59 and nays 0, as follows:

Those who voted in the affirmative were:

Bachmann	Higgins	Langseth	Pappas	Samuelson
Belanger	Hottinger	Lesewski	Pariseau	Scheevel
Berg	Johnson, Dean	Lessard	Pogemiller	Scheid
Berglin	Johnson, Debbie	Limmer	Price	Schwab
Betzold	Kelley, S.P.	Lourey	Ranum	Stevens
Chaudhary	Kelly, R.C.	Marty	Reiter	Stumpf
Cohen	Kierlin	Moe, R.D.	Rest	Terwilliger
Day	Kinkel	Neuville	Ring	Tomassoni
Dille	Kiscaden	Oliver	Robertson	Vickerman
Foley	Kleis	Olson	Robling	Wiener
Fowler	Knutson	Orfield	Sabo	Wiger
Frederickson	Krentz	Ourada	Sams	

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 1263: A bill for an act relating to state government; changing the expiration dates of certain advisory councils and committees and other multimember entities; amending Minnesota Statutes 2000, sections 6.65; 15.059, subdivision 5; 15.50, subdivision 2; 16B.181, subdivision 2; 16B.27, subdivision 3; 16B.76, subdivision 1; 17.136; 18B.305, subdivision 3; 21.112, subdivision 2; 28A.20; 43A.316, subdivision 4; 62J.15, subdivision 1; 62J.46, subdivision 1; 62J.692, subdivision 2; 62Q.03, subdivision 5a; 82B.05, subdivision 1; 115A.12; 116P.06, subdivision 1; 122A.624, subdivision 2; 144.1481, subdivision 1; 144.672, subdivision 1; 144A.073, subdivisions 2, 3, 3c; 145A.10, subdivision 10; 148C.11, subdivision 3; 161.1419, subdivisions 2, 8; 161.17, subdivision 2; 174.55, subdivision 1; 175.007, subdivision 1; 175.008; 176.102, subdivision 3; 176.103, subdivision 3; 178.02, subdivision 2; 182.656, subdivision 3; 214.32, subdivision 1; 248.10; 254A.03, subdivision 2; 256.482, subdivision 8; 256B.0917, subdivisions 1, 2; 256B.093, subdivision 1; 256B.69, subdivision 5b; 256E.115, subdivision 1; 268.29; 268A.02, subdivision 2; 402.03; proposing coding for new law in Minnesota Statutes, chapter 245; repealing Minnesota Statutes 2000, sections 15.059, subdivision 5a, as amended; 17.49, subdivision 1; 17.703; 17.76; 40A.14, subdivision 3; 52.061; 60K.19, subdivision 4; 93.002; 97A.055, subdivision 4a; 116C.711; 124D.894; 124D.95, subdivision 6; 134.31, subdivision 5; 137.342, subdivision 2; 144A.31; 162.09, subdivision 2; 256B.071, subdivision 5; 256B.0911, subdivision 8; 256B.434, subdivision 13; 299A.295, subdivision 2; 299K.03, subdivision 4.

Senate File No. 1263 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 17, 2001

CONCURRENCE AND REPASSAGE

Senator Robertson moved that the Senate concur in the amendments by the House to S.F. No. 1263 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1263: A bill for an act relating to state government; changing the expiration dates of certain advisory councils and committees and other multimember entities; establishing the council of health boards; amending Minnesota Statutes 2000, sections 6.65; 15.059, subdivision 5; 15.50, subdivision 2; 16B.181, subdivision 2; 16B.27, subdivision 3; 16B.76, subdivision 1; 17.136; 18B.305, subdivision 3; 21.112, subdivision 2; 28A.20; 43A.316, subdivision 4; 62J.15, subdivision 1; 62J.46, subdivision 1; 62J.692, subdivision 2; 62Q.03, subdivision 5a; 82B.05, subdivision 1; 115A.12; 116P.06, subdivision 1; 122A.624, subdivision 2; 144.1481, subdivision 1; 144.672, subdivision 1; 144A.073, subdivisions 2, 3, 3c; 145A.10, subdivision 10; 148C.11, subdivision 3; 161.1419, subdivisions 2, 8; 161.17, subdivision 2; 174.55, subdivision 1; 175.007, subdivision 1; 175.008; 176.102, subdivision 3; 176.103, subdivision 3; 178.02, subdivision 2; 182.656, subdivision 3; 214.001, by adding a subdivision; 214.002, subdivision 1; 214.01, by adding a subdivision; 214.32, subdivision 1; 248.10; 254A.03, subdivision 2; 256.482, subdivision 8; 256B.0917, subdivisions 1, 2; 256B.093, subdivision 1; 256B.69, subdivision 5b; 256E.115, subdivision 1; 268.29; 268A.02, subdivision 2; 402.03; proposing coding for new law in Minnesota Statutes, chapters 214; 245; repealing Minnesota Statutes 2000, sections 15.059, subdivision 5a, as amended; 17.49, subdivision 1; 17.703; 17.76; 40A.14, subdivision 3; 52.061; 60K.19, subdivision 4; 93.002; 97A.055, subdivision 4a; 116C.711; 124D.894; 124D.95, subdivision 6; 134.31, subdivision 5; 137.342, subdivision 2; 144A.31; 162.09, subdivision 2; 256B.071, subdivision 5; 256B.0911, subdivision 8; 256B.434, subdivision 13; 299A.295, subdivision 2; 299K.03, subdivision 4.

Was read the third time, as amended by the House, and placed on its repassage.

The question was taken on the repassage of the bill, as amended.

The roll was called, and there were yeas 61 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Higgins	Langseth	Pariseau	Scheid
Bachmann	Hottinger	Lesewski	Pogemiller	Schwab
Belanger	Johnson, Dave	Lessard	Price	Stevens
Berg	Johnson, Dean	Limmer	Ranum	Stumpf
Berglin	Johnson, Debbie	Lourey	Reiter	Terwilliger
Betzold	Kelley, S.P.	Marty	Rest	Tomassoni
Chaudhary	Kelly, R.C.	Moe, R.D.	Ring	Vickerman
Cohen	Kierlin	Neuville	Robertson	Wiener
Day	Kinkel	Oliver	Robling	Wiger
Fischbach	Kiscaden	Olson	Sabo	
Foley	Kleis	Orfield	Sams	
Fowler	Knutson	Ourada	Samuelson	
Frederickson	Krentz	Pappas	Scheevel	

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 1680: A bill for an act relating to state government; programs administered by the

department of administration; extending the expiration date of certain advisory councils; extending the term of the shared-savings program for energy conservation in state-owned buildings; authorizing Indian tribal governments to be served by the state information infrastructure; adding political subdivisions to the state risk management program; repealing statutory authority for the citizens council on Voyageurs National Park; canceling the conveyance of surplus land to Sauk Centre; amending Minnesota Statutes 2000, sections 16B.055, by adding a subdivision; 16B.27, subdivision 3; 16B.32, subdivision 2; 16B.465, subdivision 1a; 16B.76, subdivision 1; 16B.85, subdivisions 2 and 3; and 16C.17, subdivision 2; repealing Minnesota Statutes 2000, section 84B.11; Laws 2000, chapter 326.

Senate File No. 1680 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 17, 2001

CONCURRENCE AND REPASSAGE

Senator Robertson moved that the Senate concur in the amendments by the House to S.F. No. 1680 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1680: A bill for an act relating to state government; programs administered by the department of administration; modifying privacy provisions; extending the expiration date of certain advisory councils; extending the term of the shared-savings program for energy conservation in state-owned buildings; authorizing Indian tribal governments to be served by the state information infrastructure; adding political subdivisions to the state risk management program; repealing the parking surcharge for vehicles occupied by one person; canceling the conveyance of surplus land to Sauk Centre; amending Minnesota Statutes 2000, sections 13.64; 16B.055, by adding a subdivision; 16B.27, subdivision 3; 16B.32, subdivision 2; 16B.465, subdivision 1a; 16B.76, subdivision 1; 16B.85, subdivisions 2 and 3; and 16C.17, subdivision 2; repealing Minnesota Statutes 2000, section 16B.58, subdivision 7; Laws 2000, chapter 326.

Was read the third time, as amended by the House, and placed on its repassage.

The question was taken on the repassage of the bill, as amended.

The roll was called, and there were yeas 60 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Fowler	Knutson	Orfield	Sabo
Bachmann	Frederickson	Krentz	Ourada	Sams
Belanger	Higgins	Langseth	Pappas	Samuelson
Berg	Hottinger	Lesewski	Pariseau	Scheid
Berglin	Johnson, Dave	Lessard	Pogemiller	Schwab
Betzold	Johnson, Debbie	Limmer	Price	Stevens
Chaudhary	Kelley, S.P.	Lourey	Ranum	Stumpf
Cohen	Kelly, R.C.	Marty	Reiter	Terwilliger
Day	Kierlin	Moe, R.D.	Rest	Tomassoni
Dille	Kinkel	Neuville	Ring	Vickerman
Fischbach	Kiscaden	Oliver	Robertson	Wiener
Foley	Kleis	Olson	Robling	Wiger

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

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

Senate File No. 321 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 17, 2001

CONCURRENCE AND REPASSAGE

Senator Kleis moved that the Senate concur in the amendments by the House to S.F. No. 321 and that the bill be placed on its repassage as amended. The motion prevailed.

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

Was read the third time, as amended by the House, and placed on its repassage.

The question was taken on the repassage of the bill, as amended.

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Frederickson	Krentz	Orfield	Samuelson
Bachmann	Higgins	Langseth	Ourada	Scheid
Belanger	Hottinger	Larson	Pappas	Schwab
Berg	Johnson, Dave	Lesewski	Pariseau	Stevens
Berglin	Johnson, Dean	Lessard	Pogemiller	Stumpf
Betzold	Johnson, Debbie	Limmer	Price	Terwilliger
Chaudhary	Kelley, S.P.	Lourey	Reiter	Tomassoni
Cohen	Kelly, R.C.	Marty	Rest	Vickerman
Day	Kierlin	Metzen	Ring	Wiener
Dille	Kinkel	Moe, R.D.	Robertson	Wiger
Fischbach	Kiscaden	Neuville	Robling	
Foley	Kleis	Oliver	Sabo	
Fowler	Knutson	Olson	Sams	

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 873, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 873 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 17, 2001

CONFERENCE COMMITTEE REPORT ON H.F. NO. 873

A bill for an act relating to public lands; allowing private easements across tax-forfeited land; changing certain exchange requirements; modifying county lease terms for tax-forfeited land; authorizing a conveyance of certain Benton county land; authorizing public and private sales and conveyances of certain tax-forfeited lands in Aitkin, Cook, Hubbard, Lake, Meeker, Ramsey, St. Louis, and Washington counties; amending Minnesota Statutes 2000, section 282.04, subdivision 1, and by adding a subdivision; Laws 1998, chapter 389, article 16, section 31, subdivisions 2, as amended, and 4, as amended.

May 15, 2001

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable Don Samuelson
President of the Senate

We, the undersigned conferees for H.F. No. 873, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 873 be further amended as follows:

Page 8, after line 33, insert:

"Sec. 4. Laws 1998, chapter 389, article 16, section 31, subdivision 3, as amended by Laws 1999, chapter 180, section 2, is amended to read:

Subd. 3. [COUNTY SALE.] Notwithstanding Minnesota Statutes, section 282.018, or any other law to the contrary, a county board must offer land that it has acquired through an exchange under this section for sale to the lessee of the land within 90 days from the date of acquisition for the value of the land as determined by the county board. The county board may include the cost of appraisal, abstract, and survey for the purposes of this section in the value of the land. If the lessee does not elect to purchase the land within 90 days from the date of the offer by the county, the county board shall sell the land by public sale no later than four years from the date the county acquires the land through an exchange under this section for no less than the value of the land as determined by the county board, including the cost of appraisal required by this section, any survey or abstract costs, and the value of improvements to the land. The county may sell the land with a directed sale to adjacent landowners within four years from the date of acquisition, if the lessee does not elect to purchase the lot within the 90-day period and if the county board determines that a lot cannot be brought into substantial compliance with official controls absent such a sale. The county board must reimburse the lessee for the value of the improvements to the land and the county may retain a sum from the proceeds of the sale equivalent to the cost of appraisal, abstract, and survey. The county board must reimburse the commissioner of natural resources for the costs of appraisal under subdivision 2, paragraph (c), survey, and abstract from the proceeds of the sale.

Scheduled lease rate increases shall be suspended for lots when the county certifies that the lessee has elected to purchase the lot within 90 days from the date of the offer by the county.

Notwithstanding Minnesota Statutes, section 284.28, subdivision 8, or any other law to the contrary, land acquired through an exchange under this section is exempt from payment of three percent of the sales price required to be collected by the county auditor at the time of sale for deposit in the state treasury."

Page 22, after line 14, insert:

"Sec. 26. [CONDEMNATION OF TRUST FUND LAND BORDERING PUBLIC WATERS; BELTRAMI COUNTY.]

Notwithstanding Minnesota Statutes, sections 92.45 and 103F.535, the commissioner of transportation may acquire the following described trust fund land, except minerals and mineral rights, by eminent domain:

Those parts of Government Lots 1 and 2 of Section 36, Township 147 North, Range 34 West of the Fifth Principal Meridian lying southwesterly of Minnesota department of transportation right-of-way plat no. 04-23, plat of which is on file and of record in the office of the county recorder in and for Beltrami county, Minnesota, bounded as follows: southeasterly of the southwesterly projection of the northwesterly line of said plat, northwesterly of the southwesterly projection of the southeasterly line of said plat, southwesterly of the southwesterly line of said plat, and northeasterly of the shoreline of Grass Lake.

The above described tract contains 12.5 acres."

Page 22, line 16, delete "2 and 10" and insert "1 to 26"

Page 22, line 17, delete "14" and insert "15"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 9, after the semicolon, insert "authorizing the commissioner of transportation to exercise the power of eminent domain for acquisition of certain trust fund land bordering public waters;"

Page 1, line 12, after "amended," insert "3, as amended,"

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Larry Howes, Howard Swenson, Thomas Bakk

Senate Conferees: (Signed) Anthony G. Kinkel, David J. Tomassoni, Pat Pariseau

Senator Kinkel moved that the foregoing recommendations and Conference Committee Report on H.F. No. 873 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 873 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 57 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Higgins	Krentz	Orfield	Samuelson
Bachmann	Hottinger	Langseth	Ourada	Scheid
Belanger	Johnson, Dave	Larson	Pappas	Schwab
Berglin	Johnson, Dean	Lesewski	Pariseau	Stevens
Betzold	Johnson, Debbie	Lessard	Price	Stumpf
Chaudhary	Kelley, S.P.	Limmer	Reiter	Terwilliger
Day	Kelly, R.C.	Lourey	Rest	Tomassoni
Dille	Kierlin	Marty	Ring	Wiener
Fischbach	Kinkel	Metzen	Robertson	Wiger
Foley	Kiscaden	Moe, R.D.	Robling	
Fowler	Kleis	Oliver	Sabo	
Frederickson	Knutson	Olson	Sams	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS

Senator Moe, R.D. moved that H.F. No. 1340 be withdrawn from the Committee on State and Local Government Operations, given a second reading and placed on General Orders. The motion prevailed.

H.F. No. 1340: A bill for an act relating to Wright county; permitting the appointment of the county recorder.

H.F. No. 1340 was read the second time.

S.F. No. 1968 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1968

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

May 17, 2001

The Honorable Don Samuelson
President of the Senate

The Honorable Steve Sviggum
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 1968, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 1968 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [CRANE SAFETY STUDY.]

The commissioner of labor and industry shall study ways to ensure the safe operation of cranes on construction sites. The commissioner shall form a task force with interested parties and stakeholders during this study including, but not limited to, the Minnesota Building and Construction Trades Council and related contractor organizations.

By January 15, 2002, the commissioner shall report to the chairs of the policy committees with jurisdiction over labor issues, recommendations of the task force on ways to achieve the safe operation of cranes on construction sites through certification and other requirements, including any possible legislative or administrative changes."

Delete the title and insert:

"A bill for an act relating to labor; requiring a study for the safe operation of cranes."

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Don Samuelson, David H. Johnson, Dennis R. Frederickson

House Conferees: (Signed) Joe Mullery, Steve Smith, Dennis Ozment

Senator Samuelson moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1968 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 1968 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 60 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Fowler	Krentz	Orfield	Sabo
Bachmann	Frederickson	Langseth	Ourada	Sams
Belanger	Higgins	Larson	Pappas	Samuelson
Berg	Johnson, Dean	Lesewski	Pariseau	Scheid
Berglin	Johnson, Debbie	Lessard	Pogemiller	Schwab
Betzold	Kelley, S.P.	Limmer	Price	Stevens
Chaudhary	Kelly, R.C.	Lourey	Ranum	Stumpf
Cohen	Kierlin	Marty	Reiter	Terwilliger
Day	Kinkel	Metzen	Rest	Tomassoni
Dille	Kiscaden	Neuville	Ring	Vickerman
Fischbach	Kleis	Oliver	Robertson	Wiener
Foley	Knutson	Olson	Robling	Wiger

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1394 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1394

A bill for an act relating to human services; changing child placement provisions; modifying provisions governing child maltreatment investigations; classifying data and authorizing data sharing; amending Minnesota Statutes 2000, sections 13.319, by adding a subdivision; 13.32, subdivision 3; 13.43, by adding a subdivision; 13.46, subdivision 2; 119B.02, by adding a subdivision; 256.01, subdivision 2; 256.045, subdivision 3b; 260C.007, subdivisions 4, 14, and by adding subdivisions; 260C.141, subdivision 2; 260C.151, subdivision 6; 260C.178, subdivisions 1 and 7; 260C.193, subdivision 3; 260C.201, subdivisions 1, 2, 5, 6, 7, 10, 11, and by adding a subdivision; 260C.205; 260C.212, subdivisions 1, 2, 4, 5, 7, 8, and 9; 260C.215, subdivision 6; 260C.301, subdivisions 1, 4, and 8; 260C.312; 260C.317, subdivision 3; and 260C.325, subdivision 4; 626.556, subdivisions 2, 3, 4, 7, 10, 10b, 10d, 10e, 10i, 10j, 11; proposing coding for new law in Minnesota Statutes, chapter 256F; repealing Minnesota Statutes 2000, sections 260C.325, subdivision 2; and 626.5565.

May 16, 2001

The Honorable Don Samuelson
President of the Senate

The Honorable Steve Sviggum
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 1394, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 1394 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1
CHILD PLACEMENT

Section 1. Minnesota Statutes 2000, section 144.225, is amended by adding a subdivision to read:

Subd. 2b. [COMMISSIONER OF HEALTH; DUTIES.] Notwithstanding the designation of certain of this data as confidential under subdivision 2 or private under subdivision 2a, the commissioner shall give the commissioner of human services access to birth record data and data contained in recognitions of parentage prepared according to section 257.75 necessary to enable the commissioner of human services to identify a child who is subject to threatened injury, as defined in section 626.556, subdivision 2, paragraph (l), by a person responsible for the child's care, as defined in section 626.556, subdivision 2, paragraph (b), clause (1). The commissioner shall be given access to all data included on official birth certificates.

Sec. 2. Minnesota Statutes 2000, section 256.01, subdivision 2, is amended to read:

Subd. 2. [SPECIFIC POWERS.] Subject to the provisions of section 241.021, subdivision 2, the commissioner of human services shall:

(1) Administer and supervise all forms of public assistance provided for by state law and other welfare activities or services as are vested in the commissioner. Administration and supervision of human services activities or services includes, but is not limited to, assuring timely and accurate distribution of benefits, completeness of service, and quality program management. In addition to administering and supervising human services activities vested by law in the department, the commissioner shall have the authority to:

(a) require county agency participation in training and technical assistance programs to promote compliance with statutes, rules, federal laws, regulations, and policies governing human services;

(b) monitor, on an ongoing basis, the performance of county agencies in the operation and administration of human services, enforce compliance with statutes, rules, federal laws, regulations, and policies governing welfare services and promote excellence of administration and program operation;

(c) develop a quality control program or other monitoring program to review county performance and accuracy of benefit determinations;

(d) require county agencies to make an adjustment to the public assistance benefits issued to any individual consistent with federal law and regulation and state law and rule and to issue or recover benefits as appropriate;

(e) delay or deny payment of all or part of the state and federal share of benefits and administrative reimbursement according to the procedures set forth in section 256.017;

(f) make contracts with and grants to public and private agencies and organizations, both profit and nonprofit, and individuals, using appropriated funds; and

(g) enter into contractual agreements with federally recognized Indian tribes with a reservation in Minnesota to the extent necessary for the tribe to operate a federally approved family assistance program or any other program under the supervision of the commissioner. The commissioner shall consult with the affected county or counties in the contractual agreement negotiations, if the county or counties wish to be included, in order to avoid the duplication of county and tribal assistance program services. The commissioner may establish necessary accounts for the purposes of receiving and disbursing funds as necessary for the operation of the programs.

(2) Inform county agencies, on a timely basis, of changes in statute, rule, federal law, regulation, and policy necessary to county agency administration of the programs.

(3) Administer and supervise all child welfare activities; promote the enforcement of laws protecting handicapped, dependent, neglected and delinquent children, and children born to mothers who were not married to the children's fathers at the times of the conception nor at the births of the children; license and supervise child-caring and child-placing agencies and institutions; supervise the care of children in boarding and foster homes or in private institutions;

and generally perform all functions relating to the field of child welfare now vested in the state board of control.

(4) Administer and supervise all noninstitutional service to handicapped persons, including those who are visually impaired, hearing impaired, or physically impaired or otherwise handicapped. The commissioner may provide and contract for the care and treatment of qualified indigent children in facilities other than those located and available at state hospitals when it is not feasible to provide the service in state hospitals.

(5) Assist and actively cooperate with other departments, agencies and institutions, local, state, and federal, by performing services in conformity with the purposes of Laws 1939, chapter 431.

(6) Act as the agent of and cooperate with the federal government in matters of mutual concern relative to and in conformity with the provisions of Laws 1939, chapter 431, including the administration of any federal funds granted to the state to aid in the performance of any functions of the commissioner as specified in Laws 1939, chapter 431, and including the promulgation of rules making uniformly available medical care benefits to all recipients of public assistance, at such times as the federal government increases its participation in assistance expenditures for medical care to recipients of public assistance, the cost thereof to be borne in the same proportion as are grants of aid to said recipients.

(7) Establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of the department.

(8) Act as designated guardian of both the estate and the person of all the wards of the state of Minnesota, whether by operation of law or by an order of court, without any further act or proceeding whatever, except as to persons committed as mentally retarded. For children under the guardianship of the commissioner whose interests would be best served by adoptive placement, the commissioner may contract with a licensed child-placing agency or a Minnesota tribal social services agency to provide adoption services. A contract with a licensed child-placing agency must be designed to supplement existing county efforts and may not replace existing county programs, unless the replacement is agreed to by the county board and the appropriate exclusive bargaining representative or the commissioner has evidence that child placements of the county continue to be substantially below that of other counties. Funds encumbered and obligated under an agreement for a specific child shall remain available until the terms of the agreement are fulfilled or the agreement is terminated.

(9) Act as coordinating referral and informational center on requests for service for newly arrived immigrants coming to Minnesota.

(10) The specific enumeration of powers and duties as hereinabove set forth shall in no way be construed to be a limitation upon the general transfer of powers herein contained.

(11) Establish county, regional, or statewide schedules of maximum fees and charges which may be paid by county agencies for medical, dental, surgical, hospital, nursing and nursing home care and medicine and medical supplies under all programs of medical care provided by the state and for congregate living care under the income maintenance programs.

(12) Have the authority to conduct and administer experimental projects to test methods and procedures of administering assistance and services to recipients or potential recipients of public welfare. To carry out such experimental projects, it is further provided that the commissioner of human services is authorized to waive the enforcement of existing specific statutory program requirements, rules, and standards in one or more counties. The order establishing the waiver shall provide alternative methods and procedures of administration, shall not be in conflict with the basic purposes, coverage, or benefits provided by law, and in no event shall the duration of a project exceed four years. It is further provided that no order establishing an experimental project as authorized by the provisions of this section shall become effective until the following conditions have been met:

(a) The secretary of health and human services of the United States has agreed, for the same project, to waive state plan requirements relative to statewide uniformity.

(b) A comprehensive plan, including estimated project costs, shall be approved by the legislative advisory commission and filed with the commissioner of administration.

(13) According to federal requirements, establish procedures to be followed by local welfare boards in creating citizen advisory committees, including procedures for selection of committee members.

(14) Allocate federal fiscal disallowances or sanctions which are based on quality control error rates for the aid to families with dependent children program formerly codified in sections 256.72 to 256.87, medical assistance, or food stamp program in the following manner:

(a) One-half of the total amount of the disallowance shall be borne by the county boards responsible for administering the programs. For the medical assistance and the AFDC program formerly codified in sections 256.72 to 256.87, disallowances shall be shared by each county board in the same proportion as that county's expenditures for the sanctioned program are to the total of all counties' expenditures for the AFDC program formerly codified in sections 256.72 to 256.87, and medical assistance programs. For the food stamp program, sanctions shall be shared by each county board, with 50 percent of the sanction being distributed to each county in the same proportion as that county's administrative costs for food stamps are to the total of all food stamp administrative costs for all counties, and 50 percent of the sanctions being distributed to each county in the same proportion as that county's value of food stamp benefits issued are to the total of all benefits issued for all counties. Each county shall pay its share of the disallowance to the state of Minnesota. When a county fails to pay the amount due hereunder, the commissioner may deduct the amount from reimbursement otherwise due the county, or the attorney general, upon the request of the commissioner, may institute civil action to recover the amount due.

(b) Notwithstanding the provisions of paragraph (a), if the disallowance results from knowing noncompliance by one or more counties with a specific program instruction, and that knowing noncompliance is a matter of official county board record, the commissioner may require payment or recover from the county or counties, in the manner prescribed in paragraph (a), an amount equal to the portion of the total disallowance which resulted from the noncompliance, and may distribute the balance of the disallowance according to paragraph (a).

(15) Develop and implement special projects that maximize reimbursements and result in the recovery of money to the state. For the purpose of recovering state money, the commissioner may enter into contracts with third parties. Any recoveries that result from projects or contracts entered into under this paragraph shall be deposited in the state treasury and credited to a special account until the balance in the account reaches \$1,000,000. When the balance in the account exceeds \$1,000,000, the excess shall be transferred and credited to the general fund. All money in the account is appropriated to the commissioner for the purposes of this paragraph.

(16) Have the authority to make direct payments to facilities providing shelter to women and their children according to section 256D.05, subdivision 3. Upon the written request of a shelter facility that has been denied payments under section 256D.05, subdivision 3, the commissioner shall review all relevant evidence and make a determination within 30 days of the request for review regarding issuance of direct payments to the shelter facility. Failure to act within 30 days shall be considered a determination not to issue direct payments.

(17) Have the authority to establish and enforce the following county reporting requirements:

(a) The commissioner shall establish fiscal and statistical reporting requirements necessary to account for the expenditure of funds allocated to counties for human services programs. When establishing financial and statistical reporting requirements, the commissioner shall evaluate all reports, in consultation with the counties, to determine if the reports can be simplified or the number of reports can be reduced.

(b) The county board shall submit monthly or quarterly reports to the department as required by the commissioner. Monthly reports are due no later than 15 working days after the end of the month. Quarterly reports are due no later than 30 calendar days after the end of the quarter, unless the commissioner determines that the deadline must be shortened to 20 calendar days to avoid

jeopardizing compliance with federal deadlines or risking a loss of federal funding. Only reports that are complete, legible, and in the required format shall be accepted by the commissioner.

(c) If the required reports are not received by the deadlines established in clause (b), the commissioner may delay payments and withhold funds from the county board until the next reporting period. When the report is needed to account for the use of federal funds and the late report results in a reduction in federal funding, the commissioner shall withhold from the county boards with late reports an amount equal to the reduction in federal funding until full federal funding is received.

(d) A county board that submits reports that are late, illegible, incomplete, or not in the required format for two out of three consecutive reporting periods is considered noncompliant. When a county board is found to be noncompliant, the commissioner shall notify the county board of the reason the county board is considered noncompliant and request that the county board develop a corrective action plan stating how the county board plans to correct the problem. The corrective action plan must be submitted to the commissioner within 45 days after the date the county board received notice of noncompliance.

(e) The final deadline for fiscal reports or amendments to fiscal reports is one year after the date the report was originally due. If the commissioner does not receive a report by the final deadline, the county board forfeits the funding associated with the report for that reporting period and the county board must repay any funds associated with the report received for that reporting period.

(f) The commissioner may not delay payments, withhold funds, or require repayment under paragraph (c) or (e) if the county demonstrates that the commissioner failed to provide appropriate forms, guidelines, and technical assistance to enable the county to comply with the requirements. If the county board disagrees with an action taken by the commissioner under paragraph (c) or (e), the county board may appeal the action according to sections 14.57 to 14.69.

(g) Counties subject to withholding of funds under paragraph (c) or forfeiture or repayment of funds under paragraph (e) shall not reduce or withhold benefits or services to clients to cover costs incurred due to actions taken by the commissioner under paragraph (c) or (e).

(18) Allocate federal fiscal disallowances or sanctions for audit exceptions when federal fiscal disallowances or sanctions are based on a statewide random sample for the foster care program under title IV-E of the Social Security Act, United States Code, title 42, in direct proportion to each county's title IV-E foster care maintenance claim for that period.

(19) Be responsible for ensuring the detection, prevention, investigation, and resolution of fraudulent activities or behavior by applicants, recipients, and other participants in the human services programs administered by the department.

(20) Require county agencies to identify overpayments, establish claims, and utilize all available and cost-beneficial methodologies to collect and recover these overpayments in the human services programs administered by the department.

(21) Have the authority to administer a drug rebate program for drugs purchased pursuant to the prescription drug program established under section 256.955 after the beneficiary's satisfaction of any deductible established in the program. The commissioner shall require a rebate agreement from all manufacturers of covered drugs as defined in section 256B.0625, subdivision 13. Rebate agreements for prescription drugs delivered on or after July 1, 2002, must include rebates for individuals covered under the prescription drug program who are under 65 years of age. For each drug, the amount of the rebate shall be equal to the basic rebate as defined for purposes of the federal rebate program in United States Code, title 42, section 1396r-8(c)(1). This basic rebate shall be applied to single-source and multiple-source drugs. The manufacturers must provide full payment within 30 days of receipt of the state invoice for the rebate within the terms and conditions used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act. The manufacturers must provide the commissioner with any information necessary to verify the rebate determined per drug. The rebate program shall utilize the terms and

conditions used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act.

(22) Operate the department's communication systems account established in Laws 1993, First Special Session chapter 1, article 1, section 2, subdivision 2, to manage shared communication costs necessary for the operation of the programs the commissioner supervises. A communications account may also be established for each regional treatment center which operates communications systems. Each account must be used to manage shared communication costs necessary for the operations of the programs the commissioner supervises. The commissioner may distribute the costs of operating and maintaining communication systems to participants in a manner that reflects actual usage. Costs may include acquisition, licensing, insurance, maintenance, repair, staff time and other costs as determined by the commissioner. Nonprofit organizations and state, county, and local government agencies involved in the operation of programs the commissioner supervises may participate in the use of the department's communications technology and share in the cost of operation. The commissioner may accept on behalf of the state any gift, bequest, devise or personal property of any kind, or money tendered to the state for any lawful purpose pertaining to the communication activities of the department. Any money received for this purpose must be deposited in the department's communication systems accounts. Money collected by the commissioner for the use of communication systems must be deposited in the state communication systems account and is appropriated to the commissioner for purposes of this section.

(23) Receive any federal matching money that is made available through the medical assistance program for the consumer satisfaction survey. Any federal money received for the survey is appropriated to the commissioner for this purpose. The commissioner may expend the federal money received for the consumer satisfaction survey in either year of the biennium.

(24) Incorporate cost reimbursement claims from First Call Minnesota into the federal cost reimbursement claiming processes of the department according to federal law, rule, and regulations. Any reimbursement received is appropriated to the commissioner and shall be disbursed to First Call Minnesota according to normal department payment schedules.

(25) Develop recommended standards for foster care homes that address the components of specialized therapeutic services to be provided by foster care homes with those services.

Sec. 3. [256F.14] [FAMILY GROUP DECISION-MAKING.]

Subdivision 1. [DEFINITIONS.] (a) For purposes of this section, family includes relatives of the child. "Relative" means an adult who is a stepparent, grandparent, brother, sister, uncle, aunt, or other extended family member of the minor by blood, marriage, or adoption. Relative also includes anyone with whom the child has resided or had a significant relationship.

For an Indian child, "relative" includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of law or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1903.

(b) For purposes of this section, "relative care" means one or more of the following: respite care, a monitoring agreement, a designated caregiver agreement under chapter 257A, access to information about a child, the right to make decisions about a child's residence, education, religious training, or health care, a custody consent decree under section 257.0215, or joint or sole legal or physical custody of a child. Relative care may also mean the voluntary establishment of an order permanently placing the child away from the care of the parent under section 260C.201, subdivision 11.

(c) For purposes of this section, "relative care agreement" means an agreement regarding the care of a child that has been reached by the parents and interested relatives of the child after the parents and interested relatives have participated in a family group decision-making meeting under this section. It may include relative care, the provision of services by the responsible social services agency, or any other legally available plan that protects the safety and stability of the child.

Subd. 2. [FAMILY GROUP DECISION-MAKING MEETING.] A responsible social services agency may proceed under this section if it appears at any point in a particular case that a family group decision-making meeting may be in the best interests of the child. The responsible social services agency may select a facilitator to convene and facilitate such a meeting.

The purpose of the family group decision-making meeting is to have the parent or parents and relatives of a child develop a plan to provide for the safety and stability of the child. The outcome of a family group decision-making meeting may be a relative care agreement or any other agreement between the parents, the relatives, and, where appropriate, the child and the responsible social services agency that addresses the safety and permanency needs of the child including an agreement to voluntarily establish an order permanently placing the child out of the care of the parent under section 260C.201, subdivision 11.

Subd. 3. [FACILITATOR TRAINING; IMMUNITY.] A facilitator must receive 12 hours of training in family group decision-making or similar training prior to facilitating a family group decision-making meeting. A facilitator who complies with the training requirement of this subdivision and acts in good faith has immunity from criminal or civil liability that might otherwise arise from the actions of the facilitator in convening or facilitating a family group decision-making meeting.

Sec. 4. Minnesota Statutes 2000, section 260.012, is amended to read:

260.012 [DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY REUNIFICATION; REASONABLE EFFORTS.]

(a) Once a child alleged to be in need of protection or services is under the court's jurisdiction, the court shall ensure that reasonable efforts including culturally appropriate services by the social services agency are made to prevent placement or to eliminate the need for removal and to reunite the child with the child's family at the earliest possible time, consistent with the best interests, safety, and protection of the child. In determining reasonable efforts to be made with respect to a child and in making those reasonable efforts, the child's health and safety must be of paramount concern. Reasonable efforts for rehabilitation and reunification are not required upon a determination by the court that:

- (1) a termination of parental rights petition has been filed stating a prima facie case that:
 - (i) the parent has subjected a child to egregious harm as defined in section 260C.007, subdivision 26;
 - (ii) the parental rights of the parent to another child have been terminated involuntarily; ~~or~~
 - (iii) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph (a), clause (2); or
 - (iv) the parent's custodial rights to another child have been involuntarily transferred to a relative under section 260C.201, subdivision 11, paragraph (e), clause (1), or a similar law of another jurisdiction;
- (2) the county attorney has filed a determination not to proceed with a termination of parental rights petition on these grounds was made under section 260C.301, subdivision 3, paragraph (b), and a permanency hearing is held within 30 days of the determination; or
- (3) a termination of parental rights petition or other petition according to section 260C.201, subdivision 11, has been filed alleging a prima facie case that the provision of services or further services for the purpose of reunification is futile and therefore unreasonable under the circumstances.

In the case of an Indian child, in proceedings under sections 260B.178 or 260C.178, 260C.201, and 260C.301 the juvenile court must make findings and conclusions consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901 et seq., as to the provision of active efforts. If a child is under the court's delinquency jurisdiction, it shall be the duty of the

court to ensure that reasonable efforts are made to reunite the child with the child's family at the earliest possible time, consistent with the best interests of the child and the safety of the public.

(b) "Reasonable efforts" means the exercise of due diligence by the responsible social services agency to use appropriate and available services to meet the needs of the child and the child's family in order to prevent removal of the child from the child's family; or upon removal, services to eliminate the need for removal and reunite the family.

(1) Services may include those listed under section 256F.07, subdivision 3, and other appropriate services available in the community.

(2) At each stage of the proceedings where the court is required to review the appropriateness of the responsible social services agency's reasonable efforts, the social services agency has the burden of demonstrating that it has made reasonable efforts, or that provision of services or further services for the purpose of rehabilitation and reunification is futile and therefore unreasonable under the circumstances or that reasonable efforts aimed at reunification are not required under this section. The agency may meet this burden by stating facts in a sworn petition filed under section 260C.141, or by filing an affidavit summarizing the agency's reasonable efforts or facts the agency believes demonstrate there is no need for reasonable efforts to reunify the parent and child.

(3) No reasonable efforts for reunification are required when the court makes a determination under paragraph (a) unless, after a hearing according to section 260C.163, the court finds there is not clear and convincing evidence of the facts upon which the court based its prima facie determination. In this case, the court may proceed under section 260C.312. Reunification of a surviving child with a parent is not required if the parent has been convicted of:

(i) a violation of, or an attempt or conspiracy to commit a violation of, sections 609.185 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the parent;

(ii) a violation of section 609.222, subdivision 2; or 609.223, in regard to the surviving child; or

(iii) a violation of, or an attempt or conspiracy to commit a violation of, United States Code, title 18, section 1111(a) or 1112(a), in regard to another child of the parent.

(c) The juvenile court, in proceedings under sections 260B.178 or 260C.178, 260C.201, and 260C.301 shall make findings and conclusions as to the provision of reasonable efforts. When determining whether reasonable efforts have been made, the court shall consider whether services to the child and family were:

(1) relevant to the safety and protection of the child;

(2) adequate to meet the needs of the child and family;

(3) culturally appropriate;

(4) available and accessible;

(5) consistent and timely; and

(6) realistic under the circumstances.

In the alternative, the court may determine that provision of services or further services for the purpose of rehabilitation is futile and therefore unreasonable under the circumstances or that reasonable efforts are not required as provided in paragraph (a).

(d) This section does not prevent out-of-home placement for treatment of a child with a mental disability when the child's diagnostic assessment or individual treatment plan indicates that appropriate and necessary treatment cannot be effectively provided outside of a residential or inpatient treatment program.

(e) If continuation of reasonable efforts described in paragraph (b) is determined by the court to

be inconsistent with the permanent plan for the child, or upon a determination under paragraph (a), reasonable efforts must be made to place the child in a timely manner in accordance with the permanent plan ordered by the court and to complete whatever steps are necessary to finalize the permanent plan for the child.

(f) Reasonable efforts to place a child for adoption or in another permanent placement may be made concurrently with reasonable efforts as described in paragraphs (a) and (b). When the responsible social services agency decides to concurrently make reasonable efforts for both reunification and permanent placement away from the parent under paragraphs (a) and (b), the agency shall disclose its decision and both plans for concurrent reasonable efforts to all parties and the court. When the agency discloses its decision to proceed on both plans for reunification and permanent placement away from the parent, the court's review of the agency's reasonable efforts shall include the agency's efforts under paragraphs (a) and (b).

Sec. 5. Minnesota Statutes 2000, section 260C.007, is amended by adding a subdivision to read:

Subd. 2a. [CASE PLAN.] "Case plan" means any plan for the delivery of services to a child and parent or guardian, or, when reunification is not required, the child alone, that is developed according to the requirements of section 245.4871, subdivision 19 or 21; 245.492, subdivision 16; 256B.092; 256E.08; 260C.212, subdivision 1; or 626.556, subdivision 10.

Sec. 6. Minnesota Statutes 2000, section 260C.007, subdivision 4, is amended to read:

Subd. 4. [CHILD IN NEED OF PROTECTION OR SERVICES.] "Child in need of protection or services" means a child who is in need of protection or services because the child:

- (1) is abandoned or without parent, guardian, or custodian;
- (2)(i) has been a victim of physical or sexual abuse, (ii) resides with or has resided with a victim of domestic child abuse as defined in subdivision 25, (iii) resides with or would reside with a perpetrator of domestic child abuse or child abuse as defined in subdivision 25, or (iv) is a victim of emotional maltreatment as defined in subdivision 8;
- (3) is without necessary food, clothing, shelter, education, or other required care for the child's physical or mental health or morals because the child's parent, guardian, or custodian is unable or unwilling to provide that care;
- (4) is without the special care made necessary by a physical, mental, or emotional condition because the child's parent, guardian, or custodian is unable or unwilling to provide that care, including a child in voluntary placement according to release of the parent under section 260C.212, subdivision 9 due solely to the child's developmental disability or emotional disturbance;
- (5) is medically neglected, which includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life-threatening condition. The term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include the failure to provide treatment other than appropriate nutrition, hydration, or medication to an infant when, in the treating physician's or physicians' reasonable medical judgment:
 - (i) the infant is chronically and irreversibly comatose;
 - (ii) the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; or
 - (iii) the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane;

(6) is one whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody, including a child in placement according to voluntary release by the parent under section 260C.212, subdivision 8;

(7) has been placed for adoption or care in violation of law;

(8) is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the child's parent, guardian, or other custodian;

(9) is one whose behavior, condition, or environment is such as to be injurious or dangerous to the child or others. An injurious or dangerous environment may include, but is not limited to, the exposure of a child to criminal activity in the child's home;

(10) is experiencing growth delays, which may be referred to as failure to thrive, that have been diagnosed by a physician and are due to parental neglect;

(11) has engaged in prostitution as defined in section 609.321, subdivision 9;

(12) has committed a delinquent act or a juvenile petty offense before becoming ten years old;

(13) is a runaway;

(14) is a habitual truant;

(15) has been found incompetent to proceed or has been found not guilty by reason of mental illness or mental deficiency in connection with a delinquency proceeding, a certification under section 260B.125, an extended jurisdiction juvenile prosecution, or a proceeding involving a juvenile petty offense; or

(16) has been found by the court to have committed domestic abuse perpetrated by a minor under Laws 1997, chapter 239, article 10, sections 2 to 26, has been ordered excluded from the child's parent's home by an order for protection/minor respondent, and the parent or guardian is either unwilling or unable to provide an alternative safe living arrangement for the child.

Sec. 7. Minnesota Statutes 2000, section 260C.007, is amended by adding a subdivision to read:

Subd. 5a. [COMPELLING REASONS.] "Compelling reasons" means an individualized determination by the responsible social services agency, which is approved by the court, not to initiate proceedings to terminate parental rights or transfer permanent legal and physical custody of a child to the child's relative or former noncustodial parent.

Sec. 8. Minnesota Statutes 2000, section 260C.007, is amended by adding a subdivision to read:

Subd. 7a. [DEVELOPMENTAL DISABILITY.] "Developmental disability" means developmental disability as defined in United States Code, title 42, section 6001(8).

Sec. 9. Minnesota Statutes 2000, section 260C.007, subdivision 14, is amended to read:

Subd. 14. [RELATIVE.] "Relative" means a parent, stepparent, grandparent, brother, sister, uncle, or aunt of the minor. This relationship may be by blood or marriage. For an Indian child, relative includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of laws or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1903. For purposes of child in need of protection or services proceedings, termination of parental rights proceedings, and permanency proceedings under section 260C.201, subdivision 11, relative means a person related to the child by blood, marriage, or adoption, or an individual who is an important friend with whom the child has resided or had significant contact. For an Indian child, relative includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of laws or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1903.

Sec. 10. Minnesota Statutes 2000, section 260C.007, is amended by adding a subdivision to read:

Subd. 27. [EMOTIONALLY DISTURBED.] "Emotionally disturbed" means emotional disturbance as described in section 245.4871, subdivision 15.

Sec. 11. Minnesota Statutes 2000, section 260C.141, subdivision 2, is amended to read:

Subd. 2. [REVIEW OF FOSTER CARE STATUS.] The social services agency responsible for the placement of a child in a residential facility, as defined in section 260C.212, subdivision 1, pursuant to a voluntary release by the child's parent or parents ~~may bring a petition~~ must proceed in juvenile court to review the foster care status of the child in the manner provided in this section. ~~The responsible social services agency shall file either a petition alleging the child to be in need of protection or services or a petition to terminate parental rights or other permanency petition under section 260C.201, subdivision 11.~~

~~(a) In the case of~~ Except for a child in placement due solely to the child's developmental disability or emotional disturbance, when a child continues in voluntary placement according to section 260C.212, subdivision 8, the a petition shall be filed alleging the child to be in need of protection or services or seeking termination of parental rights or other permanent placement of the child away from the parent within 90 days of the date of the voluntary placement agreement and. The petition shall state the reasons why the child is in placement, the progress on the ease out-of-home placement plan required under section 260C.212, subdivision 1, and the statutory basis for the petition under section 260C.007, subdivision 4, 260C.201, subdivision 11, or 260C.301.

(1) In the case of a petition alleging the child to be in need of protection or services filed under this paragraph, if all parties agree and the court finds it is in the best interests of the child, the court may find the petition states a prima facie case that:

- (i) the child's needs are being met;
- (ii) the placement of the child in foster care is in the best interests of the child; and
- (iii) reasonable efforts to reunify the child and the parent or guardian are being made; and
- (iv) the child will be returned home in the next ~~six~~ three months.

(2) If the court makes findings under paragraph (1), the court shall approve the voluntary arrangement and continue the matter for up to ~~six~~ three more months to ensure the child returns to the parents' home. The responsible social services agency shall:

(i) report to the court when the child returns home and the progress made by the parent on the ease out-of-home placement plan required under section 260C.212, in which case the court shall dismiss jurisdiction;

(ii) report to the court that the child has not returned home, in which case the matter shall be returned to the court for further proceedings under section 260C.163; or

(iii) if any party does not agree to continue the matter under paragraph (1) and this paragraph, the matter shall proceed under section 260C.163.

~~(b) In the case of a child in voluntary placement due solely to the child's developmental disability or emotional disturbance according to section 260C.212, subdivision 9, the petition shall be filed within six months of the date of the voluntary placement agreement and following procedures apply:~~

(1) [REPORT TO COURT.] (i) Unless the county attorney determines that a petition under subdivision 1 is appropriate, without filing a petition, a written report, shall be forwarded to the court within 165 days of the date of the voluntary placement agreement. The written report shall contain necessary identifying information for the court to proceed, a copy of the out-of-home placement plan required under section 260C.212, subdivision 1, a written summary of the proceedings of any administrative review required under section 260C.212, subdivision 7, and any other information the responsible social services agency, parent or guardian, the child or the foster parent or other residential facility wants the court to consider.

(ii) The responsible social services agency, where appropriate, must advise the child, parent or guardian, the foster parent, or representative of the residential facility of the requirements of this section and of their right to submit information to the court. If the child, parent or guardian, foster parent, or representative of the residential facility want to send information to the court, the responsible social services agency shall advise those persons of the reporting date and the identifying information necessary for the court administrator to accept the information and submit it to a judge with the agency's report. The responsible social services agency must also notify those persons that they have the right to be heard in person by the court and how to exercise that right. The responsible social services agency must also provide notice that an in-court hearing will not be held unless requested by a parent or guardian, foster parent, or the child.

(iii) After receiving the required report, the court has jurisdiction to make the following determinations and must do so within ten days of receiving the forwarded report: (i) whether or not the placement of the child is in the child's best interests; and (ii) whether the parent and agency are appropriately planning for the child. Unless requested by a parent or guardian, foster parent, or child, no in-court hearing need be held in order for the court to make findings and issue an order under this paragraph.

(iv) If the court finds the placement is in the child's best interests and that the agency and parent are appropriately planning for the child, the court shall issue an order containing explicit, individualized findings to support its determination. The court shall send a copy of the order to the county attorney, the responsible social services agency, the parent or guardian, the child, and the foster parents. The court shall also send the parent or guardian, the child, and the foster parent notice of the required review under clause (2).

(v) If the court finds continuing the placement not to be in the child's best interests or that the agency or the parent or guardian is not appropriately planning for the child, the court shall notify the county attorney, the responsible social services agency, the parent or guardian, the foster parent, the child, and the county attorney of the court's determinations and the basis for the court's determinations.

(2) [PERMANENCY REVIEW BY PETITION.] If a child with a developmental disability or an emotional disturbance continues in out-of-home placement for 13 months from the date of a voluntary placement, a petition alleging the child to be in need of protection or services, for termination of parental rights or for permanent placement of the child away from the parent under section 260C.201 shall be filed. The court shall conduct a permanency hearing on the petition no later than 14 months after the date of the voluntary placement. At the permanency hearing, the court shall determine the need for an order permanently placing the child away from the parent or determine whether there are compelling reasons that continued voluntary placement is in the child's best interests. A petition alleging the child to be in need of protection or services shall state the date of the voluntary placement agreement, the nature of the child's developmental delay disability or emotional handicap disturbance, the plan for the ongoing care of the child, the parents' participation in the plan, and the statutory basis for the petition.

(1) In the case of petitions (i) If a petition alleging the child to be in need of protection or services is filed under this paragraph, the court may find, based on the contents of the sworn petition, and the agreement of all parties, including the child, where appropriate, that there are compelling reasons that the voluntary arrangement is in the best interests of the child, approve the continued voluntary arrangement placement, and dismiss continue the matter from further under the court's jurisdiction for the purpose of reviewing the child's placement as a continued voluntary arrangement every 12 months as long as the child continues in out-of-home placement. The court shall give notice to the responsible social services agency that The matter must be returned to the court for further review if the child remains in placement after every 12 months as long as the child remains in placement. The court shall give notice to the parent or guardian of the continued review requirements under this section. Nothing in this paragraph shall be construed to mean the court must order permanent placement for the child under section 260C.201, subdivision 11, as long as the court finds compelling reasons at the first review required under this section.

(ii) If a petition for termination of parental rights, for transfer of permanent legal and physical

custody to a relative, for long-term foster care, or for foster care for a specified period of time is filed, the court must proceed under section 260C.201, subdivision 11.

~~(2)~~ (3) If any party, including the child, disagrees with the voluntary arrangement, the court shall proceed under section 260C.163.

Sec. 12. Minnesota Statutes 2000, section 260C.151, subdivision 6, is amended to read:

Subd. 6. [IMMEDIATE CUSTODY.] If it appears from the court makes individualized, explicit findings, based on the notarized petition or by sworn affidavit, that there are reasonable grounds to believe the child is in surroundings or conditions which endanger the child's health, safety or welfare and that require that the child's custody be immediately assumed by the court and that continuation of the child in the custody of the parent or guardian is contrary to the child's welfare, the court may order, by endorsement upon the summons, that the officer serving the summons shall take the child into immediate custody.

Sec. 13. Minnesota Statutes 2000, section 260C.178, subdivision 1, is amended to read:

Subdivision 1. [HEARING AND RELEASE REQUIREMENTS.] (a) If a child was taken into custody under section 260C.175, subdivision 1, clause (a) or (b)(2), the court shall hold a hearing within 72 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, to determine whether the child should continue in custody.

(b) Unless there is reason to believe that the child would endanger self or others, not return for a court hearing, run away from the child's parent, guardian, or custodian or otherwise not remain in the care or control of the person to whose lawful custody the child is released, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person, subject to reasonable conditions of release including, but not limited to, a requirement that the child undergo a chemical use assessment as provided in section 260C.157, subdivision 1. In determining whether the child's health or welfare would be immediately endangered, the court shall consider whether the child would reside with a perpetrator of domestic child abuse. ~~In a proceeding regarding a child in need of protection or services,~~

(c) The court, before determining whether a child should continue in custody, shall also make a determination, consistent with section 260.012 as to whether reasonable efforts, or in the case of an Indian child, active efforts, according to the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912(d), were made to prevent placement ~~or to reunite the child with the child's family, or that reasonable efforts were not possible.~~ The court shall also determine whether there are available services that would prevent the need for further detention. In the alternative, the court shall determine that reasonable efforts are not required if the court makes a prima facie determination that one of the circumstances under paragraph (e) exists.

If the court finds the social services agency's preventive or reunification efforts have not been reasonable but further preventive or reunification efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

(d) The court may not order or continue the foster care placement of the child unless the court makes explicit, individualized findings that continued custody of the child by the parent or guardian would be contrary to the welfare of the child.

~~(e)~~ (e) At the detention hearing, or at any time ~~prior to an adjudicatory hearing~~ during the course of the proceeding, and upon notice and request of the county attorney, the court shall make the following determinations:

(1) whether a termination of parental rights petition has been filed stating a prima facie case that:

(i) the parent has subjected a child to egregious harm as defined in section 260C.007, subdivision 26;

- (ii) the parental rights of the parent to another child have been involuntarily terminated; or
 - (iii) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph (a), clause (2);
- (2) that the county attorney has determined not to proceed with a termination of parental rights petition under section 260C.307; or

(3) whether a termination of parental rights petition or other petition according to section 260C.201, subdivision 11, has been filed alleging a prima facie case that the provision of services or further services for the purpose of rehabilitation and reunification is futile and therefore unreasonable under the circumstances.

If the court determines that the county attorney is not proceeding with a termination of parental rights petition under section 260C.307, but is proceeding with a petition under section 260C.201, subdivision 11, the court shall schedule a permanency hearing within 30 days. If the county attorney has filed a petition under section 260C.307, the court shall schedule a trial under section 260C.163 within 90 days of the filing of the petition except when the county attorney determines that the criminal case shall proceed to trial first under section 260C.201, subdivision 3.

(d) (f) If the court determines the child should be ordered into out-of-home placement and the child's parent refuses to give information to the responsible social services agency regarding the child's father or relatives of the child, the court may order the parent to disclose the names, addresses, telephone numbers, and other identifying information to the local responsible social services agency for the purpose of complying with the requirements of sections 260C.151, 260C.212, and 260C.215.

(g) If a child ordered into out-of-home placement has siblings, whether full, half, or step, who are also ordered into placement, the court shall inquire of the responsible social services agency of the efforts to place the children together as required by section 260C.212, subdivision 2, paragraph (d), if placement together is in each child's best interests, unless a child is in placement due solely to the child's own behavior or a child is placed with a previously noncustodial parent who is not parent to all siblings. If the children are not placed together at the time of the hearing, the court shall inquire at each subsequent hearing of the agency's efforts to place the siblings together. If any sibling is not placed with another sibling or siblings, the agency must develop a plan for visitation among the siblings as required under section 260C.212, subdivision 1.

Sec. 14. Minnesota Statutes 2000, section 260C.178, subdivision 7, is amended to read:

Subd. 7. [CASE OUT-OF-HOME PLACEMENT PLAN.] (a) ~~A~~ An out-of-home placement plan required under section 260C.212 shall be filed with the court within 30 days of the filing of a petition alleging the child to be in need of protection or services under section 260C.141, subdivision 1, or filed with the petition if the petition is a review of a voluntary placement under section 260C.141, subdivision 2.

(b) Upon the filing of the ease out-of-home placement plan, the court may approve the ease plan based on the allegations contained in the petition. The court shall send written notice of the approval of the out-of-home placement plan to all parties and the county attorney or may state such approval on the record at a hearing. A parent may agree to comply with the terms of the ease plan filed with the court.

(c) Upon notice and motion by a parent who agrees to comply with the terms of a ease an out-of-home placement plan, the court may modify the ease plan and order the responsible social services agency to provide other or additional services for reunification, if reunification efforts are required, and the court determines the agency's ease plan inadequate under section 260.012.

(d) Unless the parent agrees to comply with the terms of the ease out-of-home placement plan, the court may not order a parent to comply with the provisions of the ease plan until the court makes a determination under section 260C.201, subdivision 1. However, the court may find that the responsible social services agency has made reasonable efforts for reunification if the agency makes efforts to implement the terms of an out-of-home placement plan approved under this section.

Sec. 15. Minnesota Statutes 2000, section 260C.193, subdivision 3, is amended to read:

Subd. 3. ~~[PROTECTION OF THE CHILD'S BEST INTERESTS INTEREST OF THE CHILD IN FOSTER CARE OR RESIDENTIAL CARE.]~~ (a) The policy of the state is to ensure that the best interests of children in foster or residential care are met by requiring individualized determinations under section 260C.212, subdivision 2, paragraph (b), of the needs of the child and of how the selected placement will serve the needs of the child in foster care placements.

~~(b) Among the factors to be considered in determining the needs of the child are:~~

~~(1) the child's current functioning and behaviors;~~

~~(2) the medical, educational, and developmental needs of the child;~~

~~(3) the child's history and past experience;~~

~~(4) the child's religious and cultural needs;~~

~~(5) the child's connection with a community, school, and church;~~

~~(6) the child's interests and talents;~~

~~(7) the child's relationship to current caretakers, parents, siblings, and relatives; and~~

~~(8) the reasonable preference of the child, if the court, or in the case of a voluntary placement the child-placing agency, deems the child to be of sufficient age to express preferences.~~

~~(e) (b) The court, in transferring legal custody of any child or appointing a guardian for the child under the laws relating to juvenile courts, shall consider placement, shall review whether the responsible social services agency made efforts as required under section 260C.212, subdivision 5, and made an individualized determination as required under section 260C.212, subdivision 2. If the court finds the agency has not made efforts as required under section 260C.212, subdivision 5, and there is a relative who qualifies to be licensed to provide family foster care under chapter 245A, the court may order the child placed with the relative consistent with the child's best interests and in the following order, in the legal custody or guardianship of an individual who (1) is related to the child by blood, marriage, or adoption, or (2) is an important friend with whom the child has resided or had significant contact.~~

~~(c) If the child's birth parent or parents explicitly request that a relative or important friend not be considered, the court shall honor that request if it is consistent with the best interests of the child. If the child's birth parent or parents express a preference for placing the child in a foster or adoptive home of the same or a similar religious background to that of the birth parent or parents, the court shall order placement of the child with an individual who meets the birth parent's religious preference.~~

~~(d) Placement of a child cannot be delayed or denied based on race, color, or national origin of the foster parent or the child.~~

~~(e) Whenever possible, siblings should be placed together unless it is determined not to be in the best interests of a sibling. If siblings are not placed together according to section 260C.212, subdivision 2, paragraph (d), the responsible social services agency shall report to the court the efforts made to place the siblings together and why the efforts were not successful. If the court is not satisfied with the agency's efforts to place siblings together, the court may order the agency to make further efforts. If siblings are not placed together the court shall review the responsible social services agency's plan for visitation among siblings required as part of the out-of-home placement plan under section 260C.212.~~

~~(d) If the child's birth parent or parents explicitly request that a relative or important friend not be considered, the court shall honor that request if it is consistent with the best interests of the child.~~

~~If the child's birth parent or parents express a preference for placing the child in a foster or~~

~~adoptive home of the same or a similar religious background to that of the birth parent or parents, the court shall order placement of the child with an individual who meets the birth parent's religious preference.~~

(e) (f) This subdivision does not affect the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, and the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835.

Sec. 16. Minnesota Statutes 2000, section 260C.201, subdivision 1, is amended to read:

Subdivision 1. [DISPOSITIONS.] (a) If the court finds that the child is in need of protection or services or neglected and in foster care, it shall enter an order making any of the following dispositions of the case:

(1) place the child under the protective supervision of the ~~local~~ responsible social services agency or child-placing agency in the home of a parent of the child under conditions prescribed by the court directed to the correction of the child's need for protection or services, ~~or~~:

(i) the court may order the child into the home of a parent who does not otherwise have legal custody of the child, however, an order under this section does not confer legal custody on that parent;

(ii) if the court orders the child into the home of a father who is not adjudicated, he must cooperate with paternity establishment proceedings regarding the child in the appropriate jurisdiction as one of the conditions prescribed by the court for the child to continue in his home;

(iii) the court may order the child into the home of a noncustodial parent with conditions and may also order both the noncustodial and the custodial parent to comply with the requirements of a case plan under subdivision 2; or

(2) transfer legal custody to one of the following:

(i) a child-placing agency; or

(ii) the ~~local~~ responsible social services agency. In placing a child whose custody has been transferred under this paragraph, the agencies shall ~~follow the requirements of section 260C.193, subdivision 3; make an individualized determination of how the placement is in the child's best interests using the consideration for relatives and the best interest factors in section 260C.212, subdivision 2, paragraph (b); or~~

(3) if the child is in need of special treatment and care for reasons of physical or mental health, the court may order the child's parent, guardian, or custodian to provide it. If the parent, guardian, or custodian fails or is unable to provide this treatment or care, the court may order it provided. The court shall not transfer legal custody of the child for the purpose of obtaining special treatment or care solely because the parent is unable to provide the treatment or care. If the court's order for mental health treatment is based on a diagnosis made by a treatment professional, the court may order that the diagnosing professional not provide the treatment to the child if it finds that such an order is in the child's best interests; or

(4) if the court believes that the child has sufficient maturity and judgment and that it is in the best interests of the child, the court may order a child 16 years old or older to be allowed to live independently, either alone or with others as approved by the court under supervision the court considers appropriate, if the county board, after consultation with the court, has specifically authorized this dispositional alternative for a child.

(b) If the child was adjudicated in need of protection or services because the child is a runaway or habitual truant, the court may order any of the following dispositions in addition to or as alternatives to the dispositions authorized under paragraph (a):

(1) counsel the child or the child's parents, guardian, or custodian;

(2) place the child under the supervision of a probation officer or other suitable person in the child's own home under conditions prescribed by the court, including reasonable rules for the child's conduct and the conduct of the parents, guardian, or custodian, designed for the physical, mental, and moral well-being and behavior of the child; or with the consent of the commissioner of corrections, place the child in a group foster care facility which is under the commissioner's management and supervision;

(3) subject to the court's supervision, transfer legal custody of the child to one of the following:

(i) a reputable person of good moral character. No person may receive custody of two or more unrelated children unless licensed to operate a residential program under sections 245A.01 to 245A.16; or

(ii) a county probation officer for placement in a group foster home established under the direction of the juvenile court and licensed pursuant to section 241.021;

(4) require the child to pay a fine of up to \$100. The court shall order payment of the fine in a manner that will not impose undue financial hardship upon the child;

(5) require the child to participate in a community service project;

(6) order the child to undergo a chemical dependency evaluation and, if warranted by the evaluation, order participation by the child in a drug awareness program or an inpatient or outpatient chemical dependency treatment program;

(7) if the court believes that it is in the best interests of the child and of public safety that the child's driver's license or instruction permit be canceled, the court may order the commissioner of public safety to cancel the child's license or permit for any period up to the child's 18th birthday. If the child does not have a driver's license or permit, the court may order a denial of driving privileges for any period up to the child's 18th birthday. The court shall forward an order issued under this clause to the commissioner, who shall cancel the license or permit or deny driving privileges without a hearing for the period specified by the court. At any time before the expiration of the period of cancellation or denial, the court may, for good cause, order the commissioner of public safety to allow the child to apply for a license or permit, and the commissioner shall so authorize;

(8) order that the child's parent or legal guardian deliver the child to school at the beginning of each school day for a period of time specified by the court; or

(9) require the child to perform any other activities or participate in any other treatment programs deemed appropriate by the court.

To the extent practicable, the court shall enter a disposition order the same day it makes a finding that a child is in need of protection or services or neglected and in foster care, but in no event more than 15 days after the finding unless the court finds that the best interests of the child will be served by granting a delay. If the child was under eight years of age at the time the petition was filed, the disposition order must be entered within ten days of the finding and the court may not grant a delay unless good cause is shown and the court finds the best interests of the child will be served by the delay.

(c) If a child who is 14 years of age or older is adjudicated in need of protection or services because the child is a habitual truant and truancy procedures involving the child were previously dealt with by a school attendance review board or county attorney mediation program under section 260A.06 or 260A.07, the court shall order a cancellation or denial of driving privileges under paragraph (b), clause (7), for any period up to the child's 18th birthday.

(d) In the case of a child adjudicated in need of protection or services because the child has committed domestic abuse and been ordered excluded from the child's parent's home, the court shall dismiss jurisdiction if the court, at any time, finds the parent is able or willing to provide an alternative safe living arrangement for the child, as defined in Laws 1997, chapter 239, article 10, section 2.

(e) When a parent has complied with a case plan ordered under subdivision 6 and the child is in the care of the parent, the court may order the responsible social services agency to monitor the parent's continued ability to maintain the child safely in the home under such terms and conditions as the court determines appropriate under the circumstances.

Sec. 17. Minnesota Statutes 2000, section 260C.201, subdivision 2, is amended to read:

Subd. 2. [WRITTEN FINDINGS.] (a) Any order for a disposition authorized under this section shall contain written findings of fact to support the disposition and case plan ordered and shall also set forth in writing the following information:

~~(a)~~ (1) Why the best interests and safety of the child are served by the disposition and case plan ordered;

~~(b)~~ (2) What alternative dispositions or services under the case plan were considered by the court and why such dispositions or services were not appropriate in the instant case;

~~(c) How the court's disposition complies with the requirements of section 260C.193, subdivision 3~~ (3) When legal custody of the child is transferred, the appropriateness of the particular placement made or to be made by the placing agency using the factors in section 260C.212, subdivision 2, paragraph (b); and

~~(d)~~ (4) Whether reasonable efforts consistent with section 260.012 were made to prevent or eliminate the necessity of the child's removal and to reunify the family after removal. The court's findings must include a brief description of what preventive and reunification efforts were made and why further efforts could not have prevented or eliminated the necessity of removal or that reasonable efforts were not required under section 260.012 or 260C.178, subdivision 1.

(b) If the court finds that the social services agency's preventive or reunification efforts have not been reasonable but that further preventive or reunification efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

(c) If the child has been identified by the responsible social services agency as the subject of concurrent permanency planning, the court shall review the reasonable efforts of the agency to recruit, identify, and make a placement in a home where the foster parent or relative that has committed to being the legally permanent home for the child in the event reunification efforts are not successful.

Sec. 18. Minnesota Statutes 2000, section 260C.201, subdivision 5, is amended to read:

Subd. 5. [VISITATION.] If the court orders that the child be placed outside of the child's home or present residence, it shall set reasonable rules for supervised or unsupervised parental visitation that contribute to the objectives of the court order and the maintenance of the familial relationship. No parent may be denied visitation unless the court finds at the disposition hearing that the visitation would act to prevent the achievement of the order's objectives or that it would endanger the child's physical or emotional well-being. The court shall set reasonable rules for visitation for any relatives as defined in section ~~260C.193, subdivision 3~~ 260C.007, subdivision 14, and with siblings of the child, if visitation is consistent with the best interests of the child.

Sec. 19. Minnesota Statutes 2000, section 260C.201, subdivision 6, is amended to read:

Subd. 6. [CASE PLAN.] (a) For each disposition ordered where the child is placed away from a parent or guardian, the court shall order the appropriate responsible social services agency to prepare a written case out-of-home placement plan according to the requirements of section 260C.212, subdivision 1. ~~developed after consultation with any foster parents, and consultation with and participation by the child and the child's parent, guardian, or custodian, guardian ad litem, and tribal representative if the tribe has intervened. The case plan shall comply with the requirements of section 260C.212, where applicable. The case plan shall, among other matters, specify the actions to be taken by the child and the child's parent, guardian, foster parent, or custodian to ensure the child's safety and to comply with the court's disposition order, and the services to be offered and provided by the agency to the child and the child's parent, guardian, or~~

custodian. The court shall review the case plan and, upon approving it, incorporate the plan into its disposition order. The court may review and modify the terms of the case plan in the manner provided in subdivision 2. For each disposition ordered, the written case plan shall specify what reasonable efforts shall be provided to the family. The case plan must include a discussion of:

(1) the availability of appropriate prevention and reunification services for the family to safely prevent the removal of the child from the home or to safely reunify the child with the family after removal;

(2) any services or resources that were requested by the child or the child's parent, guardian, foster parent, or custodian since the date of initial adjudication, and whether those services or resources were provided or the basis for denial of the services or resources;

(3) the need of the child and family for care, treatment, or rehabilitation;

(4) the need for participation by the parent, guardian, or custodian in the plan of care for the child;

(5) the visitation rights and obligations of the parent or other relatives, as defined in section 260C.193, subdivision 3, during any period when the child is placed outside the home;

(6) a description of any services that could safely prevent placement or reunify the family if such services were available; and

(7) the need for continued monitoring of the child and family by the appropriate local social services agency once the family has completed all services required in the case plan.

(b) In cases where the child is not placed out of the home or is ordered into the home of a noncustodial parent, the responsible social services agency shall prepare a plan for delivery of social services to the child and custodial parent under section 626.556, subdivision 10, or any other case plan required to meet the needs of the child. The plan shall be designed to safely maintain the child in the home or to reunite the child with the custodial parent.

(c) The court may approve the case plan as presented or modify it after hearing from the parties. Once the plan is approved, the court shall order all parties to comply with it. A copy of the approved case plan shall be attached to the court's order and incorporated into it by reference.

(d) A party has a right to request a court review of the reasonableness of the case plan upon a showing of a substantial change of circumstances.

Sec. 20. Minnesota Statutes 2000, section 260C.201, subdivision 7, is amended to read:

Subd. 7. [ORDER DURATION.] Subject to subdivisions 10 and 11, all orders under this section shall be for a specified length of time set by the court not to exceed one year. However, before the order has expired and upon its own motion or that of any interested party, the court shall, after notice to the parties and a hearing, renew the order for another year or make some other disposition of the case, until the individual is no longer a minor. Any person to whom responsible social services agency receiving legal custody is transferred of a child shall report to the court in writing at such periods as the court may direct and as required under juvenile court rules.

Sec. 21. Minnesota Statutes 2000, section 260C.201, subdivision 10, is amended to read:

Subd. 10. [COURT REVIEW OF OUT-OF-HOME PLACEMENTS.] (a) If the court places a child in a residential facility, as defined in section 260C.212, subdivision 1, the court shall review the out-of-home placement at least every six months as required in juvenile court rules to determine whether continued out-of-home placement is necessary and appropriate or whether the child should be returned home.

(b) No later than six months after the child's out-of-home placement, the court shall review agency efforts pursuant to section 260C.215, subdivision 1 260C.212, subdivision 2, and order that the efforts continue if the agency has failed to perform the duties under that section.

(c) The court shall review the ease out-of-home placement plan and may modify the ease plan as provided under subdivisions 6 and 7.

If (d) When the court orders continued out-of-home placement, the court shall notify the parents of the provisions of subdivision subdivisions 11 and 11a as required under juvenile court rules.

~~(b) When the court determines that a permanent placement hearing is necessary because there is a likelihood that the child will not return to a parent's care, the court may authorize the agency with custody of the child to send the notice provided in section 260C.212, subdivision 5, paragraph (b), or may modify the requirements of the agency under section 260C.212, subdivision 5, paragraph (b), or may completely relieve the responsible social services agency of the requirements of section 260C.212, subdivision 5, paragraph (b), when the child is placed with an appropriate relative who wishes to provide a permanent home for the child. The actions ordered by the court under this section must be consistent with the best interests, safety, and welfare of the child.~~

Sec. 22. Minnesota Statutes 2000, section 260C.201, subdivision 11, is amended to read:

Subd. 11. [REVIEW OF COURT ORDERED PLACEMENTS; PERMANENT PLACEMENT DETERMINATION.] (a) ~~Except for cases where the child is in placement due solely to the child's status as developmentally delayed under United States Code, title 42, section 6001(7), developmental disability or emotionally handicapped under section 252.27 emotional disturbance, and where custody has not been transferred to the responsible social services agency, and the court finds compelling reasons under section 260C.007, subdivision 5a, the court shall conduct a hearing to determine the permanent status of a child not later than 12 months after the child is placed out of the home of the parent, except that if the child was under eight years of age at the time the petition was filed, the hearing must be conducted no later than six months after the child is placed out of the home of the parent.~~

For purposes of this subdivision, the date of the child's placement out of the home of the parent is the earlier of the first court-ordered placement or 60 days after the date on which the child has been voluntarily placed out of the home.

For purposes of this subdivision, 12 months is calculated as follows:

(1) during the pendency of a petition alleging that a child is in need of protection or services, all time periods when a child is placed out of the home of the parent are cumulated;

(2) if a child has been placed out of the home of the parent within the previous five years under one or more previous petitions, the lengths of all prior time periods when the child was placed out of the home within the previous five years are cumulated. If a child under this clause has been out of the home for 12 months or more, the court, if it is in the best interests of the child and for compelling reasons, may extend the total time the child may continue out of the home under the current petition up to an additional six months before making a permanency determination.

(b) Unless the responsible social services agency recommends return of the child to the custodial parent or parents, not later than 30 days prior to this hearing, the responsible social services agency shall file pleadings in juvenile court to establish the basis for the juvenile court to order permanent placement of the child according to paragraph (d). Notice of the hearing and copies of the pleadings must be provided pursuant to section 260C.152. If a termination of parental rights petition is filed before the date required for the permanency planning determination and there is a trial under section 260C.163 scheduled on that petition within 90 days of the filing of the petition, no hearing need be conducted under this subdivision.

(c) At the conclusion of the hearing, the court shall order the child returned home to the care of the parent or guardian from whom the child was removed or order a permanent placement in the child's best interests. The "best interests of the child" means all relevant factors to be considered and evaluated. Transfer of permanent legal and physical custody, termination of parental rights, or guardianship and legal custody to the commissioner through a consent to adopt are preferred permanency options for a child who cannot return home.

~~(d) At a hearing under this subdivision, if the child was under eight years of age at the time the petition was filed alleging the child in need of protection or services, the court shall review the progress of the case and the case plan, including the provision of services. The court may order the local social services agency to show cause why it should not file a termination of parental rights petition. Cause may include, but is not limited to, the following conditions:~~

~~(1) the parents or guardians have maintained regular contact with the child, the parents are complying with the court-ordered case plan, and the child would benefit from continuing this relationship;~~

~~(2) grounds for termination under section 260C.301 do not exist; or~~

~~(3) the permanent plan for the child is transfer of permanent legal and physical custody to a relative. When the permanent plan for the child is transfer of permanent legal and physical custody to a relative, a petition supporting the plan shall be filed in juvenile court within 30 days of the hearing required under this subdivision and a hearing on the petition held within 30 days of the filing of the pleadings.~~

~~(e) (d) If the child is not returned to the home, the court must order one of the following dispositions:~~

~~(1) permanent legal and physical custody to a relative in the best interests of the child, according to the following conditions:~~

~~(i) an order for transfer of permanent legal and physical custody to a relative shall only be made after the court has reviewed the suitability of the prospective legal and physical custodian;~~

~~(ii) in transferring permanent legal and physical custody to a relative, the juvenile court shall follow the standards and procedures applicable under this chapter, ~~chapter~~ chapters 260, or chapter and 518., and juvenile court rules;~~

~~(iii) an order establishing permanent legal ~~or~~ and physical custody under this subdivision must be filed with the family court;~~

~~(iv) a transfer of legal and physical custody includes responsibility for the protection, education, care, and control of the child and decision making on behalf of the child;~~

~~(v) the social services agency may petition on behalf of the proposed custodian; and~~

~~(vi) the juvenile court may maintain jurisdiction over the responsible social services agency, the parents or guardian of the child, the child, and the permanent legal and physical custodian for purposes of ensuring appropriate services are delivered to the child and permanent legal custodian or for the purpose of ensuring conditions ordered by the court related to the care and custody of the child are met;~~

~~(2) termination of parental rights; according to the following conditions:~~

~~(i) unless the social services agency has already filed a petition for termination of parental rights under section 260C.307, the court may order such a petition filed and all the requirements of sections 260C.301 to 260C.328 remain applicable.; and~~

~~(ii) an adoption completed subsequent to a determination under this subdivision may include an agreement for communication or contact under section 259.58; ~~or~~~~

~~(3) long-term foster care; ~~transfer of legal custody and adoption are preferred permanency options for a child who cannot return home.~~ according to the following conditions:~~

~~(i) the court may order a child into long-term foster care only if it finds compelling reasons that neither an award of permanent legal and physical custody to a relative, nor termination of parental rights ~~nor adoption~~ is in the child's best interests.; and~~

~~(ii) further, the court may only order long-term foster care for the child under this section if it finds the following:~~

(i) (A) the child has reached age 12 and reasonable efforts by the responsible social services agency have failed to locate an adoptive family for the child; or

(ii) (B) the child is a sibling of a child described in clause (i) subitem (A) and the siblings have a significant positive relationship and are ordered into the same long-term foster care home; or

(4) foster care for a specified period of time according to the following conditions:

(i) foster care for a specified period of time may be ordered only if:

(i) (A) the sole basis for an adjudication that the child is in need of protection or services is the child's behavior; and

(ii) (B) the court finds that foster care for a specified period of time is in the best interests of the child; and

(C) the court finds compelling reasons that neither an award of permanent legal and physical custody to a relative, nor termination of parental rights is in the child's best interests;

(ii) the order does not specify that the child continue in foster care for any period exceeding one year; or

(5) guardianship and legal custody to the commissioner of human services under the following procedures and conditions:

(i) there is an identified prospective adoptive home that has agreed to adopt the child and the court accepts the parent's voluntary consent to adopt under chapter 259.24;

(ii) if the court accepts a consent to adopt in lieu of ordering one of the other enumerated permanency dispositions, the court must review the matter at least every 90 days. The review will address the reasonable efforts of the agency to achieve a finalized adoption;

(iii) a consent to adopt under this clause vests all legal authority regarding the child, including guardianship and legal custody of the child, with the commissioner of human services as if the child were a state ward after termination of parental rights;

(iv) the court must forward a copy of the consent to adopt, together with a certified copy of the order transferring guardianship and legal custody to the commissioner, to the commissioner; and

(v) if an adoption is not finalized by the identified prospective adoptive parent within 12 months of the execution of the consent to adopt under this clause, the commissioner of human services or the commissioner's delegate, shall pursue adoptive placement in another home unless the commissioner certifies that the failure to finalize is not due to either an action or a failure to act by the prospective adoptive parent.

(f) (e) In ordering a permanent placement of a child, the court must be governed by the best interests of the child, including a review of the relationship between the child and relatives and the child and other important persons with whom the child has resided or had significant contact.

(g) (f) Once a permanent placement determination has been made and permanent placement has been established, further court reviews and dispositional hearings are only necessary if:

(1) the placement is made under paragraph (e), clause (4), review is otherwise required by federal law, long-term foster care or foster care for a specified period of time;

(2) the court orders further hearings because it has retained jurisdiction of a transfer of permanent legal and physical custody matter;

(3) an adoption has not yet been finalized; or

(4) there is a disruption of the permanent or long-term placement.

(g) Court reviews of an order for long-term foster care, whether under this section or section

260C.317, subdivision 3, paragraph (d), or foster care for a specified period of time must be conducted at least yearly and must review the child's out-of-home placement plan and the reasonable efforts of the agency to:

(1) identify a specific long-term foster home for the child or a specific foster home for the time the child is specified to be out of the care of the parent, if one has not already been identified;

(2) support continued placement of the child in the identified home, if one has been identified;

(3) ensure appropriate services are provided to the child during the period of long-term foster care or foster care for a specified period of time;

(4) plan for the child's independence upon the child's leaving long-term foster care living as required under section 260C.212, subdivision 1; and

(5) where placement is for a specified period of time, a plan for the safe return of the child to the care of the parent.

(h) An order under this subdivision must include the following detailed findings:

(1) how the child's best interests are served by the order;

(2) the nature and extent of the responsible social service agency's reasonable efforts, or, in the case of an Indian child, active efforts to reunify the child with the parent or parents;

(3) the parent's or parents' efforts and ability to use services to correct the conditions which led to the out-of-home placement; and

(4) whether the conditions which led to the out-of-home placement have been corrected so that the child can return home.

(i) An order for permanent legal and physical custody of a child may be modified under sections 518.18 and 518.185. The social services agency is a party to the proceeding and must receive notice. A parent may only seek modification of an order for long-term foster care is reviewable upon motion and a showing by the parent of a substantial change in the parent's circumstances such that the parent could provide appropriate care for the child and that removal of the child from the child's permanent placement and the return to the parent's care would be in the best interest of the child.

(j) The court shall issue an order required under this section within 15 days of the close of the proceedings. The court may extend issuing the order an additional 15 days when necessary in the interests of justice and the best interests of the child.

Sec. 23. Minnesota Statutes 2000, section 260C.201, is amended by adding a subdivision to read:

Subd. 11a. [PERMANENCY REVIEW FOR CHILDREN UNDER EIGHT.] (a) [HEARING TO REVIEW PROGRESS OF THE CASE.] If the child was under eight years of age at the time the petition was filed alleging the child was in need of protection or services, and the child continues in placement out of the home of the parent or guardian from whom the child was removed, no later than six months after the child's placement, the court shall conduct a permanency hearing to review the progress of the case, the parent's progress on the out-of-home placement plan, and the provision of services.

(b) [COUNTY ATTORNEY AND RESPONSIBLE AGENCY'S DUTIES.] Based on its assessment of the parent's or guardian's progress on the out-of-home placement plan, the responsible social services agency must ask the county attorney to file a petition for termination of parental rights, a petition for transfer of permanent legal and physical custody to a relative, or the report required under juvenile court rules.

(c) [COURT'S FINDINGS.] (1) If the parent or guardian has maintained contact with the child, is complying with the court-ordered out-of-home placement plan, and the child would benefit from reunification with the parent, the court may either:

(i) return the child home, if the conditions which led to the out-of-home placement have been sufficiently mitigated that it is safe and in the child's best interests to return home; or

(ii) continue the matter up to a total of six additional months. If the child has not returned home by the end of the additional six months, the court must conduct a hearing according to subdivision 11.

(2) If the court determines that the parent or guardian is not complying with the out-of-home placement plan or is not maintaining regular contact with the child as outlined in the visitation plan required as part of the out-of-home placement plan under section 260C.212, the court may order the responsible social services agency to develop a plan for permanent placement of the child away from the parent and to file a petition to support an order for the permanent placement plan.

(d) [RESPONSIBLE AGENCY'S OR COUNTY ATTORNEY'S DUTIES.] Following the review under paragraphs (b) and (c):

(1) if the court has either returned the child home or continued the matter up to a total of six additional months, the agency shall continue to provide services to support the child's return home or to make reasonable efforts to achieve reunification of the child and the parent as ordered by the court under an approved case plan;

(2) if the court orders the agency to develop a plan for the transfer of permanent legal and physical custody of the child to a relative, a petition supporting the plan shall be filed in juvenile court within 30 days of the hearing required under this subdivision and a trial on the petition held within 30 days of the filing of the pleadings; or

(3) if the court orders the agency to file a termination of parental rights, unless the county attorney can show cause why a termination of parental rights petition should not be filed, a petition for termination of parental rights shall be filed in juvenile court within 30 days of the hearing required under this subdivision and a trial on the petition held within 90 days of the filing of the petition.

Sec. 24. Minnesota Statutes 2000, section 260C.205, is amended to read:

260C.205 [DISPOSITIONS; VOLUNTARY FOSTER CARE PLACEMENTS.]

Unless the court disposes of the petition under section 260C.141, subdivision 2, upon a petition for review of the foster care status of a child, the court may:

(a) Find that the child's needs are not being met, in which case the court shall order the social services agency or the parents to take whatever action is necessary and feasible to meet the child's needs, including, when appropriate, the provision by the social services agency of services to the parents which would enable the child to live at home, and order a disposition under section 260C.201.

(b) Find that the child has been abandoned by parents financially or emotionally, or that the developmentally disabled child does not require out-of-home care because of the handicapping condition, in which case the court shall order the social services agency to file an appropriate petition pursuant to section 260C.141, subdivision 1, or 260C.307.

(c) When a child is in placement due solely to the child's developmental disability or emotional disturbance and the court finds that there are compelling reasons which permit the court to approve the continued voluntary placement of the child and retain jurisdiction to conduct reviews as required under section 260C.141, subdivision 2, the court shall give the parent notice of the review requirements of section 260C.141, subdivision 2, in the event the child continues in placement 12 months or longer.

Nothing in this section shall be construed to prohibit bringing a petition pursuant to section 260C.141, subdivision 1 or 4, sooner than required by court order pursuant to this section.

Sec. 25. Minnesota Statutes 2000, section 260C.212, subdivision 1, is amended to read:

Subdivision 1. ~~[OUT-OF-HOME PLACEMENT; PLAN.]~~ (a) ~~A case~~ An out-of-home placement plan shall be prepared within 30 days after any child is placed in a residential facility by court order or by the voluntary release of the child by the parent or parents.

For purposes of this section, a residential facility means any group home, family foster home or other publicly supported out-of-home residential facility, including any out-of-home residential facility under contract with the state, county or other political subdivision, or any agency thereof, to provide those services or foster care as defined in section 260C.007, subdivision 9.

~~(b) When a child is in placement, the responsible local social services agency shall make diligent efforts to identify, locate, and, where appropriate, offer services to both parents of the child. If a noncustodial or nonadjudicated parent is willing and capable of providing for the day-to-day care of the child, the local social services agency may seek authority from the custodial parent or the court to have that parent assume day-to-day care of the child. If a parent is not an adjudicated parent, the local social services agency shall require the nonadjudicated parent to cooperate with paternity establishment procedures as part of the case plan.~~

~~(c) If, after assessment, the local social services agency determines that the child cannot be in the day-to-day care of either parent, the agency shall prepare a case plan addressing the conditions that each parent must mitigate before the child could be in that parent's day-to-day care.~~

~~(d) If, after the provision of services following a case plan under this section and ordered by the juvenile court, the child cannot return to the care of the parent from whom the child was removed or who had legal custody at the time the child was placed in foster care, the agency may petition on behalf of a noncustodial parent to establish legal custody with that parent under section 260C.201, subdivision 11. If paternity has not already been established, it may be established in the same proceeding in the manner provided for under this chapter.~~

~~The responsible social services agency may be relieved of the requirement to locate and offer services to both parents by the juvenile court upon a finding of good cause after the filing of a petition under section 260B.141 or 260C.141.~~

~~(e) For the purposes of this section, a case~~ An out-of-home placement plan means a written document which is ordered by the court or which is prepared by the responsible social services agency responsible for the residential facility placement and is jointly with the parent or parents or guardian of the child and in consultation with the child's guardian ad litem, the child's tribe, if the child is an Indian child, the child's foster parent or representative of the residential facility, and, where appropriate, the child. As appropriate, the plan shall be:

(1) submitted to the court for approval under section 260C.178, subdivision 7;

(2) ordered by the court, either as presented or modified after hearing, under section 260C.178, subdivision 7, or 260C.201, subdivision 6; and

(3) signed by the parent or parents, or other custodian, guardian of the child, the child's legal guardian ad litem, a representative of the child's tribe, the responsible social services agency responsible for the residential facility placement, and, if possible, the child.

~~(c) The document~~ out-of-home placement plan shall be explained to all persons involved in its implementation, including the child who has signed the document plan, and shall set forth:

(1) a description of the residential facility including how the out-of-home placement plan is designed to achieve a safe placement for the child in the least restrictive, most family-like, setting available which is in close proximity to the home of the parent or parents or guardian of the child when the case plan goal is reunification, and how the placement is consistent with the best interests and special needs of the child according to the factors under subdivision 2, paragraph (b);

(2) the specific reasons for the placement of the child in a residential facility, including and when reunification is the plan, a description of the problems or conditions in the home of the

parent or parents which necessitated removal of the child from home and the changes the parent or parents must make in order for the child to safely return home;

(2) (3) a description of the services offered and provided to prevent removal of the child from the home and to reunify the family including:

(i) the specific actions to be taken by the parent or parents of the child to eliminate or correct the problems or conditions identified in clause (1) (2), and the time period during which the actions are to be taken; and

(ii) the reasonable efforts, or in the case of an Indian child, active efforts to be made to achieve a safe and stable home for the child including social and other supportive services to be provided or offered to the parent or parents or guardian of the child, the child, and the residential facility during the period the child is in the residential facility;

(3) The financial responsibilities and obligations, if any, of the parents for the support of the child during the period the child is in the residential facility;

(4) a description of any services or resources that were requested by the child or the child's parent, guardian, foster parent, or custodian since the date of the child's placement in the residential facility, and whether those services or resources were provided and if not, the basis for the denial of the services or resources;

(5) the visitation rights and obligations of plan for the parent or parents or guardian, other relatives as defined in section 260C.193 260C.007, subdivision 14, and siblings of the child if the siblings are not placed together in the residential facility, if such and whether visitation is consistent with the best interest of the child, during the period the child is in the residential facility;

(5) The social and other supportive services to be provided to the parent or parents of the child, the child, and the residential facility during the period the child is in the residential facility;

(6) the date on which the child is expected to be returned to and safely maintained in the home of the parent or parents or placed for adoption or otherwise permanently removed from the care of the parent by court order;

(7) the nature of the effort to be made by the social services agency responsible for the placement to reunite the family;

(8) notice to the parent or parents:

(i) that placement of the child in foster care may result in termination of parental rights but only after notice and a hearing as provided in chapter 260; and

(ii) in cases where the agency has determined that both reasonable efforts to reunify the child with the parents, and reasonable efforts to place the child in a permanent home away from the parent that may become legally permanent are appropriate, notice of:

(A) time limits on the length of placement and of reunification services;

(B) the nature of the services available to the parent;

(C) the consequences to the parent and the child if the parent fails or is unable to use services to correct the circumstances that led to the child's placement;

(D) the first consideration for relative placement; and

(E) the benefit to the child in getting the child out of residential care as soon as possible, preferably by returning the child home, but if that is not possible, through a permanent legal placement of the child away from the parent;

(9) a permanency hearing under section 260C.201, subdivision 11, or a termination of parental rights hearing under sections 260C.301 to 260C.328, where the agency asks the court to find that

~~the child should be permanently placed away from the parent and includes documentation of the steps taken by the responsible social services agency to find an adoptive family or other permanent legal placement for the child, to place the child with an adoptive family, a fit and willing relative through an award of permanent legal and physical custody, or in another planned and permanent legal placement. The documentation must include child-specific recruitment efforts; and~~

~~(10) (6) documentation of steps to finalize the adoption or legal guardianship of the child if the court has issued an order terminating the rights of both parents of the child or of the only known, living parent of the child, documentation of steps to finalize the adoption or legal guardianship of the child, and a copy of this documentation shall be provided to the court in the review required under section 260C.317, subdivision 3, paragraph (b);~~

~~(7) to the extent available and accessible, the health and educational records of the child including:~~

~~(i) the names and addresses of the child's health and educational providers;~~

~~(ii) the child's grade level performance;~~

~~(iii) the child's school record;~~

~~(iv) assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement;~~

~~(v) a record of the child's immunizations;~~

~~(vi) the child's known medical problems;~~

~~(vii) the child's medications; and~~

~~(viii) any other relevant health and education information; and~~

~~(8) an independent living plan for a child age 16 or older who is in placement as a result of a permanency disposition. The plan should include, but not be limited to, the following objectives:~~

~~(i) educational, vocational, or employment planning;~~

~~(ii) health care planning and medical coverage;~~

~~(iii) transportation including, where appropriate, assisting the child in obtaining a driver's license;~~

~~(iv) money management;~~

~~(v) planning for housing;~~

~~(vi) social and recreational skills; and~~

~~(vii) establishing and maintaining connections with the child's family and community.~~

~~(f) (d) The parent or parents or guardian and the child each shall have the right to legal counsel in the preparation of the case plan and shall be informed of the right at the time of placement of the child. The child shall also have the right to a guardian ad litem. If unable to employ counsel from their own resources, the court shall appoint counsel upon the request of the parent or parents or the child or the child's legal guardian. The parent or parents may also receive assistance from any person or social services agency in preparation of the case plan.~~

~~After the plan has been agreed upon by the parties involved or approved or ordered by the court, the foster parents shall be fully informed of the provisions of the case plan and shall be provided a copy of the plan.~~

~~(g) When an agency accepts a child for placement, the agency shall determine whether the child has had a physical examination by or under the direction of a licensed physician within the 12~~

~~months immediately preceding the date when the child came into the agency's care. If there is documentation that the child has had such an examination within the last 12 months, the agency is responsible for seeing that the child has another physical examination within one year of the documented examination and annually in subsequent years. If the agency determines that the child has not had a physical examination within the 12 months immediately preceding placement, the agency shall ensure that the child has the examination within 30 days of coming into the agency's care and once a year in subsequent years.~~

Sec. 26. Minnesota Statutes 2000, section 260C.212, subdivision 2, is amended to read:

Subd. 2. [PLACEMENT DECISIONS BASED ON BEST INTEREST OF THE CHILD.] (a) The policy of the state of Minnesota is to ensure that the child's best interests are met by requiring an individualized determination of the needs of the child and of how the selected placement will serve the needs of the child being placed. The authorized child-placing agency shall place a child, released by court order or by voluntary release by the parent or parents, in a family foster home selected by considering placement with relatives and important friends ~~consistent with section 260C.193, subdivision 3.~~ in the following order:

- (1) with an individual who is related to the child by blood, marriage, or adoption; or
- (2) with an individual who is an important friend with whom the child has resided or had significant contact.

~~(b) Among the factors the agency shall consider in determining the needs of the child are those specified under section 260C.193, subdivision 3, paragraph (b)~~ (b) the following:

- (1) the child's current functioning and behaviors;
- (2) the medical, educational, and developmental needs of the child;
- (3) the child's history and past experience;
- (4) the child's religious and cultural needs;
- (5) the child's connection with a community, school, and church;
- (6) the child's interests and talents;
- (7) the child's relationship to current caretakers, parents, siblings, and relatives; and
- (8) the reasonable preference of the child, if the court, or the child-placing agency in the case of a voluntary placement, deems the child to be of sufficient age to express preferences.

~~(c) Placement of a child cannot be delayed or denied based on race, color, or national origin of the foster parent or the child.~~

~~(d) Siblings should be placed together for foster care and adoption at the earliest possible time unless it is determined not to be in the best interests of a sibling or unless it is not possible after appropriate efforts by the responsible social services agency.~~

Sec. 27. Minnesota Statutes 2000, section 260C.212, subdivision 4, is amended to read:

Subd. 4. [NOTICE BEFORE VOLUNTARY PLACEMENT RESPONSIBLE SOCIAL SERVICE AGENCY'S DUTIES FOR CHILDREN IN PLACEMENT.] (a) When a child is in placement, the responsible social services agency shall make diligent efforts to identify, locate, and, where appropriate, offer services to both parents of the child.

(1) If a noncustodial or nonadjudicated parent is willing and capable of providing for the day-to-day care of the child, the responsible social services agency may seek authority from the custodial parent or the court to have that parent assume day-to-day care of the child. If a parent is not an adjudicated parent, the responsible social services agency shall require the nonadjudicated parent to cooperate with paternity establishment procedures as part of the case plan.

(2) If, after assessment, the responsible social services agency determines that the child cannot be in the day-to-day care of either parent, the agency shall prepare an out-of-home placement plan addressing the conditions that each parent must meet before the child can be in that parent's day-to-day care.

(3) If, after the provision of services following an out-of-home placement plan under this section, the child cannot return to the care of the parent from whom the child was removed or who had legal custody at the time the child was placed in foster care, the agency may petition on behalf of a noncustodial parent to establish legal custody with that parent under section 260C.201, subdivision 11. If paternity has not already been established, it may be established in the same proceeding in the manner provided for under chapter 257.

(4) The responsible social services agency may be relieved of the requirement to locate and offer services to both parents by the juvenile court upon a finding of good cause after the filing of a petition under section 260C.141.

(b) The responsible social services agency shall give notice to the parent or parents or guardian of each child in a residential facility, other than a child in placement due solely to that child's developmental disability or emotional disturbance, of the following information:

(1) that residential care of the child may result in termination of parental rights or an order permanently placing the child out of the custody of the parent, but only after notice and a hearing as required under chapter 260C and the juvenile court rules;

(2) time limits on the length of placement and of reunification services, including the date on which the child is expected to be returned to and safely maintained in the home of the parent or parents or placed for adoption or otherwise permanently removed from the care of the parent by court order;

(3) the nature of the services available to the parent;

(4) the consequences to the parent and the child if the parent fails or is unable to use services to correct the circumstances that led to the child's placement;

(5) the first consideration for placement with relatives;

(6) the benefit to the child in getting the child out of residential care as soon as possible, preferably by returning the child home, but if that is not possible, through a permanent legal placement of the child away from the parent;

(7) when safe for the child, the benefits to the child and the parent of maintaining visitation with the child as soon as possible in the course of the case and, in any event, according to the visitation plan under this section; and

(8) the financial responsibilities and obligations, if any, of the parent or parents for the support of the child during the period the child is in the residential facility.

(c) The local responsible social services agency shall inform a parent considering voluntary placement of a child who is not developmentally disabled or emotionally ~~handicapped~~ disturbed of the following information:

(1) the parent and the child each has a right to separate legal counsel before signing a voluntary placement agreement, but not to counsel appointed at public expense;

(2) the parent is not required to agree to the voluntary placement, and a parent who enters a voluntary placement agreement may at any time request that the agency return the child. If the parent so requests, the child must be returned within 24 hours of the receipt of the request;

(3) evidence gathered during the time the child is voluntarily placed may be used at a later time as the basis for a petition alleging that the child is in need of protection or services or as the basis for a petition seeking termination of parental rights or other permanent placement of the child away from the parent;

(4) if the local responsible social services agency files a petition alleging that the child is in need of protection or services or a petition seeking the termination of parental rights or other permanent placement of the child away from the parent, the parent would have the right to appointment of separate legal counsel and the child would have a right to the appointment of counsel and a guardian ad litem as provided by law, and that counsel will be appointed at public expense if they are unable to afford counsel; and

(5) the timelines and procedures for review of voluntary placements under subdivision 3, and the effect the time spent in voluntary placement on the scheduling of a permanent placement determination hearing under section 260C.201, subdivision 11.

(d) When an agency accepts a child for placement, the agency shall determine whether the child has had a physical examination by or under the direction of a licensed physician within the 12 months immediately preceding the date when the child came into the agency's care. If there is documentation that the child has had an examination within the last 12 months, the agency is responsible for seeing that the child has another physical examination within one year of the documented examination and annually in subsequent years. If the agency determines that the child has not had a physical examination within the 12 months immediately preceding placement, the agency shall ensure that the child has an examination within 30 days of coming into the agency's care and once a year in subsequent years.

Sec. 28. Minnesota Statutes 2000, section 260C.212, subdivision 5, is amended to read:

Subd. 5. [RELATIVE SEARCH; NATURE.] (a) In implementing the requirement that the responsible social services agency must consider placement with a relative under subdivision 2 as soon as possible, but in any event within six months after a child is initially placed in a residential facility after identifying the need for placement of the child in foster care, the local responsible social services agency shall identify any relatives of the child and notify them of the need for a foster care home for the child and of the possibility of the need for a permanent out-of-home placement of the child. The relative search required by this section shall be reasonable in scope and may last up to six months or until a fit and willing relative is identified. Relatives should also be notified that a decision not to be a placement resource at the beginning of the case may affect the relative being considered for placement of the child with that relative later. The relatives must be notified that they must keep the local responsible social services agency informed of their current address in order to receive notice that a permanent placement is being sought for the child. A relative who fails to provide a current address to the local responsible social services agency forfeits the right to notice of the possibility of permanent placement. If the child's parent refuses to give the responsible social services agency information sufficient to identify relatives of the child, the agency shall determine whether the parent's refusal is in the child's best interests. If the agency determines the parent's refusal is not in the child's best interests, the agency shall file a petition under section 260B.141 or 260C.141, and shall ask the juvenile court to order the parent to provide the necessary information.

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

(c) When the placing agency determines that a permanent placement hearing is necessary because there is a likelihood that the child will not return to a parent's care, the agency may send the notice provided in paragraph (d), or may ask the court to modify the requirements of the

agency under this paragraph, or may ask the court to completely relieve the agency of the requirements of this paragraph. The relative notification requirements of this paragraph do not apply when the child is placed with an appropriate relative or a foster home that has committed to being the permanent legal placement for the child and the agency approves of that foster home for permanent placement of the child. The actions ordered by the court under this section must be consistent with the best interests, safety, and welfare of the child.

~~(d) Unless required under the Indian Child Welfare Act or relieved of this duty by the court because the child is placed with an appropriate relative who wishes to provide a permanent home for the child or the child is placed with a foster home that has committed to being the permanent legal placement for the child and the responsible social services agency approves of that foster home for permanent placement of the child under paragraph (c), when the agency determines that it is necessary to prepare for the permanent placement determination hearing, or in anticipation of filing a termination of parental rights petition, the agency shall send notice to the relatives, any adult with whom the child is currently residing, any adult with whom the child has resided for one year or longer in the past, and any adults who have maintained a relationship or exercised visitation with the child as identified in the agency case plan. The notice must state that a permanent home is sought for the child and that the individuals receiving the notice may indicate to the agency their interest in providing a permanent home. The notice must state that within 30 days of receipt of the notice an individual receiving the notice must indicate to the agency the individual's interest in providing a permanent home for the child or that the individual may lose the opportunity to be considered for a permanent placement. This notice need not be sent if the child is placed with an appropriate relative who wishes to provide a permanent home for the child.~~

Sec. 29. Minnesota Statutes 2000, section 260C.212, subdivision 7, is amended to read:

Subd. 7. ~~[SIX-MONTH ADMINISTRATIVE OR COURT REVIEW OF PLACEMENTS.]~~ (a) There shall be an administrative review of the ease out-of-home placement plan of each child placed in a residential facility no later than 180 days after the initial placement of the child in a residential facility and at least every six months thereafter if the child is not returned to the home of the parent or parents within that time. The ease out-of-home placement plan must be monitored and updated at each administrative review. As an alternative to the administrative review, the social services agency responsible for the placement may bring a petition as provided in section 260C.141, subdivision 2, to the court for review of the foster care to determine if placement is in the best interests of the child. This petition must be brought to the court in order for a court determination to be made regarding the best interests of the child within the applicable six months and is not in lieu of the requirements contained in subdivision 3 or 4. A court review conducted pursuant to section 260C.201, subdivision 11, or section 260C.141, subdivision 2, shall satisfy the requirement for an administrative review so long as the other requirements of this section are met.

(b) At the review required under paragraph (a), the reviewing administrative body or the court shall review:

- (1) the safety of the child;
- (2) the continuing necessity for and appropriateness of the placement;
- (3) the extent of compliance with the out-of-home placement plan;
- (4) where appropriate, the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in a residential facility;
- (5) where appropriate, the projected date by which the child may be returned to and safely maintained in the home or placed permanently away from the care of the parent or parents or guardian; and
- (6) the appropriateness of the services provided to the child.

Sec. 30. Minnesota Statutes 2000, section 260C.212, subdivision 8, is amended to read:

Subd. 8. ~~[REVIEW OF VOLUNTARY PLACEMENTS.]~~ Except as ~~provided in subdivision 4~~

for a child in placement due solely to the child's developmental disability or emotional disturbance, if the child has been placed in a residential facility pursuant to a voluntary release by the parent or parents, and is not returned home within 90 days after initial placement in the residential facility, the social services agency responsible for the placement shall:

- (1) return the child to the home of the parent or parents; or
- (2) file a petition according to section ~~260B.141, subdivision 1, or~~ 260C.141, subdivision 1 or 2, which may:
 - (i) ask the court to review the placement and approve it for up to an additional 90 days;
 - (ii) ask the court to order continued out-of-home placement according to sections ~~260B.178, 260C.178,~~ and 260C.201; or
 - (iii) ask the court to terminate parental rights under section 260C.301.

The ease out-of-home placement plan must be updated when a petition is filed and must include a specific plan for permanency, which may include a time line for returning the child home or a plan for permanent placement of the child away from the parent, or both and filed along with the petition.

If the court approves continued out-of-home placement for up to 90 more days, at the end of the court-approved 90-day period, the child must be returned to the parent's home. If the child is not returned home, the responsible social services agency must proceed on the petition filed alleging the child in need of protection or services or the petition for termination of parental rights or other permanent placement of the child away from the parent. The court must find a statutory basis to order the placement of the child under section ~~260B.178; 260C.178; 260C.201; or 260C.317.~~

Sec. 31. Minnesota Statutes 2000, section 260C.212, subdivision 9, is amended to read:

~~Subd. 9. [REVIEW OF DEVELOPMENTALLY DISABLED AND EMOTIONALLY HANDICAPPED CERTAIN CHILD PLACEMENTS.]~~ (a) If a developmentally disabled child, ~~as that term is defined in United States Code, title 42, section 6001(7), as amended through December 31, 1979, or a child diagnosed with an emotional handicap as defined in section 252.27, subdivision 1a, as emotionally disturbed~~ has been placed in a residential facility pursuant to a voluntary release by the child's parent or parents because of the child's handicapping conditions or need for long-term residential treatment or supervision, the social services agency responsible for the placement shall report to the court and bring a petition for review of the child's foster care status, ~~pursuant to section 260C.141, subdivision 2, after the child has been in placement for six months as required in section 260C.141, subdivision 2, paragraph (b).~~

(b) If a child is in placement due solely to the child's handicapping condition and developmental disability or emotional disturbance, and the court finds compelling reasons not to proceed under section 260C.201, subdivision 11, custody of the child is not transferred to the responsible social services agency under section 260C.201, subdivision 1, paragraph (a), clause (2), and no petition is required by section 260C.201, subdivision 11.

(c) Whenever a petition for review is brought pursuant to this subdivision, a guardian ad litem shall be appointed for the child.

Sec. 32. Minnesota Statutes 2000, section 260C.215, subdivision 6, is amended to read:

~~Subd. 6. [DUTIES OF CHILD-PLACING AGENCIES.]~~ (a) Each authorized child-placing agency must:

(1) develop and follow procedures for implementing the requirements of section 260C.193, subdivision 3, and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923;

(2) have a written plan for recruiting adoptive and foster families that reflect the ethnic and

racial diversity of children who are in need of foster and adoptive homes. The plan must include (i) strategies for using existing resources in diverse communities, (ii) use of diverse outreach staff wherever possible, (iii) use of diverse foster homes for placements after birth and before adoption, and (iv) other techniques as appropriate;

(3) have a written plan for training adoptive and foster families;

(4) have a written plan for employing staff in adoption and foster care who have the capacity to assess the foster and adoptive parents' ability to understand and validate a child's cultural needs, and to advance the best interests of the child. The plan must include staffing goals and objectives;

(5) ensure that adoption and foster care workers attend training offered or approved by the department of human services regarding cultural diversity and the needs of special needs children; and

(6) develop and implement procedures for implementing the requirements of the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act.

~~(b) In implementing the requirement to consider relatives for placement, an authorized child-placing agency may disclose private or confidential data, as defined in section 13.02, to relatives of the child for the purpose of locating a suitable placement. The agency shall disclose only data that is necessary to facilitate implementing the preference. If a parent makes an explicit request that the relative preference not be followed, the agency shall bring the matter to the attention of the court to determine whether the parent's request is consistent with the best interests of the child and the agency shall not contact relatives unless ordered to do so by the juvenile court; and~~

~~(e) In determining the suitability of a proposed placement of an Indian child, the standards to be applied must be the prevailing social and cultural standards of the Indian child's community, and the agency shall defer to tribal judgment as to suitability of a particular home when the tribe has intervened pursuant to the Indian Child Welfare Act.~~

Sec. 33. Minnesota Statutes 2000, section 260C.301, subdivision 1, is amended to read:

Subdivision 1. [VOLUNTARY AND INVOLUNTARY.] The juvenile court may upon petition, terminate all rights of a parent to a child:

(a) with the written consent of a parent who for good cause desires to terminate parental rights; or

(b) if it finds that one or more of the following conditions exist:

(1) that the parent has abandoned the child;

(2) that the parent has substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon that parent by the parent and child relationship, including but not limited to providing the child with necessary food, clothing, shelter, education, and other care and control necessary for the child's physical, mental, or emotional health and development, if the parent is physically and financially able, and either reasonable efforts by the social services agency have failed to correct the conditions that formed the basis of the petition or reasonable efforts would be futile and therefore unreasonable;

(3) that a parent has been ordered to contribute to the support of the child or financially aid in the child's birth and has continuously failed to do so without good cause. This clause shall not be construed to state a grounds for termination of parental rights of a noncustodial parent if that parent has not been ordered to or cannot financially contribute to the support of the child or aid in the child's birth;

(4) that a parent is palpably unfit to be a party to the parent and child relationship because of a consistent pattern of specific conduct before the child or of specific conditions directly relating to the parent and child relationship either of which are determined by the court to be of a duration or

nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental, or emotional needs of the child. It is presumed that a parent is palpably unfit to be a party to the parent and child relationship upon a showing that the parent's parental rights to one or more other children were involuntarily terminated or that the parent's custodial rights to another child have been involuntarily transferred to a relative under section 260C.201, subdivision 11, paragraph (e), clause (1), or a similar law of another jurisdiction;

(5) that following the child's placement out of the home, reasonable efforts, under the direction of the court, have failed to correct the conditions leading to the child's placement. It is presumed that reasonable efforts under this clause have failed upon a showing that:

(i) a child has resided out of the parental home under court order for a cumulative period of 12 months within the preceding 22 months. In the case of a child under age eight at the time the petition was filed alleging the child to be in need of protection or services, the presumption arises when the child has resided out of the parental home under court order for six months unless the parent has maintained regular contact with the child and the parent is complying with the ease out-of-home placement plan;

(ii) the court has approved a ~~case~~ the out-of-home placement plan required under section 260C.212 and filed with the court under section 260C.178;

(iii) conditions leading to the out-of-home placement have not been corrected. It is presumed that conditions leading to a child's out-of-home placement have not been corrected upon a showing that the parent or parents have not substantially complied with the court's orders and a reasonable case plan; and

(iv) reasonable efforts have been made by the social services agency to rehabilitate the parent and reunite the family.

This clause does not prohibit the termination of parental rights prior to one year, or in the case of a child under age eight, within ~~within~~ prior to six months after a child has been placed out of the home.

It is also presumed that reasonable efforts have failed under this clause upon a showing that:

(A) the parent has been diagnosed as chemically dependent by a professional certified to make the diagnosis;

(B) the parent has been required by a case plan to participate in a chemical dependency treatment program;

(C) the treatment programs offered to the parent were culturally, linguistically, and clinically appropriate;

(D) the parent has either failed two or more times to successfully complete a treatment program or has refused at two or more separate meetings with a caseworker to participate in a treatment program; and

(E) the parent continues to abuse chemicals.

(6) that a child has experienced egregious harm in the parent's care which is of a nature, duration, or chronicity that indicates a lack of regard for the child's well-being, such that a reasonable person would believe it contrary to the best interest of the child or of any child to be in the parent's care;

(7) that in the case of a child born to a mother who was not married to the child's father when the child was conceived nor when the child was born the person is not entitled to notice of an adoption hearing under section 259.49 and the person has not registered with the fathers' adoption registry under section 259.52;

(8) that the child is neglected and in foster care; or

(9) that the parent has been convicted of a crime listed in section 260.012, paragraph (b), clauses (1) to (3).

In an action involving an American Indian child, sections 260.751 to 260.835 and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, control to the extent that the provisions of this section are inconsistent with those laws.

Sec. 34. Minnesota Statutes 2000, section 260C.301, subdivision 3, is amended to read:

Subd. 3. [REQUIRED TERMINATION OF PARENTAL RIGHTS.] (a) The county attorney shall file a termination of parental rights petition within 30 days of the responsible social services agency determining that a child has been subjected to egregious harm as defined in section 260C.007, subdivision 26, is determined to be the sibling of another child of the parent who was subjected to egregious harm, or is an abandoned infant as defined in subdivision 2, paragraph (a), clause (2), or the parent has lost parental rights to another child through an order involuntarily terminating the parent's rights, or another child of the parent is the subject of an order transferring permanent legal and physical custody of the child to a relative under section 260C.201, subdivision 11, paragraph (e), clause (1), or a similar law of another jurisdiction. The local social services agency shall concurrently identify, recruit, process, and approve an adoptive family for the child. If a termination of parental rights petition has been filed by another party, the local social services agency shall be joined as a party to the petition. If criminal charges have been filed against a parent arising out of the conduct alleged to constitute egregious harm, the county attorney shall determine which matter should proceed to trial first, consistent with the best interests of the child and subject to the defendant's right to a speedy trial.

(b) This requirement does not apply if the county attorney determines and files with the court:

(1) a petition for transfer of permanent legal and physical custody to a relative under section 260C.201, subdivision 11, including a determination that the transfer is in the best interests of the child; or

(2) a petition alleging the child, and where appropriate, the child's siblings, to be in need of protection or services accompanied by a case plan prepared by the responsible social services agency documenting a compelling reason why filing a termination of parental rights petition would not be in the best interests of the child.

Sec. 35. Minnesota Statutes 2000, section 260C.301, subdivision 4, is amended to read:

Subd. 4. [CURRENT FOSTER CARE CHILDREN.] Except for cases where the child is in placement due solely to the child's status as ~~developmentally delayed under United States Code, title 42, section 6001(7), developmentally disabled or emotionally handicapped under section 252.27, and emotional disturbance,~~ where custody has not been transferred to the responsible social services agency, and where the court finds compelling reasons to continue placement, the county attorney shall file a termination of parental rights petition or a petition to ~~support another permanent placement proceeding~~ transfer permanent legal and physical custody to a relative under section 260C.201, subdivision 11, for all children who are placed in out-of-home care for reasons other than care or treatment of the child's disability, and who are in out-of-home placement on April 21, 1998, and have been in out-of-home care for 15 of the most recent 22 months. This requirement does not apply if there is a compelling reason documented in a case plan filed with approved by the court for determining that filing a termination of parental rights petition or other permanency petition would not be in the best interests of the child or if the responsible social services agency has not provided reasonable efforts necessary for the safe return of the child, if reasonable efforts are required.

Sec. 36. Minnesota Statutes 2000, section 260C.301, subdivision 8, is amended to read:

Subd. 8. [FINDINGS REGARDING REASONABLE EFFORTS.] In any proceeding under this section, the court shall make specific findings:

(1) that reasonable efforts to prevent the placement and to reunify the child and the parent were made including individualized and explicit findings regarding the nature and extent of efforts made by the social services agency to rehabilitate the parent and reunite the family; or

(2) that reasonable efforts at reunification are not required as provided under section 260.012.

Sec. 37. Minnesota Statutes 2000, section 260C.312, is amended to read:

260C.312 [DISPOSITION; PARENTAL RIGHTS NOT TERMINATED.]

(a) If, after a hearing, the court does not terminate parental rights but determines that the child is in need of protection or services, or that the child is neglected and in foster care, the court may find the child is in need of protection or services or neglected and in foster care and may enter an order in accordance with the provisions of section 260C.201.

(b) When a child has been in placement 15 of the last 22 months after a trial on a termination of parental rights petition, if the court finds that the petition is not proven or that termination of parental rights is not in the child's best interests, the court must order the child returned to the care of the parent unless the court finds compelling reasons why the child should remain out of the care of the parent. If the court orders the child returned to the care of the parent, the court may order protective supervision or monitoring under section 260C.201.

Sec. 38. Minnesota Statutes 2000, section 260C.317, subdivision 3, is amended to read:

Subd. 3. [ORDER; RETENTION OF JURISDICTION.] (a) A certified copy of the findings and the order terminating parental rights, and a summary of the court's information concerning the child shall be furnished by the court to the commissioner or the agency to which guardianship is transferred. The orders shall be on a document separate from the findings. The court shall furnish the individual to whom guardianship is transferred a copy of the order terminating parental rights.

(b) The court shall retain jurisdiction in a case where adoption is the intended permanent placement disposition. The guardian ad litem and counsel for the child shall continue on the case until an adoption decree is entered. A hearing must be held every 90 days following termination of parental rights for the court to review progress toward an adoptive placement and the specific recruitment efforts the agency has taken to find an adoptive family or other placement living arrangement for the child and to finalize the adoption or other permanency plan.

(c) When adoption is not the intended disposition, and if the child continues in out-of-home placement for 12 months after the court has issued the order terminating parental rights and at least every 12 months thereafter as long as the child continues in out-of-home placement, the court shall conduct a permanency review hearing to determine the future status of the child including, but not limited to, whether the child should be continued in out-of-home placement, should be placed for adoption, or should, because of the child's special needs and for compelling reasons, be ordered into long-term out-of-home placement.

(d) The court shall retain jurisdiction in a case where long-term foster care is the permanent disposition whether under paragraph (c) or section 260C.201, subdivision 11. The guardian ad litem and counsel for the child must be dismissed from the case on the effective date of the permanent placement order. However, the foster parent and the child, if of sufficient age, must be informed how they may contact a guardian ad litem if the matter is subsequently returned to court. All of the review requirements under section 260C.201, subdivision 11, paragraph (g), apply.

Sec. 39. Minnesota Statutes 2000, section 260C.325, subdivision 4, is amended to read:

Subd. 4. [GUARDIAN'S RESPONSIBILITIES.] (a) A guardian appointed under the provisions of this section has legal custody of a ward unless the court which appoints the guardian gives legal custody to some other person. If the court awards custody to a person other than the guardian, the guardian nonetheless has the right and responsibility of reasonable visitation, except as limited by court order.

(b) The guardian may make major decisions affecting the person of the ward, including but not limited to giving consent (when consent is legally required) to the marriage, enlistment in the armed forces, medical, surgical, or psychiatric treatment, or adoption of the ward. When, pursuant to this section, the commissioner of human services is appointed guardian, the commissioner may delegate to the local responsible social services agency of the county in which, after the appointment, the ward resides, the authority to act for the commissioner in decisions affecting the person of the ward, including but not limited to giving consent to the marriage, enlistment in the armed forces, medical, surgical, or psychiatric treatment of the ward.

(c) A guardianship created under the provisions of this section shall not of itself include the guardianship of the estate of the ward.

~~(d) If the ward is in foster care, the court shall, upon its own motion or that of the guardian, conduct a dispositional hearing within 18 months of the child's initial foster care placement and once every 12 months thereafter to determine the future status of the ward including, but not limited to, whether the child should be continued in foster care for a specified period, should be placed for adoption, or should, because of the child's special needs or circumstances, be continued in foster care on a long-term basis.~~

Sec. 40. Minnesota Statutes 2000, section 626.556, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section 609.341, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes threatened sexual abuse.

(b) "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(c) "Neglect" means:

(1) failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter, health, medical, or other care required for the child's physical or mental health when reasonably able to do so;

(2) failure to protect a child from conditions or actions which imminently and seriously endanger the child's physical or mental health when reasonably able to do so;

(3) failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in their care;

(4) failure to ensure that the child is educated as defined in sections 120A.22 and 260C.163, subdivision 11;

(5) nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious danger to the child's health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care;

(6) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child

at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance;

(7) "medical neglect" as defined in section 260C.007, subdivision 4, clause (5);

(8) chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the care of the child that adversely affects the child's basic needs and safety; or

(9) emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.

(d) "Physical abuse" means any physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive and deprivation procedures that have not been authorized under section 245.825. Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Actions which are not reasonable and moderate include, but are not limited to, any of the following that are done in anger or without regard to the safety of the child:

(1) throwing, kicking, burning, biting, or cutting a child;

(2) striking a child with a closed fist;

(3) shaking a child under age three;

(4) striking or other actions which result in any nonaccidental injury to a child under 18 months of age;

(5) unreasonable interference with a child's breathing;

(6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;

(7) striking a child under age one on the face or head;

(8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child; or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances; or

(9) unreasonable physical confinement or restraint not permitted under section 609.379, including but not limited to tying, caging, or chaining.

(e) "Report" means any report received by the local welfare agency, police department, or county sheriff pursuant to this section.

(f) "Facility" means a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B; or a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

(g) "Operator" means an operator or agency as defined in section 245A.02.

(h) "Commissioner" means the commissioner of human services.

(i) "Assessment" includes authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or

neglect for the purpose of gathering the facts, assessing the risk to the child, and formulating a plan.

(j) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem and parenting time expeditor services.

(k) "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

(l) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury. Threatened injury includes, but is not limited to, exposing a child to a person responsible for the child's care, as defined in paragraph (b), clause (1), who has:

(1) subjected a child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm, as defined in section 260C.007, subdivision 26, or a similar law of another jurisdiction;

(2) been found to be palpably unfit under section 260C.301, paragraph (b), clause (4), or a similar law of another jurisdiction;

(3) committed an act that has resulted in an involuntary termination of parental rights under section 260C.301, or a similar law of another jurisdiction; or

(4) committed an act that has resulted in the involuntary transfer of permanent legal and physical custody of a child to a relative under section 260C.201, subdivision 11, paragraph (e), clause (1), or a similar law of another jurisdiction.

(m) Persons who conduct assessments or investigations under this section shall take into account accepted child-rearing practices of the culture in which a child participates, which are not injurious to the child's health, welfare, and safety.

Sec. 41. [EXCHANGE OF RECORDS BETWEEN DEPARTMENT OF HEALTH AND DEPARTMENT OF HUMAN SERVICES.]

The commissioners of health and human services shall exchange birth record data and data contained in recognitions of parentage for the purpose of identifying a child who is subject to threatened injury by a person responsible for a child's care to the extent possible using existing resources and information systems.

Sec. 42. [UNIFORM PARENTAGE ACT STUDY AND REPORT.]

(a) The commissioner of human services shall appoint a task force to review the Uniform Parentage Act adopted by the Uniform Laws Commission in 2000 and to make recommendations to the legislature on whether Minnesota should enact all or part of the Uniform Parentage Act, whether portions of that act should be amended, and when it should be effective if it is enacted.

(b) The task force appointed under paragraph (a) should include, but is not limited to, persons representing:

(1) the department of human services;

(2) the department of health;

(3) adoption agencies;

(4) the Family Law and Children and the Law Sections of the Minnesota State Bar Association;

(5) the Juvenile Law Section of the Hennepin County Bar Association;

- (6) genetic testing organizations;
- (7) public defenders;
- (8) county attorneys;
- (9) legal service attorneys;
- (10) judges;
- (11) child support magistrates;
- (12) children's advocates;
- (13) communities of color;
- (14) guardians ad litem;
- (15) parent organizations;
- (16) families involved in infertility treatment processes;
- (17) persons who have been adopted;
- (18) birth parents;
- (19) adoptive families; and
- (20) noncustodial parents.

(c) The task force must submit its report and recommendations to the chairs of the committees in the house of representatives and senate with jurisdiction over family and parentage issues by January 15, 2002. The task force expires on January 15, 2002.

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

Sec. 43. [REPEALER.]

Minnesota Statutes 2000, sections 260C.325, subdivision 2; and 626.5565, are repealed.

Sec. 44. [INSTRUCTION TO REVISOR.]

(a) The revisor of statutes shall change the term "local social services agency" to "responsible social services agency" in Minnesota Statutes, chapter 260C.

(b) The revisor of statutes shall renumber definitions putting the terms in alphabetical order under Minnesota Statutes, section 260C.007, and change affected cross-references accordingly.

ARTICLE 2

DATA PRACTICES AND CHILD MALTREATMENT

Section 1. Minnesota Statutes 2000, section 13.319, is amended by adding a subdivision to read:

Subd. 7. [CHILD CARE ASSISTANCE PROGRAM.] Data collected for purposes of administering the child care assistance program are classified under section 119B.02, subdivision 6.

Sec. 2. Minnesota Statutes 2000, section 13.32, subdivision 3, is amended to read:

Subd. 3. [PRIVATE DATA; WHEN DISCLOSURE IS PERMITTED.] Except as provided in subdivision 5, educational data is private data on individuals and shall not be disclosed except as follows:

- (a) Pursuant to section 13.05;
- (b) Pursuant to a valid court order;
- (c) Pursuant to a statute specifically authorizing access to the private data;
- (d) To disclose information in health and safety emergencies pursuant to the provisions of United States Code, title 20, section 1232g(b)(1)(I) and Code of Federal Regulations, title 34, section 99.36;
- (e) Pursuant to the provisions of United States Code, title 20, sections 1232g(b)(1), (b)(4)(A), (b)(4)(B), (b)(1)(B), (b)(3) and Code of Federal Regulations, title 34, sections 99.31, 99.32, 99.33, 99.34, and 99.35;
- (f) To appropriate health authorities to the extent necessary to administer immunization programs and for bona fide epidemiologic investigations which the commissioner of health determines are necessary to prevent disease or disability to individuals in the public educational agency or institution in which the investigation is being conducted;
- (g) When disclosure is required for institutions that participate in a program under title IV of the Higher Education Act, United States Code, title 20, chapter 1092;
- (h) To the appropriate school district officials to the extent necessary under subdivision 6, annually to indicate the extent and content of remedial instruction, including the results of assessment testing and academic performance at a post-secondary institution during the previous academic year by a student who graduated from a Minnesota school district within two years before receiving the remedial instruction;
- (i) To appropriate authorities as provided in United States Code, title 20, section 1232g(b)(1)(E)(ii), if the data concern the juvenile justice system and the ability of the system to effectively serve, prior to adjudication, the student whose records are released; provided that the authorities to whom the data are released submit a written request for the data that certifies that the data will not be disclosed to any other person except as authorized by law without the written consent of the parent of the student and the request and a record of the release are maintained in the student's file;
- (j) To volunteers who are determined to have a legitimate educational interest in the data and who are conducting activities and events sponsored by or endorsed by the educational agency or institution for students or former students;
- (k) To provide student recruiting information, from educational data held by colleges and universities, as required by and subject to Code of Federal Regulations, title 32, section 216; or
- (l) To the juvenile justice system if information about the behavior of a student who poses a risk of harm is reasonably necessary to protect the health or safety of the student or other individuals;;
- (m) With respect to social security numbers of students in the adult basic education system, to Minnesota state colleges and universities and the department of economic security for the purpose and in the manner described in section 124D.52, subdivision 7; or
- (n) To the commissioner of children, families, and learning for purposes of an assessment or investigation of a report of alleged maltreatment of a student as mandated by section 626.556. Upon request by the commissioner of children, families, and learning, data that are relevant to a report of maltreatment and are from charter school and school district investigations of alleged maltreatment of a student must be disclosed to the commissioner, including, but not limited to, the following:
 - (1) information regarding the student alleged to have been maltreated;
 - (2) information regarding student and employee witnesses;

(3) information regarding the alleged perpetrator; and

(4) what corrective or protective action was taken, if any, by the school facility in response to a report of maltreatment by an employee or agent of the school or school district.

Sec. 3. Minnesota Statutes 2000, section 13.43, is amended by adding a subdivision to read:

Subd. 14. [MALTREATMENT DATA.] When a report of alleged maltreatment of a student in a school facility, as defined in section 626.556, subdivision 2, paragraph (f), is made to the commissioner of children, families, and learning under section 626.556, data that are relevant to a report of maltreatment and are collected by the school facility about the person alleged to have committed maltreatment must be provided to the commissioner of children, families, and learning upon request for purposes of an assessment or investigation of the maltreatment report. Data received by the commissioner of children, families, and learning pursuant to these assessments or investigations are classified under section 626.556.

Sec. 4. Minnesota Statutes 2000, section 13.46, subdivision 2, is amended to read:

Subd. 2. [GENERAL.] (a) Unless the data is summary data or a statute specifically provides a different classification, data on individuals collected, maintained, used, or disseminated by the welfare system is private data on individuals, and shall not be disclosed except:

(1) according to section 13.05;

(2) according to court order;

(3) according to a statute specifically authorizing access to the private data;

(4) to an agent of the welfare system, including a law enforcement person, attorney, or investigator acting for it in the investigation or prosecution of a criminal or civil proceeding relating to the administration of a program;

(5) to personnel of the welfare system who require the data to determine eligibility, amount of assistance, and the need to provide services of additional programs to the individual;

(6) to administer federal funds or programs;

(7) between personnel of the welfare system working in the same program;

(8) the amounts of cash public assistance and relief paid to welfare recipients in this state, including their names, social security numbers, income, addresses, and other data as required, upon request by the department of revenue to administer the property tax refund law, supplemental housing allowance, early refund of refundable tax credits, and the income tax. "Refundable tax credits" means the dependent care credit under section 290.067, the Minnesota working family credit under section 290.0671, the property tax refund under section 290A.04, and, if the required federal waiver or waivers are granted, the federal earned income tax credit under section 32 of the Internal Revenue Code;

(9) between the department of human services, the department of children, families, and learning, and the department of economic security for the purpose of monitoring the eligibility of the data subject for unemployment benefits, for any employment or training program administered, supervised, or certified by that agency, for the purpose of administering any rehabilitation program or child care assistance program, whether alone or in conjunction with the welfare system, or to monitor and evaluate the Minnesota family investment program by exchanging data on recipients and former recipients of food stamps, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;

(10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons;

(11) data maintained by residential programs as defined in section 245A.02 may be disclosed to

the protection and advocacy system established in this state according to Part C of Public Law Number 98-527 to protect the legal and human rights of persons with mental retardation or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person;

(12) to the county medical examiner or the county coroner for identifying or locating relatives or friends of a deceased person;

(13) data on a child support obligor who makes payments to the public agency may be disclosed to the higher education services office to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5);

(14) participant social security numbers and names collected by the telephone assistance program may be disclosed to the department of revenue to conduct an electronic data match with the property tax refund database to determine eligibility under section 237.70, subdivision 4a;

(15) the current address of a Minnesota family investment program participant may be disclosed to law enforcement officers who provide the name of the participant and notify the agency that:

(i) the participant:

(A) is a fugitive felon fleeing to avoid prosecution, or custody or confinement after conviction, for a crime or attempt to commit a crime that is a felony under the laws of the jurisdiction from which the individual is fleeing; or

(B) is violating a condition of probation or parole imposed under state or federal law;

(ii) the location or apprehension of the felon is within the law enforcement officer's official duties; and

(iii) the request is made in writing and in the proper exercise of those duties;

(16) the current address of a recipient of general assistance or general assistance medical care may be disclosed to probation officers and corrections agents who are supervising the recipient and to law enforcement officers who are investigating the recipient in connection with a felony level offense;

(17) information obtained from food stamp applicant or recipient households may be disclosed to local, state, or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act, according to Code of Federal Regulations, title 7, section 272.1(c);

(18) the address, social security number, and, if available, photograph of any member of a household receiving food stamps shall be made available, on request, to a local, state, or federal law enforcement officer if the officer furnishes the agency with the name of the member and notifies the agency that:

(i) the member:

(A) is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime or attempt to commit a crime that is a felony in the jurisdiction the member is fleeing;

(B) is violating a condition of probation or parole imposed under state or federal law; or

(C) has information that is necessary for the officer to conduct an official duty related to conduct described in subitem (A) or (B);

(ii) locating or apprehending the member is within the officer's official duties; and

(iii) the request is made in writing and in the proper exercise of the officer's official duty;

(19) the current address of a recipient of Minnesota family investment program, general assistance, general assistance medical care, or food stamps may be disclosed to law enforcement officers who, in writing, provide the name of the recipient and notify the agency that the recipient is a person required to register under section 243.166, but is not residing at the address at which the recipient is registered under section 243.166;

(20) certain information regarding child support obligors who are in arrears may be made public according to section 518.575;

(21) data on child support payments made by a child support obligor and data on the distribution of those payments excluding identifying information on obligees may be disclosed to all obligees to whom the obligor owes support, and data on the enforcement actions undertaken by the public authority, the status of those actions, and data on the income of the obligor or obligee may be disclosed to the other party;

(22) data in the work reporting system may be disclosed under section 256.998, subdivision 7;

(23) to the department of children, families, and learning for the purpose of matching department of children, families, and learning student data with public assistance data to determine students eligible for free and reduced price meals, meal supplements, and free milk according to United States Code, title 42, sections 1758, 1761, 1766, 1766a, 1772, and 1773; to allocate federal and state funds that are distributed based on income of the student's family; and to verify receipt of energy assistance for the telephone assistance plan;

(24) the current address and telephone number of program recipients and emergency contacts may be released to the commissioner of health or a local board of health as defined in section 145A.02, subdivision 2, when the commissioner or local board of health has reason to believe that a program recipient is a disease case, carrier, suspect case, or at risk of illness, and the data are necessary to locate the person;

(25) to other state agencies, statewide systems, and political subdivisions of this state, including the attorney general, and agencies of other states, interstate information networks, federal agencies, and other entities as required by federal regulation or law for the administration of the child support enforcement program;

(26) to personnel of public assistance programs as defined in section 256.741, for access to the child support system database for the purpose of administration, including monitoring and evaluation of those public assistance programs;

(27) to monitor and evaluate the Minnesota family investment program by exchanging data between the departments of human services and children, families, and learning, on recipients and former recipients of food stamps, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L; or

(28) to evaluate child support program performance and to identify and prevent fraud in the child support program by exchanging data between the department of human services, department of revenue under section 270B.14, subdivision 1, paragraphs (a) and (b), without regard to the limitation of use in paragraph (c), department of health, department of economic security, and other state agencies as is reasonably necessary to perform these functions; or

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

(b) Information on persons who have been treated for drug or alcohol abuse may only be disclosed according to the requirements of Code of Federal Regulations, title 42, sections 2.1 to 2.67.

(c) Data provided to law enforcement agencies under paragraph (a), clause (15), (16), (17), or (18), or paragraph (b), are investigative data and are confidential or protected nonpublic while the investigation is active. The data are private after the investigation becomes inactive under section 13.82, subdivision 5, paragraph (a) or (b).

(d) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but is not subject to the access provisions of subdivision 10, paragraph (b).

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

Sec. 5. Minnesota Statutes 2000, section 119B.02, is amended by adding a subdivision to read:

Subd. 6. [DATA.] Data on individuals collected by the commissioner for purposes of administering this chapter are private data on individuals as defined in section 13.02.

Sec. 6. Minnesota Statutes 2000, section 256.045, subdivision 3b, is amended to read:

Subd. 3b. [STANDARD OF EVIDENCE FOR MALTREATMENT HEARINGS.] The state human services referee shall determine that maltreatment has occurred if a preponderance of evidence exists to support the final disposition under sections 626.556 and 626.557.

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. In any licensing appeal under chapter 245A and sections 144.50 to 144.58 and 144A.02 to 144A.46, the commissioner's determination as to maltreatment is conclusive.

Sec. 7. Minnesota Statutes 2000, section 626.556, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section 609.341, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes threatened sexual abuse.

(b) "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, other school employees or agents, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(c) "Neglect" means:

(1) failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter, health, medical, or other care required for the child's physical or mental health when reasonably able to do so;

(2) failure to protect a child from conditions or actions which imminently and seriously endanger the child's physical or mental health when reasonably able to do so;

(3) failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in their care;

(4) failure to ensure that the child is educated as defined in sections 120A.22 and 260C.163, subdivision 11;

(5) nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious danger to the child's health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care;

(6) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance;

(7) "medical neglect" as defined in section 260C.007, subdivision 4, clause (5);

(8) chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the care of the child that adversely affects the child's basic needs and safety; or

(9) emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.

(d) "Physical abuse" means any physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive and or deprivation procedures, or regulated interventions, that have not been authorized under section 121A.67 or 245.825. Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school employee as allowed by section 121A.582. Actions which are not reasonable and moderate include, but are not limited to, any of the following that are done in anger or without regard to the safety of the child:

(1) throwing, kicking, burning, biting, or cutting a child;

(2) striking a child with a closed fist;

(3) shaking a child under age three;

(4) striking or other actions which result in any nonaccidental injury to a child under 18 months of age;

(5) unreasonable interference with a child's breathing;

(6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;

(7) striking a child under age one on the face or head;

(8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child; or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances; ~~or~~

(9) unreasonable physical confinement or restraint not permitted under section 609.379, including but not limited to tying, caging, or chaining; or

(10) in a school facility or school zone, an act by a person responsible for the child's care that is a violation under section 121A.58.

(e) "Report" means any report received by the local welfare agency, police department, ~~or~~ county sheriff, or agency responsible for assessing or investigating maltreatment pursuant to this section.

(f) "Facility" means a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B; or a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

(g) "Operator" means an operator or agency as defined in section 245A.02.

(h) "Commissioner" means the commissioner of human services.

(i) "Assessment" includes authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing the risk to the child, and formulating a plan.

(j) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem and parenting time expeditor services.

(k) "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

(l) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury.

(m) Persons who conduct assessments or investigations under this section shall take into account accepted child-rearing practices of the culture in which a child participates and accepted teacher discipline practices, which are not injurious to the child's health, welfare, and safety.

Sec. 8. Minnesota Statutes 2000, section 626.556, subdivision 3, is amended to read:

Subd. 3. [PERSONS MANDATED TO REPORT.] (a) A person who knows or has reason to believe a child is being neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused within the preceding three years, shall immediately report the information to the local welfare agency, agency responsible for assessing or investigating the report, police department, or the county sheriff if the person is:

(1) a professional or professional's delegate who is engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, or law enforcement; or

(2) employed as a member of the clergy and received the information while engaged in ministerial duties, provided that a member of the clergy is not required by this subdivision to report information that is otherwise privileged under section 595.02, subdivision 1, paragraph (c).

The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency or agency responsible for assessing or investigating the report, orally and in writing. The local welfare agency, or agency responsible for assessing or investigating the report, upon receiving a report, shall immediately notify the local police department or the county sheriff orally and in writing. The county sheriff and the head of every local welfare agency, agency responsible for assessing or investigating reports, and police department shall each designate a person within their agency, department, or office who is responsible for ensuring that the notification duties of this paragraph and paragraph (b) are carried out. Nothing in this

subdivision shall be construed to require more than one report from any institution, facility, school, or agency.

(b) Any person may voluntarily report to the local welfare agency, agency responsible for assessing or investigating the report, police department, or the county sheriff if the person knows, has reason to believe, or suspects a child is being or has been neglected or subjected to physical or sexual abuse. The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency or agency responsible for assessing or investigating the report, orally and in writing. The local welfare agency or agency responsible for assessing or investigating the report, upon receiving a report, shall immediately notify the local police department or the county sheriff orally and in writing.

(c) A person mandated to report physical or sexual child abuse or neglect occurring within a licensed facility shall report the information to the agency responsible for licensing the facility under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 245B, ~~or a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16; and 256B.0625, subdivision 19.~~ A health or corrections agency receiving a report may request the local welfare agency to provide assistance pursuant to subdivisions 10, 10a, and 10b. A board or other entity whose licensees perform work within a school facility, upon receiving a complaint of alleged maltreatment, shall provide information about the circumstances of the alleged maltreatment to the commissioner of children, families, and learning. Section 13.03, subdivision 4, applies to data received by the commissioner of children, families, and learning from a licensing entity.

(d) Any person mandated to report shall receive a summary of the disposition of any report made by that reporter, including whether the case has been opened for child protection or other services, or if a referral has been made to a community organization, unless release would be detrimental to the best interests of the child. Any person who is not mandated to report shall, upon request to the local welfare agency, receive a concise summary of the disposition of any report made by that reporter, unless release would be detrimental to the best interests of the child.

(e) For purposes of this subdivision, "immediately" means as soon as possible but in no event longer than 24 hours.

Sec. 9. Minnesota Statutes 2000, section 626.556, subdivision 4, is amended to read:

Subd. 4. [IMMUNITY FROM LIABILITY.] (a) The following persons are immune from any civil or criminal liability that otherwise might result from their actions, if they are acting in good faith:

(1) any person making a voluntary or mandated report under subdivision 3 or under section 626.5561 or assisting in an assessment under this section or under section 626.5561;

(2) any person with responsibility for performing duties under this section or supervisor employed by a local welfare agency, the commissioner of an agency responsible for operating or supervising a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or 245B, or a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16; and 256B.0625, subdivision 19a, complying with subdivision 10d; and

(3) any public or private school, facility as defined in subdivision 2, or the employee of any public or private school or facility who permits access by a local welfare agency, the department of children, families, and learning, or a local law enforcement agency and assists in an investigation or assessment pursuant to subdivision 10 or under section 626.5561.

(b) A person who is a supervisor or person with responsibility for performing duties under this section employed by a local welfare agency, the commissioner of human services, or the commissioner of children, families, and learning complying with subdivisions 10 and 11 or section

626.5561 or any related rule or provision of law is immune from any civil or criminal liability that might otherwise result from the person's actions, if the person is (1) acting in good faith and exercising due care, or (2) acting in good faith and following the information collection procedures established under subdivision 10, paragraphs (h), (i), and (j).

(c) This subdivision does not provide immunity to any person for failure to make a required report or for committing neglect, physical abuse, or sexual abuse of a child.

(d) If a person who makes a voluntary or mandatory report under subdivision 3 prevails in a civil action from which the person has been granted immunity under this subdivision, the court may award the person attorney fees and costs.

Sec. 10. Minnesota Statutes 2000, 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.

Sec. 11. Minnesota Statutes 2000, section 626.556, subdivision 10, is amended to read:

Subd. 10. [DUTIES OF LOCAL WELFARE AGENCY AND LOCAL LAW ENFORCEMENT AGENCY UPON RECEIPT OF A REPORT.] (a) If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or individual functioning within the family unit as a person responsible for the child's care, the local welfare agency shall immediately conduct an assessment including gathering information on the existence of substance abuse and offer protective social services for purposes of preventing further abuses, safeguarding and enhancing the welfare of the abused or neglected minor, and preserving family life whenever possible. If the report alleges a violation of a criminal statute involving sexual abuse, physical abuse, or neglect or endangerment, under section 609.378, the local law enforcement agency and local welfare agency shall coordinate the planning and execution of their respective investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of the results of its investigation. In cases of alleged child maltreatment resulting in death, the local agency may rely on the fact-finding efforts of a law enforcement investigation to make a determination of whether or not maltreatment occurred. When necessary the local welfare agency shall seek authority to remove the child from the custody of a parent, guardian, or adult with whom the child is living. In performing any of these duties, the local welfare agency shall maintain appropriate records.

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

referrals for alcohol and other drug treatment services to the state authority on alcohol and drug abuse.

(b) When a local agency receives a report or otherwise has information indicating that a child who is a client, as defined in section 245.91, has been the subject of physical abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section 245.91, it shall, in addition to its other duties under this section, immediately inform the ombudsman established under sections 245.91 to 245.97. 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 or, 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 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 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. 12. Minnesota Statutes 2000, section 626.556, subdivision 10b, is amended to read:

Subd. 10b. [DUTIES OF COMMISSIONER; NEGLECT OR ABUSE IN FACILITY.] (a) This section applies to the commissioners of human services, health, and children, families, and learning. The commissioner of the agency responsible for assessing or investigating the report shall immediately assess or investigate if the report alleges that:

(1) a child who is in the care of a facility as defined in subdivision 2 is neglected, physically abused, or sexually abused by an individual in that facility, or has been so neglected or abused by an individual in that facility within the three years preceding the report; or

(2) a child was neglected, physically abused, or sexually abused by an individual in a facility defined in subdivision 2, while in the care of that facility within the three years preceding the report.

The commissioner of the agency responsible for assessing or investigating the report shall arrange for the transmittal to the commissioner of reports received by local agencies and may delegate to a local welfare agency the duty to investigate reports. In conducting an investigation under this section, the commissioner has the powers and duties specified for local welfare agencies under this section. The commissioner of the agency responsible for assessing or investigating the

report or local welfare agency may interview any children who are or have been in the care of a facility under investigation and their parents, guardians, or legal custodians.

(b) Prior to any interview, the commissioner of the agency responsible for assessing or investigating the report or local welfare agency shall notify the parent, guardian, or legal custodian of a child who will be interviewed in the manner provided for in subdivision 10d, paragraph (a). If reasonable efforts to reach the parent, guardian, or legal custodian of a child in an out-of-home placement have failed, the child may be interviewed if there is reason to believe the interview is necessary to protect the child or other children in the facility. The commissioner of the agency responsible for assessing or investigating the report or local agency must provide the information required in this subdivision to the parent, guardian, or legal custodian of a child interviewed without parental notification as soon as possible after the interview. When the investigation is completed, any parent, guardian, or legal custodian notified under this subdivision shall receive the written memorandum provided for in subdivision 10d, paragraph (c).

(c) In conducting investigations under this subdivision the commissioner or local welfare agency shall obtain access to information consistent with subdivision 10, paragraphs (h), (i), and (j). In conducting assessments or investigations under this subdivision, the commissioner of children, families, and learning shall obtain access to reports and investigative data that are relevant to a report of maltreatment and are in the possession of a school facility as defined in subdivision 2, paragraph (f), notwithstanding the classification of the data as educational or personnel data under chapter 13. This includes, but is not limited to, school investigative reports, information concerning the conduct of school personnel alleged to have committed maltreatment of students, information about witnesses, and any protective or corrective action taken by the school facility regarding the school personnel alleged to have committed maltreatment.

~~(d) Except for foster care and family child care, the commissioner has the primary responsibility for the investigations and notifications required under subdivisions 10d and 10f for reports that allege maltreatment related to the care provided by or in facilities licensed by the commissioner. The commissioner may request assistance from the local social services agency.~~

Sec. 13. Minnesota Statutes 2000, section 626.556, subdivision 10d, is amended to read:

Subd. 10d. [NOTIFICATION OF NEGLECT OR ABUSE IN FACILITY.] (a) When a report is received that alleges neglect, physical abuse, or sexual abuse of a child while in the care of a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed according to sections 144.50 to 144.58; 241.021; or 245A.01 to 245A.16; or chapter 245B, or a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed personal care provider organization as defined in section 256B.04, subdivision 16, and 256B.0625, subdivision 19a, the commissioner of the agency responsible for assessing or investigating the report or local welfare agency investigating the report shall provide the following information to the parent, guardian, or legal custodian of a child alleged to have been neglected, physically abused, or sexually abused: the name of the facility; the fact that a report alleging neglect, physical abuse, or sexual abuse of a child in the facility has been received; the nature of the alleged neglect, physical abuse, or sexual abuse; that the agency is conducting an assessment or investigation; any protective or corrective measures being taken pending the outcome of the investigation; and that a written memorandum will be provided when the investigation is completed.

(b) The commissioner of the agency responsible for assessing or investigating the report or local welfare agency may also provide the information in paragraph (a) to the parent, guardian, or legal custodian of any other child in the facility if the investigative agency knows or has reason to believe the alleged neglect, physical abuse, or sexual abuse has occurred. In determining whether to exercise this authority, the commissioner of the agency responsible for assessing or investigating the report or local welfare agency shall consider the seriousness of the alleged neglect, physical abuse, or sexual abuse; the number of children allegedly neglected, physically abused, or sexually abused; the number of alleged perpetrators; and the length of the investigation. The facility shall be notified whenever this discretion is exercised.

(c) When the commissioner of the agency responsible for assessing or investigating the report

or local welfare agency has completed its investigation, every parent, guardian, or legal custodian previously notified of the investigation by the commissioner or local welfare agency shall be provided with the following information in a written memorandum: the name of the facility investigated; the nature of the alleged neglect, physical abuse, or sexual abuse; the investigator's name; a summary of the investigation findings; a statement whether maltreatment was found; and the protective or corrective measures that are being or will be taken. The memorandum shall be written in a manner that protects the identity of the reporter and the child and shall not contain the name, or to the extent possible, reveal the identity of the alleged perpetrator or of those interviewed during the investigation. The commissioner or local welfare agency shall also provide the written memorandum to the parent, guardian, or legal custodian of each child in the facility if maltreatment is determined to exist. In the case of maltreatment within a school facility, as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10, the commissioner of children, families, and learning need not provide notification to parents, guardians, or legal custodians of each child in the facility, but may provide notification to the parent, guardian, or legal custodian of any student alleged to have been maltreated or involved as a witness to alleged maltreatment.

Sec. 14. Minnesota Statutes 2000, section 626.556, subdivision 10e, is amended to read:

Subd. 10e. [DETERMINATIONS.] Upon the conclusion of every assessment or investigation it conducts, the local welfare agency shall make two determinations: first, whether maltreatment has occurred; and second, whether child protective services are needed. 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.

(a) For the purposes of this subdivision, "maltreatment" means any of the following acts or omissions committed by a person responsible for the child's care:

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

(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. 15. Minnesota Statutes 2000, section 626.556, subdivision 10i, is amended to read:

Subd. 10i. [ADMINISTRATIVE RECONSIDERATION OF FINAL DETERMINATION OF MALTREATMENT.] (a) An individual or facility that the commissioner ~~of~~ of human services, a local social service agency, or the commissioner of children, families, and learning determines has maltreated a child, or the child's designee, regardless of the determination, who contests the investigating agency's final determination regarding maltreatment, may request the investigating agency to reconsider its final determination regarding maltreatment. The request for reconsideration must be submitted in writing to the investigating agency within 15 calendar days after receipt of notice of the final determination regarding maltreatment.

(b) 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.

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

(d) 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.

Sec. 16. Minnesota Statutes 2000, section 626.556, subdivision 10j, is amended to read:

Subd. 10j. [RELEASE OF DATA TO MANDATED REPORTERS.] A local social services or child protection agency, or the agency responsible for assessing or investigating the report of maltreatment, may provide relevant private data on individuals obtained under this section to mandated reporters who have an ongoing responsibility for the health, education, or welfare of a

child affected by the data, in the best interests of the child. Mandated reporters with ongoing responsibility for the health, education, or welfare of a child affected by the data include the child's teachers or other appropriate school personnel, foster parents, health care providers, respite care workers, therapists, social workers, child care providers, residential care staff, crisis nursery staff, probation officers, and court services personnel. Under this section, a mandated reporter need not have made the report to be considered a person with ongoing responsibility for the health, education, or welfare of a child affected by the data. Data provided under this section must be limited to data pertinent to the individual's responsibility for caring for the child.

Sec. 17. Minnesota Statutes 2000, section 626.556, subdivision 11, is amended to read:

Subd. 11. [RECORDS.] (a) Except as provided in paragraph (b) and subdivisions 10b, 10d, 10g, and 11b, all records concerning individuals maintained by a local welfare agency or agency responsible for assessing or investigating the report under this section, including any written reports filed under subdivision 7, shall be private data on individuals, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department or the county sheriff. All records concerning determinations of maltreatment by a facility are nonpublic data as maintained by the department of children, families, and learning, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department or the county sheriff. Reports maintained by any police department or the county sheriff shall be private data on individuals except the reports shall be made available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners. Section 13.82, subdivisions 7, 5a, and 5b, apply to law enforcement data other than the reports. The local social services agency or agency responsible for assessing or investigating the report shall make available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners or their professional delegates, any records which contain information relating to a specific incident of neglect or abuse which is under investigation, petition, or prosecution and information relating to any prior incidents of neglect or abuse involving any of the same persons. The records shall be collected and maintained in accordance with the provisions of chapter 13. In conducting investigations and assessments pursuant to this section, the notice required by section 13.04, subdivision 2, need not be provided to a minor under the age of ten who is the alleged victim of abuse or neglect. An individual subject of a record shall have access to the record in accordance with those sections, except that the name of the reporter shall be confidential while the report is under assessment or investigation except as otherwise permitted by this subdivision. Any person conducting an investigation or assessment under this section who intentionally discloses the identity of a reporter prior to the completion of the investigation or assessment is guilty of a misdemeanor. After the assessment or investigation is completed, the name of the reporter shall be confidential. The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by the court that the report was false and that there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the rules of criminal procedure.

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

(c) The 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 is 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.

Sec. 18. [EFFECTIVE DATE.]

Sections 1 to 17 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to human services; changing child placement provisions; modifying provisions governing child maltreatment investigations; classifying data and authorizing data sharing; imposing certain duties; requiring a study and report; amending Minnesota Statutes 2000, sections 13.319, by adding a subdivision; 13.32, subdivision 3; 13.43, by adding a subdivision; 13.46, subdivision 2; 119B.02, by adding a subdivision; 144.225, by adding a subdivision; 256.01, subdivision 2; 256.045, subdivision 3b; 260.012; 260C.007, subdivisions 4, 14, by adding subdivisions; 260C.141, subdivision 2; 260C.151, subdivision 6; 260C.178, subdivisions 1, 7; 260C.193, subdivision 3; 260C.201, subdivisions 1, 2, 5, 6, 7, 10, 11, by adding a subdivision; 260C.205; 260C.212, subdivisions 1, 2, 4, 5, 7, 8, 9; 260C.215, subdivision 6; 260C.301, subdivisions 1, 3, 4, 8; 260C.312; 260C.317, subdivision 3; 260C.325, subdivision 4; 626.556, subdivisions 2, 3, 4, 7, 10, 10b, 10d, 10e, 10i, 10j, 11; proposing coding for new law in Minnesota Statutes, chapter 256F; repealing Minnesota Statutes 2000, sections 260C.325, subdivision 2; 626.5565."

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Sheila M. Kiscaden, Jane B. Ranum, David L. Knutson

House Conferees: (Signed) Kathy Tingelstad, George Cassell, Matt Entenza

Senator Kiscaden moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1394 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 1394 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 61 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Frederickson	Langseth	Pappas	Scheid
Bachmann	Higgins	Larson	Pariseau	Schwab
Belanger	Johnson, Dave	Lesewski	Pogemiller	Stevens
Berg	Johnson, Dean	Lessard	Price	Stumpf
Berglin	Johnson, Debbie	Limmer	Ranum	Terwilliger
Betzold	Kelley, S.P.	Lourey	Reiter	Tomassoni
Chaudhary	Kelly, R.C.	Marty	Rest	Vickerman
Cohen	Kierlin	Metzen	Ring	Wiener
Day	Kinkel	Neuville	Robertson	Wiger
Dille	Kiscaden	Oliver	Robling	
Fischbach	Kleis	Olson	Sabo	
Foley	Knutson	Orfield	Sams	
Fowler	Krentz	Ourada	Samuelson	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1154 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1154

A bill for an act relating to the metropolitan radio board; extending the expiration date for the board to 2005; amending Laws 1995, chapter 195, article 1, section 18, as amended.

May 17, 2001

The Honorable Don Samuelson
President of the Senate

The Honorable Steve Sviggum
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 1154, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate concur in the House amendment and that S.F. No. 1154 be further amended as follows:

Page 1, line 14, of the House amendment, delete "2003" and insert "2004" in both places

Delete the title and insert:

"A bill for an act relating to the metropolitan radio board; extending the expiration date for the board; providing for the transfer of its duties and responsibilities; requiring the submission to the legislature of a report and plan on the board's transition; amending Laws 1995, chapter 195, article 1, section 18, as amended."

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Steve Kelley, Chuck Fowler, Claire A. Robling

House Conferees: (Signed) Jim Rhodes, Jerry Dempsey, Phyllis Kahn

Senator Kelley, S.P. moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1154 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 1154 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 58 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Frederickson	Langseth	Pappas	Samuelson
Bachmann	Higgins	Larson	Pariseau	Scheid
Belanger	Johnson, Dean	Lesewski	Pogemiller	Schwab
Berg	Johnson, Debbie	Lessard	Price	Stevens
Berglin	Kelley, S.P.	Limmer	Ranum	Stumpf
Betzold	Kelly, R.C.	Lourey	Reiter	Terwilliger
Chaudhary	Kierlin	Marty	Rest	Tomassoni
Day	Kinkel	Metzen	Ring	Vickerman
Dille	Kiscaden	Neuville	Robertson	Wiener
Fischbach	Kleis	Olson	Robling	Wiger
Foley	Knutson	Orfield	Sabo	
Fowler	Krentz	Ourada	Sams	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 26, Senator Moe, R.D., Chair of the Committee on Rules and Administration, designated S.F. No. 2377 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 2377: A bill for an act relating to redistricting; adopting legislative and congressional redistricting plans for use in 2002 and thereafter; amending Minnesota Statutes 2000, section 2.031, subdivision 2; repealing Minnesota Statutes 2000, sections 2.043; 2.053; 2.063; 2.073; 2.083; 2.093; 2.103; 2.113; 2.123; 2.133; 2.143; 2.153; 2.163; 2.173; 2.183; 2.193; 2.203; 2.213; 2.223; 2.233; 2.243; 2.253; 2.263; 2.273; 2.283; 2.293; 2.303; 2.313; 2.323; 2.333; 2.343; 2.353; 2.363; 2.373; 2.383; 2.393; 2.403; 2.413; 2.423; 2.433; 2.443; 2.453; 2.463; 2.473; 2.483; 2.493; 2.503; 2.513; 2.523; 2.533; 2.543; 2.553; 2.563; 2.573; 2.583; 2.593; 2.603; 2.613; 2.623; 2.633; 2.643; 2.653; 2.663; 2.673; 2.683; 2.693; 2.703; 2.742; 2.752; 2.762; 2.772; 2.782; 2.792; 2.802; 2.812.

Senator Pogemiller moved to amend S.F. No. 2377 as follows:

Page 1, line 30, delete "L0001-2" and insert "L0001-3"

Page 2, line 1, delete "16" and insert "17"

The motion prevailed. So the amendment was adopted.

Senator Kleis moved to amend S.F. No. 2377 as follows:

Page 2, line 6, delete "C0004-2" and insert "C0001-1"

Page 2, line 8, delete "May 14" and insert "April 23"

CALL OF THE SENATE

Senator Pogemiller imposed a call of the Senate for the balance of the proceedings on S.F. No. 2377. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the Kleis amendment.

The roll was called, and there were yeas 27 and nays 38, as follows:

Those who voted in the affirmative were:

Bachmann	Frederickson	Larson	Ourada	Schwab
Belanger	Johnson, Debbie	Lesewski	Pariseau	Stevens
Berg	Kierlin	Limmer	Reiter	Terwilliger
Day	Kiscaden	Neuville	Robertson	
Dille	Kleis	Oliver	Robling	
Fischbach	Knutson	Olson	Scheevel	

Those who voted in the negative were:

Anderson	Hottinger	Langseth	Price	Solon
Berglin	Johnson, Dave	Lourey	Ranum	Stumpf
Betzold	Johnson, Dean	Marty	Rest	Tomassoni
Chaudhary	Johnson, Doug	Metzen	Ring	Vickerman
Cohen	Kelley, S.P.	Moe, R.D.	Sabo	Wiener
Foley	Kelly, R.C.	Murphy	Sams	Wiger
Fowler	Kinkel	Orfield	Samuelson	
Higgins	Krentz	Pogemiller	Scheid	

The motion did not prevail. So the amendment was not adopted.

Senator Belanger moved to amend S.F. No. 2377 as follows:

Page 1, line 30, delete "L0001-2" and insert "L0002-0"

The question was taken on the adoption of the amendment.

Senator Pogemiller moved that those not voting be excused from voting. The motion did not prevail.

Senator Stumpf moved that those not voting be excused from voting. The motion did not prevail.

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

The roll was called, and there were yeas 27 and nays 38, as follows:

Those who voted in the affirmative were:

Bachmann	Frederickson	Larson	Ourada	Schwab
Belanger	Johnson, Debbie	Lesewski	Pariseau	Stevens
Berg	Kierlin	Limmer	Reiter	Terwilliger
Day	Kiscaden	Neuville	Robertson	
Dille	Kleis	Oliver	Robling	
Fischbach	Knutson	Olson	Scheevel	

Those who voted in the negative were:

Anderson	Hottinger	Langseth	Pogemiller	Solon
Berglin	Johnson, Dave	Lourey	Price	Stumpf
Betzold	Johnson, Dean	Marty	Rest	Tomassoni
Chaudhary	Johnson, Doug	Metzen	Ring	Vickerman
Cohen	Kelley, S.P.	Moe, R.D.	Sabo	Wiener
Foley	Kelly, R.C.	Murphy	Sams	Wiger
Fowler	Kinkel	Orfield	Samuelson	
Higgins	Krentz	Pappas	Scheid	

The motion did not prevail. So the amendment was not adopted.

S.F. No. 2377 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.

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

The roll was called, and there were yeas 35 and nays 28, as follows:

Those who voted in the affirmative were:

Anderson	Hottinger	Langseth	Pogemiller	Scheid
Berglin	Johnson, Dave	Lourey	Price	Solon
Chaudhary	Johnson, Dean	Metzen	Rest	Stumpf
Cohen	Kelley, S.P.	Moe, R.D.	Ring	Tomassoni
Foley	Kelly, R.C.	Murphy	Sabo	Vickerman
Fowler	Kinkel	Orfield	Sams	Wiener
Higgins	Krentz	Pappas	Samuelson	Wiger

Those who voted in the negative were:

Bachmann	Fischbach	Knutson	Olson	Scheevel
Belanger	Frederickson	Larson	Ourada	Schwab
Berg	Johnson, Debbie	Lesewski	Pariseau	Stevens
Betzold	Kierlin	Limmer	Reiter	Terwilliger
Day	Kiscaden	Neuville	Robertson	
Dille	Kleis	Oliver	Robling	

So the bill, as amended, was 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 Johnson, Doug from the Committee on Finance, to which was re-referred

S.F. No. 1857: A bill for an act relating to a stadium; financing a major league professional baseball stadium; requiring private funding; providing for an interest-bearing loan; providing for certain tax exemptions; creating a site selection commission; providing for the issuance of bonds; providing for disposition of the metro dome and the land it occupies under certain conditions; transferring funds from the assigned risk plan; requiring enhanced revenue sharing by major league baseball for act to take effect; appropriating money; amending Minnesota Statutes 2000, sections 272.02, by adding a subdivision; 297A.67, by adding a subdivision; 297A.71, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 4A.

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

Pages 1 and 2, delete sections 1 and 2

Page 2, after line 15, insert:

"Subdivision 1. [DEFINITION.] For purposes of this act, a "unit of local government" must be a city located within the geographical boundaries of the metropolitan area as defined in section 473.121, subdivision 2."

Page 2, line 16, delete "Subdivision 1." and insert "Subd. 2."

Page 2, lines 18 and 23, delete "2" and insert "3"

Page 2, line 34, delete "3" and insert "4"

Page 3, line 3, delete everything after "government"

Page 3, delete line 4

Page 3, line 5, delete everything before the semicolon

Page 3, line 16, delete "three months" and insert "90 days"

Page 3, line 18, delete everything after "within" and insert "60 days of the end date for acceptance of bids."

Page 3, delete line 19

Page 3, line 31, delete "The commissioner of finance" and insert "Upon final disposition of Ramsey county court case number C7005714, styled Danny's Trannys, Inc. v. The State of Minnesota et al., and certification by the commissioner of finance that the resolution of this case has not reduced surplus funds in the assigned risk plan below a level necessary to complete this loan, the commissioner"

Page 4, line 4, delete everything after the period

Page 4, delete lines 5 to 7

Page 4, line 20, delete "stadium" and insert "revolving stadium loan"

Page 4, line 22, delete "5" and insert "4"

Page 4, line 29, after "government" insert "or designated fiscal agent"

Page 5, delete lines 5 to 13

Page 5, line 14, delete "4" and insert "3"

Page 5, line 22, delete "5" and insert "4"

Page 5, line 30, delete "6" and insert "5"

Page 6, line 7, delete "paragraph (b)" and insert "paragraphs (b) and (c)"

Page 6, line 17, delete "and"

Page 6, line 22, delete the period and insert "; and"

(4) the team shall specify in a signed agreement that no transfer of ownership or equity in the team shall in any way abrogate obligations under this act or under any lease signed pursuant to this act.

(c) By January 1, 2002, the commissioner of finance shall report to the chair of the senate committee on finance and the chair of the house committee on ways and means the terms of an agreement between the major league baseball team and the amateur sports commission whereby the team agrees to make the baseball park available to the commission on terms satisfactory to the commission for amateur sports activities consistent with the purposes of Minnesota Statutes, chapter 240A, each year during the time a loan from the revolving stadium loan fund is outstanding. The amateur sports commission must negotiate in good faith and may be required to pay no more than actual out-of-pocket expenses for the time it uses the baseball park. The agreement may not become effective before February 1, 2002. During any calendar year after 2002 that an agreement under this paragraph is not in effect and a payment is due under the loan agreement, the lessee must pay to the commissioner a penalty of \$750,000 for that year. If the amateur sports commission has not negotiated in good faith, no penalty is due."

Page 8, line 27, delete "director of strategic and long-range planning" and insert "state"

Page 8, line 28, delete "director" and insert "state"

Page 8, after line 35, insert:

"Sec. 7. [4A.17] [SALE OF BASEBALL FRANCHISE.]

Subdivision 1. [APPLICATION.] As a condition of a loan being made under section 4A.12, the owner of the major league professional baseball team must agree that before the owner sells a majority ownership interest in the team, the owner will attempt for at least 18 months to comply with subdivision 2 or with subdivision 3.

Subd. 2. [COMMUNITY OWNERSHIP.] The owner of the team must work with the governor, the commissioner, and a community foundation or corporation on a plan to:

(1) transfer by gift to the foundation or corporation all ownership interests in the team;

(2) provide for sale of shares in the team by the foundation or corporation to the community, in a manner such that:

(i) one individual or entity who is the managing partner may own up to 25 percent of the voting stock;

(ii) no other individual or entity may own more than five percent of the voting stock; and

(iii) at least 50 percent of the voting stock must be dispersed so that no person owns more than one percent; and

(3) ensure that the franchise may not move from Minnesota without approval of 80 percent of the shares of voting stock.

Subd. 3. [LOCAL PRIVATE OWNERSHIP.] The owner of the team must attempt to reach an agreement on the sale of a majority interest in the team to one or more Minnesota buyers before attempting to sell the majority interest to others.

Subd. 4. [REPORT.] If the owner of the team attempts to sell a majority interest in the team, the commissioner must report to the legislature at the beginning of the next legislative session on efforts to work with the owner of the team to implement this section."

Page 9, line 29, after "stadium" insert ", including those costs incurred by amateur sports use of the baseball park"

Page 10, line 3, delete "1, 2, 3, and 8," and insert "1 and 6"

Page 10, line 4, delete "4 to 7 and 9 to 11" and insert "2 to 5 and 7 to 10"

Page 10, line 5, delete "8" and insert "6"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 7, delete everything after the semicolon

Page 1, delete line 8

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

SECOND READING OF SENATE BILLS

S.F. No. 1857 was read the second time.

RECESS

Senator Moe, R.D. moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Senator Moe, R.D. from the Subcommittee on Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

S.F. No. 1561: Senators Hottinger, Chaudhary and Neuville.

S.F. No. 577: Senators Anderson, Sabo and Chaudhary.

Senator Moe, R.D. moved that the foregoing appointments be approved. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate proceeded to the Order of Business of Introduction and First Reading of Senate Bills.

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Senators Orfield; Anderson; Frederickson; Johnson, Dean and Foley introduced--

S.F. No. 2390: A bill for an act relating to the environment; reactivating and reorganizing the nuclear waste council; modifying provisions relating to dry cask storage of nuclear waste; appropriating money; amending Minnesota Statutes 2000, sections 116C.711, subdivisions 1, 2; 116C.712, subdivisions 1, 2, 5; 116C.771; repealing Minnesota Statutes 2000, section 116C.80.

Referred to the Committee on Environment and Natural Resources.

Senators Orfield; Anderson; Frederickson; Johnson, Dean and Foley introduced--

S.F. No. 2391: A bill for an act relating to energy; establishing a nuclear waste council; proposing coding for new law in Minnesota Statutes, chapter 216C; repealing Minnesota Statutes 2000, section 116C.711.

Referred to the Committee on Environment and Natural Resources.

Senators Metzen; Vickerman; Johnson, Dave; Ourada and Stevens introduced--

S.F. No. 2392: A bill for an act relating to public safety; modifying emergency 911 telephone system provisions to establish emergency 911 telecommunications system; amending Minnesota Statutes 2000, sections 403.01; 403.02, subdivisions 3, 6, 7, by adding subdivisions; 403.05; 403.06; 403.07; 403.08; 403.09; 403.10, subdivision 1; 403.11, subdivisions 1, 3, 4, by adding a subdivision; 403.113, subdivision 1; repealing Minnesota Statutes 2000, sections 403.04; 403.11, subdivision 2; 403.113, subdivision 5; 403.12, subdivision 1; 403.13; 403.14; Minnesota Rules, parts 1215.0400; 1215.0600; 1215.0700; 1215.1200, subpart 3; 1215.1500.

Referred to the Committee on Telecommunications, Energy and Utilities.

Senators Price and Metzen introduced--

S.F. No. 2393: A bill for an act relating to the environment; proposing an amendment to the Minnesota Constitution, article XI; dedicating the sales tax receipts equal to a sales tax of 3/16 of one percent on taxable sales for water quality and public energy conservation improvements.

Referred to the Committee on Environment and Natural Resources.

Senators Pappas, Anderson and Cohen introduced--

S.F. No. 2394: A bill for an act relating to local government; directing the commissioner of agriculture to suspend ethanol payments to Gopher State Ethanol upon adoption of a resolution by the St. Paul city council.

Referred to the Committee on Agriculture, General Legislation and Veterans Affairs.

Senator Anderson introduced--

S.F. No. 2395: A bill for an act relating to natural resources; establishing forest resource policy; providing for restoration and maintenance of state forest resources; amending Minnesota Statutes 2000, sections 89.001, by adding a subdivision; 89.002, subdivisions 1, 2, by adding subdivisions; 89.011, subdivisions 3, 4; 89.012; 89.65, subdivision 3; 89A.01, by adding a subdivision; 90.01, by adding subdivisions; 90.041, by adding a subdivision; 90.191, subdivision 1; 92.321, subdivision 2; 116.07, subdivision 4a; 270.38, subdivision 1; 282.01, subdivision 1; 282.018, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 89; 89A; 90; repealing Minnesota Statutes 2000, sections 89.001 subdivisions 9, 10.

Referred to the Committee on Environment and Natural Resources.

Senators Krentz, Price, Olson, Higgins and Pariseau introduced--

S.F. No. 2396: A bill for an act relating to capital improvements; appropriating money for the metropolitan regional parks system.

Referred to the Committee on Finance.

RECESS

Senator Moe, R.D. moved that the Senate do now recess until 2:00 p.m. The motion prevailed.

The hour of 2:00 p.m. having arrived, the President called the Senate to order.

CALL OF THE SENATE

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

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 12, Senator Murphy moved that the following members be excused for a Conference Committee on S.F. No. 1495 at 3:00 p.m.:

Senators Murphy, Dille and Ring. The motion prevailed.

SPECIAL ORDERS

Pursuant to Rule 26, Senator Moe, R.D., Chair of the Committee on Rules and Administration, designated the following bills a Special Orders Calendar to be heard immediately:

S.F. No. 2208 and H.F. No. 634.

SPECIAL ORDER

S.F. No. 2208: A bill for an act relating to public finance; updating and making technical changes to public finance provisions related to debt obligations, sales and use tax exemptions, county capital financing of certain equipment and hardware and software; extending a sunset date for certain county capital improvement bonds; removing election requirements as preconditions for issuance of certain obligations; authorizing some flexibility in stating certain ballot questions; updating and changing the Minnesota Bond Allocation Act; amending Minnesota Statutes 2000, sections 103B.555, by adding a subdivision; 165.10, subdivision 2; 275.60; 373.01, subdivision 3; 373.45, subdivision 3; 376.08, subdivisions 1, 3, by adding a subdivision; 410.32; 412.301; 429.091, subdivision 7a; 474A.02, subdivisions 8, 13a, 22a, 22b, 23a; 474A.03, subdivisions 1, 2a,

4; 474A.04, subdivisions 1a, 5; 474A.045; 474A.047, subdivisions 1, 2; 474A.061, subdivisions 1, 2a, 2b, 2c, 4; 474A.091, subdivisions 2, 3, 4, 5, 6, by adding a subdivision; 474A.131, subdivisions 1, 2, by adding a subdivision; 474A.14; 475.54, subdivision 1; 475.58, subdivision 1; 475.59; Laws 1974, chapter 473; Laws 1980, chapter 482; proposing coding for new law in Minnesota Statutes, chapter 474A; repealing Minnesota Statutes 2000, section 474A.061, subdivision 6.

Senator Pogemiller moved to amend S.F. No. 2208 as follows:

Amend the title as follows:

Page 1, delete lines 2 to 11 and insert:

"relating to public finance; updating and making technical changes to public finance provisions related to debt obligations, financing of certain equipment and hardware and software; removing election requirements for issuance of certain obligations; authorizing flexibility in stating certain ballot questions; updating and changing the Minnesota Bond Allocation Act; providing for the powers of housing and redevelopment authorities in Scott county and Carver county; authorizing issuance of certain obligations by the city of St. Paul; clarifying an appropriation; amending"

The motion prevailed. So the amendment was adopted.

S.F. No. 2208 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 52 and nays 4, as follows:

Those who voted in the affirmative were:

Anderson	Frederickson	Krentz	Pappas	Scheid
Belanger	Higgins	Langseth	Pariseau	Schwab
Berg	Hottinger	Larson	Pogemiller	Stumpf
Berglin	Johnson, Dean	Lesewski	Price	Terwilliger
Betzold	Johnson, Debbie	Lourey	Rest	Tomassoni
Chaudhary	Kelly, R.C.	Marty	Robertson	Vickerman
Cohen	Kierlin	Moe, R.D.	Robling	Wiener
Day	Kinkel	Neuville	Sabo	Wiger
Fischbach	Kiscaden	Olson	Sams	
Foley	Kleis	Orfield	Samuelson	
Fowler	Knutson	Ourada	Scheevel	

Those who voted in the negative were:

Bachmann	Limmer	Reiter	Stevens
----------	--------	--------	---------

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

SPECIAL ORDER

H.F. No. 634: A bill for an act relating to claims against the state; providing for payment of various claims; granting authority to Murray county; designating a lake as a wildlife management lake; appropriating money.

Senator Kelly, R.C. moved that the amendment made to H.F. No. 634 by the Committee on Rules and Administration in the report adopted May 17, 2001, pursuant to Rule 45, be stricken. The motion prevailed. So the amendment was stricken.

H.F. No. 634 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 59 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Fowler	Knutson	Olson	Sams
Bachmann	Frederickson	Krentz	Orfield	Samuelson
Belanger	Higgins	Langseth	Ourada	Scheevel
Berg	Hottinger	Larson	Pappas	Scheid
Berglin	Johnson, Dean	Lesewski	Pariseau	Schwab
Betzold	Johnson, Debbie	Lessard	Price	Stevens
Chaudhary	Johnson, Doug	Limmer	Reiter	Terwilliger
Cohen	Kelly, R.C.	Lourey	Rest	Tomassoni
Day	Kierlin	Marty	Ring	Vickerman
Dille	Kinkel	Moe, R.D.	Robertson	Wiener
Fischbach	Kiscaden	Murphy	Robling	Wiger
Foley	Kleis	Neuville	Sabo	

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 Messages From the House and First Reading of House Bills.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 795, 846, 1124 and 1324.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 2001

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 577: A bill for an act relating to metropolitan government; regulating transit on park roads in St. Paul; preserving an existing transit route; amending Minnesota Statutes 2000, section 473.411, subdivision 5.

There has been appointed as such committee on the part of the House:

Hausman, Osthoff and Liedner.

Senate File No. 577 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 2001

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 1495: A bill for an act relating to agriculture; modifying provisions of the value-added agricultural product processing and marketing grant program; eliminating the late fee for the license to use the Minnesota grown label; clarifying the term "private contributions" for the Minnesota grown matching account; modifying provisions of the shared savings loan program and

the sustainable agriculture demonstration grant program; modifying provisions of the agriculture best management practices loan program; regulating pesticide application in certain schools; modifying financing limitations for the administration of the state meat inspection program; authorizing the state agricultural society to establish a nonprofit corporation for charitable purposes; modifying provisions relating to the rural finance authority; extending the sunset date and providing for designation of replacement members of the Minnesota agriculture education leadership council; modifying the definition of "agricultural land" for the purpose of recreational trespass; extending the sunset of the dairy producers board, and conditionally voiding its repeal; providing for pesticide application on golf courses; changing certain membership provisions on the state agricultural society; defining biodiesel fuel and requiring it in diesel fuel oil; requiring reports on it; allowing natural gasoline as a petroleum component in E85 fuel; extending the sunset date for the farmer-lender mediation program; providing a temporary waiver of board of animal health rules for use of biological products on poultry; adding cultivated wild rice to the agricultural commodities promotion act provision; repealing obsolete agricultural statutes; amending Minnesota Statutes 2000, sections 17.101, subdivision 5; 17.102, subdivision 3; 17.109, subdivision 3; 17.115; 17.116; 17.117; 17.53, subdivisions 2, 8, 13; 17.63; 17.76, subdivision 2; 18B.01, by adding a subdivision; 31A.21, subdivision 2; 37.03, subdivision 1; 41B.025, subdivision 1; 41B.03, subdivision 2; 41B.043, subdivisions 1b, 2; 41B.046, subdivision 2; 41D.01, subdivisions 1, 3, 4; 97B.001, subdivision 1; 116O.09, subdivision 1a; 296A.01, subdivision 19; Laws 1986, chapter 398, article 1, section 18, as amended; proposing coding for new law in Minnesota Statutes, chapters 18B; 37; 239; repealing Minnesota Statutes 2000, sections 17.987; 24.001; 24.002; 24.12; 24.131; 24.135; 24.141; 24.145; 24.151; 24.155; 24.161; 24.171; 24.175; 24.18; 24.181; 33.09; 33.111.

There has been appointed as such committee on the part of the House:

Swenson, Finseth and Juhnke.

Senate File No. 1495 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 2001

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 1541: A bill for an act relating to commerce; regulating currency exchanges, real estate brokers, real property appraisers, residential contractors, notaries public, and collection agencies; modifying certain continuing education requirements; regulating certain fees, costs, duties, rights, and penalties; regulating nonprofit corporations; requiring a study; appropriating money; amending Minnesota Statutes 2000, sections 45.0295; 53A.081, subdivision 2; 58.10, subdivision 1, by adding a subdivision; 60K.19, subdivision 8; 72B.04, subdivisions 6, 7; 80B.03, subdivision 4a; 82.195, subdivision 2; 82.196, subdivision 2; 82.197, subdivisions 1, 4, by adding a subdivision; 82.22, subdivision 13; 82.24, subdivision 8; 82.27, subdivision 3; 82.34, subdivision 15, by adding a subdivision; 82B.14; 317A.203; 326.91, subdivision 1; 326.975, subdivision 1; 332.41; 359.02; 507.45, subdivision 3.

There has been appointed as such committee on the part of the House:

Entenza, Davids and Stang.

Senate File No. 1541 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 2001

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 1561: A bill for an act relating to commerce; revised Article 9 of the Uniform Commercial Code; making corrective and conforming amendments; appropriating money; amending Minnesota Statutes 2000, sections 27.138, subdivisions 2 and 3; 86B.820, subdivisions 10 and 11; 86B.880, subdivision 2; 168A.01, subdivisions 18 and 19; 168A.05, subdivision 8; 168A.17, subdivision 2; 169A.63, subdivisions 7 and 11; 268.058, subdivision 1; 270.69, subdivisions 2, 9, and 13; 270.7001, subdivision 4; 272.483; 272.484; 272.488, subdivision 3; 277.20, subdivision 8; 300.112, subdivision 1; 325L.16; 336.2-210; 336.9-102; 336.9-201; 336.9-203; 336.9-311; 336.9-317; 336.9-334; 336.9-407; 336.9-509; 336.9-521; 336.9-601; 336.9-607; 336.9-617; 336.9-619; 336A.01, subdivision 4; 507.24, subdivision 2; 514.18, subdivision 2; 514.221, subdivisions 2 and 3; 514.661, subdivisions 3, 4, 5, and 6; 514.945, subdivisions 2, 4, and 6; 515B.3-116; 515B.3-117; 550.13; 557.12, subdivision 5; 583.26, subdivisions 1 and 2; and 583.284; Laws 1986, chapter 398, article 1, section 18, as amended; proposing coding for new law in Minnesota Statutes, chapters 336; 507; 508; and 508A; repealing Minnesota Statutes 2000, sections 168A.17, subdivision 3; 336.11-101; 336.11-102; 336.11-103; 336.11-104; 336.11-105; 336.11-106; 336.11-107; and 336.11-108; Minnesota Rules, parts 8260.0600; 8260.0700; 8260.0800; 8260.0900; 8260.1000; 8260.1100; 8270.0010; 8270.0050; 8270.0100; 8270.0105; 8270.0110; 8270.0115; 8270.0200; 8270.0205; 8270.0210; 8270.0215; 8270.0220; 8270.0225; 8270.0230; 8270.0235; 8270.0240; 8270.0245; 8270.0255; 8270.0260; 8270.0265; and 8270.0270.

There has been appointed as such committee on the part of the House:

Entenza, Davids and Stang.

Senate File No. 1561 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 2001

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 1769: A bill for an act relating to transportation; allowing commissioner of transportation to convey interest in certain land to property owners; modifying provisions for speed limits in highway work zones; modifying seasonal highway weight limitations; transferring responsibilities from transportation regulation board to commissioner of transportation; transferring, discontinuing, or changing description of portions of certain trunk highways; making technical and clarifying changes; repealing obsolete or invalid provisions; amending Minnesota Statutes 2000, sections 161.114; 161.115, subdivisions 36, 48, and by adding a subdivision; 161.24, subdivision 4; 161.442; 169.14, subdivision 5d; 169.825, subdivision 11; 174.02, subdivisions 4 and 5; 174.10, subdivisions 1, 3, and 4; 174A.02, subdivisions 1, 2, and 4; 174A.04; 174A.06; 218.031, subdivision 2; 218.041, subdivisions 4, 5, and 6; 219.074, subdivision 2; 219.384, subdivision 2; and 219.402; repealing Minnesota Statutes 2000, sections 174A.01; 174A.02, subdivision 5; 174A.03; 174A.05; 219.558; 219.559; 219.56; 219.681; 219.69; 219.691; 219.692; 219.695; 219.70; 219.71; 219.741; 219.743; 219.751; 219.755; 219.85; 219.97; 222.631; 222.632; and 222.633.

There has been appointed as such committee on the part of the House:

Workman, Ruth and Juhnke.

Senate File No. 1769 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 2001

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 1569.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 2001

FIRST READING OF HOUSE BILLS

The following bill was read the first time.

H.F. No. 1569: A bill for an act relating to state government; reclassifying certain Minnesota state colleges and universities positions as classified; amending Minnesota Statutes 2000, section 43A.08, subdivision 1.

Senator Moe, R.D. moved that H.F. No. 1569 be laid on the table. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1155, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1155 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 2001

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1155

A bill for an act relating to insurance; regulating action plans of certain health plan companies; requiring an affirmative provider consent to participate in a network under a category of coverage; requiring disclosure of changes in a provider's contract; imposing a moratorium on managed care auto insurance plans; amending Minnesota Statutes 2000, sections 62Q.07; 62Q.74, subdivisions 2, 3, and 4; proposing coding for new law in Minnesota Statutes, chapter 62Q.

May 17, 2001

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable Don Samuelson
President of the Senate

We, the undersigned conferees for H.F. No. 1155, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 1155 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2000, section 62D.08, subdivision 5, is amended to read:

Subd. 5. [CHANGES IN PARTICIPATING ENTITIES; PENALTY.] ~~Every health maintenance organization shall inform the commissioner of any change in the information described in section 62D.03, subdivision 4, clause (e), including any change in address, any modification of the duration of any contract or agreement, and any addition to the list of participating entities, within ten working days of the notification of the change. Any cancellation or discontinuance of any contract or agreement listed in section 62D.03, subdivision 4, clause (e), or listed subsequently in accordance with this subdivision, shall be reported to the commissioner 120 days before the effective date. When the health maintenance organization terminates a provider for cause, death, disability, or loss of license, the health maintenance organization must notify the commissioner within three ten working days of the date the health maintenance organization sends out or receives the notice of cancellation, discontinuance, or termination. Any health maintenance organization which fails to notify the commissioner within the time periods prescribed in this subdivision shall be subject to the levy of a fine up to \$200 per contract for each day the notice is past due, accruing up to the date the organization notifies the commissioner of the cancellation or discontinuance. Any fine levied under this subdivision is subject to the contested case and judicial review provisions of chapter 14. The levy of a fine does not preclude the commissioner from using other penalties described in sections 62D.15 to 62D.17.~~

Sec. 2. Minnesota Statutes 2000, section 62N.25, subdivision 7, is amended to read:

Subd. 7. [EXEMPTIONS FROM EXISTING REQUIREMENTS.] Community integrated service networks are exempt from the following requirements applicable to health maintenance organizations:

- (1) conducting focused studies under Minnesota Rules, part 4685.1125;
- (2) preparing and filing, as a condition of licensure, a written quality assurance plan, and annually filing such a plan and a work plan, under Minnesota Rules, parts 4685.1110 and 4685.1130;
- (3) maintaining statistics under Minnesota Rules, part 4685.1200;
- (4) filing provider contract forms under sections 62D.03, subdivision 4, and 62D.08, subdivision 1; and
- (5) ~~reporting any changes in the address of a network provider or length of a provider contract or additions to the provider network to the commissioner within ten days under section 62D.08, subdivision 5. Community networks must report such information to the commissioner on a quarterly basis. Community networks that fail to make the required quarterly filing are subject to the penalties set forth in section 62D.08, subdivision 5; and~~
- (6) preparing and filing, as a condition of licensure, a marketing plan, and annually filing a marketing plan, under sections 62D.03, subdivision 4, paragraph (l), and 62D.08, subdivision 1.

Sec. 3. Minnesota Statutes 2000, section 62Q.19, subdivision 1, is amended to read:

Subdivision 1. [DESIGNATION.] The commissioner shall designate essential community providers. The criteria for essential community provider designation shall be the following:

- (1) a demonstrated ability to integrate applicable supportive and stabilizing services with medical care for uninsured persons and high-risk and special needs populations ~~as defined in section 62Q.07, subdivision 2, paragraph (e), underserved, and other special needs populations;~~ and

(2) a commitment to serve low-income and underserved populations by meeting the following requirements:

- (i) has nonprofit status in accordance with chapter 317A;
- (ii) has tax exempt status in accordance with the Internal Revenue Service Code, section 501(c)(3);
- (iii) charges for services on a sliding fee schedule based on current poverty income guidelines; and
- (iv) does not restrict access or services because of a client's financial limitation;

(3) status as a local government unit as defined in section 62D.02, subdivision 11, a hospital district created or reorganized under sections 447.31 to 447.37, an Indian tribal government, an Indian health service unit, or a community health board as defined in chapter 145A;

(4) a former state hospital that specializes in the treatment of cerebral palsy, spina bifida, epilepsy, closed head injuries, specialized orthopedic problems, and other disabling conditions; or

(5) a rural hospital that has qualified for a sole community hospital financial assistance grant in the past three years under section 144.1484, subdivision 1. For these rural hospitals, the essential community provider designation applies to all health services provided, including both inpatient and outpatient services.

Prior to designation, the commissioner shall publish the names of all applicants in the State Register. The public shall have 30 days from the date of publication to submit written comments to the commissioner on the application. No designation shall be made by the commissioner until the 30-day period has expired.

The commissioner may designate an eligible provider as an essential community provider for all the services offered by that provider or for specific services designated by the commissioner.

For the purpose of this subdivision, supportive and stabilizing services include at a minimum, transportation, child care, cultural, and linguistic services where appropriate.

Sec. 4. Minnesota Statutes 2000, section 62Q.74, subdivision 2, is amended to read:

Subd. 2. [PROVIDER CONSENT REQUIRED.] (a) No network organization shall require a health care provider to participate in a network under a category of coverage that differs from the category or categories of coverage to which the existing contract between the network organization and the provider applies, without the affirmative consent of the provider obtained under subdivision 3.

(b) This section does not apply to situations in which the network organization wishes the provider to participate in a new or different plan or other arrangement within a category of coverage that is already provided for in an existing contract between the network organization and the provider.

(c) Compliance with this section may not be waived in a contract or otherwise.

Sec. 5. Minnesota Statutes 2000, section 62Q.74, subdivision 3, is amended to read:

Subd. 3. [CONSENT PROCEDURE.] (a) The network organization, if it wishes to apply an existing contract with a provider to a different category of coverage, shall first notify the provider in writing. The written notice must include at least the following:

(1) the network organization's name, address, and telephone number, and the name of the specific network, if it differs from that of the network organization;

(2) a description of the proposed new category of coverage;

(3) the names of all payers expected by the network organization to use the network for the new category of coverage;

(4) the approximate number of current enrollees of the network organization in that category of coverage within the provider's geographical area;

(5) a disclosure of all contract terms of the proposed new category of coverage, including the discount or reduced fees, care guidelines, utilization review criteria, prior authorization process, and dispute resolution process;

(6) a form for the provider's convenience in accepting or declining participation in the proposed new category of coverage, provided that the provider need not use that form in responding; and

(7) a statement informing the provider of the provisions of paragraph (b).

~~(b) If the provider does not decline participation within 30 days after the postmark date of the notice, the provider is deemed to have accepted the proposed new category of coverage. Unless the provider has affirmatively agreed to participate within 60 days after the postmark date of the notice, the provider is deemed to have not accepted the proposed new category of coverage.~~

Sec. 6. [62Q.745] [PROVIDER CONTRACT AMENDMENT DISCLOSURE.]

(a) Any amendment or change in the terms of an existing contract between a network organization and a health care provider must be disclosed to the provider.

(b) Any amendment or change in the contract that alters the financial reimbursement or alters the written contractual policies and procedures governing the relationship between the provider and the network organization must be disclosed to the provider before the amendment or change is deemed to be in effect.

(c) For purposes of this section, "network organization" and "health care provider" or "provider" have the meanings given in section 62Q.74.

Sec. 7. [62Q.746] [ACCESS TO CERTAIN INFORMATION REGARDING PROVIDERS.]

Upon request of the commissioner, a health plan company licensed under chapters 62C and 62D, must provide the following information:

(1) a detailed description of the health plan company's methods and procedures, standards, qualifications, criteria, and credentialing requirements for designating the providers who are eligible to participate in the health plan company's provider network, including any limitations on the numbers of providers to be included in the network;

(2) the number of full-time equivalent physicians, by specialty, nonphysician providers, and allied health providers used to provide services; and

(3) summary data that is broken down by type of provider, reflecting actual utilization of network and non-network practitioners and allied professionals by enrollees of the health plan company.

Sec. 8. Minnesota Statutes 2000, section 256B.692, subdivision 2, is amended to read:

Subd. 2. [DUTIES OF THE COMMISSIONER OF HEALTH.] (a) Notwithstanding chapters 62D and 62N, a county that elects to purchase medical assistance and general assistance medical care in return for a fixed sum without regard to the frequency or extent of services furnished to any particular enrollee is not required to obtain a certificate of authority under chapter 62D or 62N. The county board of commissioners is the governing body of a county-based purchasing program. In a multicounty arrangement, the governing body is a joint powers board established under section 471.59.

(b) A county that elects to purchase medical assistance and general assistance medical care

services under this section must satisfy the commissioner of health that the requirements for assurance of consumer protection, provider protection, and fiscal solvency of chapter 62D, applicable to health maintenance organizations, or chapter 62N, applicable to community integrated service networks, will be met.

(c) A county must also assure the commissioner of health that the requirements of sections 62J.041; 62J.48; 62J.71 to 62J.73; 62M.01 to 62M.16; all applicable provisions of chapter 62Q, including sections 62Q.07; 62Q.075; 62Q.1055; 62Q.106; 62Q.12; 62Q.135; 62Q.14; 62Q.145; 62Q.19; 62Q.23, paragraph (c); 62Q.43; 62Q.47; 62Q.50; 62Q.52 to 62Q.56; 62Q.58; 62Q.64; 62Q.68 to 62Q.72; and 72A.201 will be met.

(d) All enforcement and rulemaking powers available under chapters 62D, 62J, 62M, 62N, and 62Q are hereby granted to the commissioner of health with respect to counties that purchase medical assistance and general assistance medical care services under this section.

(e) The commissioner, in consultation with county government, shall develop administrative and financial reporting requirements for county-based purchasing programs relating to sections 62D.041, 62D.042, 62D.045, 62D.08, 62N.28, 62N.29, and 62N.31, and other sections as necessary, that are specific to county administrative, accounting, and reporting systems and consistent with other statutory requirements of counties.

Sec. 9. [TASK FORCE ON SMALL BUSINESS HEALTH INSURANCE.]

(a) The task force on small business health insurance shall study Minnesota's health coverage market available to small businesses and make recommendations for solutions that could make group health coverage more accessible and affordable for small businesses. The task force shall recommend any legislative changes needed to permit those solutions.

(b) The task force shall report its recommendations in writing to the legislature, in compliance with Minnesota Statutes, section 3.195, no later than December 15, 2001.

(c) The commissioners of commerce and health shall provide any necessary assistance to the task force.

(d) The task force consists of the following members:

(1) three members of the senate, including at least one member of the minority, appointed by the subcommittee on committees of the senate committee on rules and administration;

(2) three members of the house, including at least one member of the minority, appointed by the speaker of the house;

(3) four persons representing small business owners, three appointed by the Minnesota chamber of commerce and one appointed by the national federation of independent business;

(4) two persons appointed by the Minnesota council of health plans;

(5) one person appointed by the insurance federation of Minnesota;

(6) one insurance agent, appointed by the Minnesota association of health underwriters;

(7) the commissioner of commerce or the commissioner's designee; and

(8) four consumers appointed by the commissioner, two of whom must reside outside the metropolitan area as defined in Minnesota Statutes, section 473.121, subdivision 2.

(e) The task force shall not provide compensation or expense reimbursement to its members.

(f) The task force expires on June 30, 2002.

Sec. 10. [MORATORIUM.]

Subdivision 1. [MORATORIUM ON NEW MANAGED CARE AUTOMOBILE

INSURANCE PLANS.] No automobile insurance company licensed under Minnesota Statutes, chapter 60A, and authorized to provide automobile no-fault coverage or any health plan company as defined under Minnesota Statutes, section 62Q.01, subdivision 4, may enter into any contracts that provide, or that have the effect of providing, managed care services to no-fault claimants between January 1, 2001, and June 30, 2002. For the purposes of this section, "managed care services" is defined as any program of medical services that uses health care providers managed, owned, employed by, or under contract with a health plan company. This subdivision may not be construed to impact the legality of the use of managed care services for no-fault benefits.

Subd. 2. [EXISTING MANAGED CARE CONTRACTS.] Any health plan company or automobile insurer that is party to a contract subject to the moratorium set forth in subdivision 1, in existence prior to the moratorium created on January 1, 2001, must comply with the following provisions during the moratorium created under this act:

(1) no such contract shall be extended to any additional insurers; and

(2) if a provider has declined to participate in a category of coverage, the network organization must permit the provider the opportunity to participate in that category of coverage on a biennial basis.

Subd. 3. [SUNSET.] This section is repealed effective June 30, 2002.

Sec. 11. [REPEALER.]

Minnesota Statutes 2000, section 62Q.07, is repealed.

Sec. 12. [EFFECTIVE DATE.]

Sections 1, 2, 3, 8, 9, 10, and 11 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to insurance; requiring health plan companies to provide certain information when requested by the commissioner; requiring an affirmative provider consent to participate in a network under a category of coverage; requiring disclosure of changes in a provider's contract; establishing a moratorium on managed care automobile insurance plans; defining health benefit plan for certain purposes; establishing a task force on small business health insurance; repealing the requirement for an action plan; removing a penalty; amending Minnesota Statutes 2000, sections 62D.08, subdivision 5; 62N.25, subdivision 7; 62Q.19, subdivision 1; 62Q.74, subdivisions 2, 3; 256B.692, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 62Q; repealing Minnesota Statutes 2000, section 62Q.07."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Jim Abeler, Gregory M. Davids, Bernard L. "Bernie" Lieder

Senate Conferees: (Signed) Dallas C. Sams, William V. Belanger, Jr., John C. Hottinger

Senator Sams moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1155 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1155 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 54 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson

Bachmann

Belanger

Berg

Berglin

Betzold	Johnson, Dean	Langseth	Ourada	Samuelson
Chaudhary	Johnson, Debbie	Larson	Pappas	Scheevel
Cohen	Johnson, Doug	Lesewski	Pariseau	Scheid
Day	Kelly, R.C.	Limmer	Price	Stevens
Fischbach	Kierlin	Lourey	Reiter	Terwilliger
Foley	Kinkel	Marty	Rest	Tomassoni
Fowler	Kiscaden	Moe, R.D.	Robertson	Vickerman
Frederickson	Kleis	Neuville	Robling	Wiener
Higgins	Knutson	Oliver	Sabo	Wiger
Hottinger	Krentz	Olson	Sams	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1153, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1153 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 2001

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1153

A bill for an act relating to local government; exempting certain building projects from the requirement to employ an architect; amending Minnesota Statutes 2000, section 326.03, by adding a subdivision.

May 16, 2001

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable Don Samuelson
President of the Senate

We, the undersigned conferees for H.F. No. 1153, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 1153 be further amended as follows:

Page 1, line 10, delete "\$150,000" and insert "\$50,000"

Page 1, line 13, delete "\$150,000" and insert "\$50,000"

Page 1, after line 16, insert:

"Section 1. [STUDY.]

The board of architects, engineers, surveyors, landscape architects, geoscientists, and interior designers, in conjunction with various local government organizations such as the Association of Minnesota Counties, the Minnesota Association of Townships, the Association of Small Cities, and the League of Minnesota Cities, shall undertake a study and analysis of buildings and structures constructed by local governmental units involving projects with a cost of up to \$150,000 to identify buildings which can be constructed without the use of an architect or engineer licensed under Minnesota Statutes, sections 326.01 to 326.15, without endangering the public health,

safety, and welfare. The study shall also consider buildings allowed under the exemption created under section 326.03, subdivision 2a. The study shall be completed not later than January 15, 2002, and the board must report to the appropriate standing committees of the legislature by February 1, 2002.

Sec. 2. [EDUCATIONAL PROGRAM.]

The board of architects, engineers, surveyors, landscape architects, geoscientists, and interior designers shall develop and implement a program to educate local units of government on the requirements for using architects and engineers with respect to the construction of public buildings and structures, including exempt buildings, not later than January 1, 2002.

Sec. 3. [EFFECTIVE DATE.]

Sections 2 and 3 are effective the day following final enactment."

Amend the title as follows

Page 1, line 4, after the semicolon, insert "providing for a study, a report to the legislature, and an educational program by the board of architects, engineers, surveyors, landscape architects, geoscientists, and interior designers relating to the design and construction of local government buildings;"

Renumber the sections in sequence

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Richard Mulder, Doug Fuller, Stephen G. Wenzel

Senate Conferees: (Signed) Arlene J. Lesewski, Dan Stevens, Steve Murphy

Senator Lesewski moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1153 be now adopted, and that the bill be repassed as amended by the Conference Committee.

Senator Vickerman moved that the recommendations and Conference Committee Report on H.F. No. 1153 be rejected and that the bill be re-referred to the Conference Committee as formerly constituted for further consideration.

CALL OF THE SENATE

Senator Betzold imposed a call of the Senate for the balance of the proceedings on H.F. No. 1153. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the Vickerman motion.

The roll was called, and there were yeas 31 and nays 33, as follows:

Those who voted in the affirmative were:

Anderson	Higgins	Lourey	Price	Vickerman
Berglin	Hottinger	Marty	Rest	Wiener
Betzold	Kelley, S.P.	Metzen	Ring	Wiger
Chaudhary	Kelly, R.C.	Moe, R.D.	Sabo	
Cohen	Kinkel	Orfield	Sams	
Foley	Krentz	Pappas	Samuelson	
Fowler	Langseth	Pogemiller	Scheid	

Those who voted in the negative were:

Bachmann	Dille	Johnson, Debbie	Kleis	Lessard
Belanger	Fischbach	Johnson, Doug	Knutson	Limmer
Berg	Frederickson	Kierlin	Larson	Murphy
Day	Johnson, Dean	Kiscaden	Lesewski	Neuville

Oliver	Pariseau	Robling	Stevens	Tomassoni
Olson	Reiter	Scheevel	Stumpf	
Ourada	Robertson	Schwab	Terwilliger	

The motion did not prevail.

The question recurred on the adoption of the Lesewski motion.

The roll was called, and there were yeas 35 and nays 28, as follows:

Those who voted in the affirmative were:

Bachmann	Johnson, Dean	Larson	Neuville	Robertson
Belanger	Johnson, Debbie	Lesewski	Oliver	Robling
Berg	Johnson, Doug	Lessard	Olson	Scheevel
Day	Kierlin	Limmer	Ourada	Schwab
Dille	Kiscaden	Lourey	Pariseau	Stevens
Fischbach	Kleis	Metzen	Reiter	Stumpf
Frederickson	Knutson	Murphy	Ring	Terwilliger

Those who voted in the negative were:

Anderson	Fowler	Langseth	Price	Tomassoni
Berglin	Higgins	Marty	Rest	Vickerman
Betzold	Hottinger	Moe, R.D.	Sabo	Wiener
Chaudhary	Kelley, S.P.	Orfield	Sams	Wiger
Cohen	Kinkel	Pappas	Samuelson	
Foley	Krentz	Pogemiller	Scheid	

The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1153 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 36 and nays 25, as follows:

Those who voted in the affirmative were:

Bachmann	Johnson, Doug	Limmer	Pariseau	Stevens
Belanger	Kierlin	Lourey	Reiter	Stumpf
Berg	Kiscaden	Metzen	Ring	Terwilliger
Day	Kleis	Murphy	Robertson	Tomassoni
Fischbach	Knutson	Neuville	Robling	
Frederickson	Larson	Oliver	Sams	
Johnson, Dean	Lesewski	Olson	Scheevel	
Johnson, Debbie	Lessard	Ourada	Schwab	

Those who voted in the negative were:

Anderson	Foley	Kinkel	Pappas	Samuelson
Berglin	Fowler	Krentz	Pogemiller	Scheid
Betzold	Higgins	Langseth	Price	Vickerman
Chaudhary	Johnson, Dave	Marty	Rest	Wiener
Cohen	Kelley, S.P.	Orfield	Sabo	Wiger

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 707, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 707 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 2001

CONFERENCE COMMITTEE REPORT ON H.F. NO. 707

A bill for an act relating to crime prevention; classifying Carisoprodol as a controlled substance upon the effective date of a final rule adding Carisoprodol to the federal schedules of controlled substances; amending Laws 1997, chapter 239, article 4, section 15, as amended.

May 15, 2001

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable Don Samuelson
President of the Senate

We, the undersigned conferees for H.F. No. 707, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments.

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Wes Skoglund, Richard Mulder, James T. Clark

Senate Conferees: (Signed) Randy C. Kelly, Don Betzold, Warren Limmer

Senator Kelly, R.C. moved that the foregoing recommendations and Conference Committee Report on H.F. No. 707 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 707 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 58 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Frederickson	Knutson	Orfield	Scheevel
Bachmann	Higgins	Krentz	Ourada	Scheid
Belanger	Johnson, Dave	Langseth	Pappas	Schwab
Berg	Johnson, Dean	Larson	Pogemiller	Stevens
Berglin	Johnson, Debbie	Lesewski	Price	Stumpf
Betzold	Johnson, Doug	Lessard	Reiter	Terwilliger
Chaudhary	Kelley, S.P.	Limmer	Rest	Tomassoni
Cohen	Kelly, R.C.	Lourey	Robertson	Vickerman
Day	Kierlin	Marty	Robling	Wiener
Fischbach	Kinkel	Metzen	Sabo	Wiger
Foley	Kiscaden	Neuville	Sams	
Fowler	Kleis	Oliver	Samuelson	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1507, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1507 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 2001

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1507

A bill for an act relating to municipal planning; zoning; clarifying the treatment of legal nonconforming uses; amending Minnesota Statutes 2000, section 462.357, by adding a subdivision.

May 15, 2001

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable Don Samuelson
President of the Senate

We, the undersigned conferees for H.F. No. 1507, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment.

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Dave Bishop, Jerry Dempsey, Bob Milbert

Senate Conferees: (Signed) Keith Langseth, Jim Vickerman, Charles W. Wiger

Senator Langseth moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1507 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No.1507 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Frederickson	Knutson	Orfield	Samuelson
Belanger	Higgins	Krentz	Ourada	Scheevel
Berg	Johnson, Dean	Langseth	Pappas	Scheid
Berglin	Johnson, Debbie	Larson	Pogemiller	Schwab
Betzold	Johnson, Doug	Lessard	Price	Stevens
Chaudhary	Kelley, S.P.	Limmer	Reiter	Stumpf
Cohen	Kelly, R.C.	Lourey	Rest	Terwilliger
Day	Kierlin	Marty	Robertson	Tomassoni
Fischbach	Kinkel	Metzen	Robling	Vickerman
Foley	Kiscaden	Neuville	Sabo	Wiener
Fowler	Kleis	Oliver	Sams	Wiger

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 555 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 555

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

May 18, 2001

The Honorable Don Samuelson
President of the Senate

The Honorable Steve Sviggum
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 555, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 555 be further amended as follows:

Delete everything after the enacting clause and insert:

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

Subd. 6. [VETO OF ADOPTED RULES.] The governor may veto all or a severable portion of a rule of an agency as defined in section 14.02, subdivisions 2 and 4, by publishing submitting notice of the veto in to the State Register within 14 days of receiving a copy of the rule from the secretary of state under section 14.16, subdivision 3, 14.26, subdivision 3, or 14.386 or the agency under section 14.389, subdivision 3, or section 14.3895. The veto is effective when the veto notice is submitted to the State Register. This authority applies only to the extent that the agency itself would have authority, through rulemaking, to take such action. If the governor vetoes a rule or portion of a rule under this section, the governor shall notify the chairs of the legislative committees having jurisdiction over the agency whose rule was vetoed.

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

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

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

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

(2) a variance has prospective effect only;

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

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

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

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

- (1) application of the rule to the petitioner would result in hardship or injustice;
- (2) variance from the rule would be consistent with the public interest; and
- (3) variance from the rule would not prejudice the substantial legal or economic rights of any person or entity.

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

Subd. 6. [WHEN NOT APPLICABLE.] This section and section 14.056 do not apply if another state or federal law or rule authorizes or requires the granting of variances by an agency or in certain circumstances.

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

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

- (1) the name and address of the person or entity for whom a variance is being requested;
- (2) a description of and, if known, a citation to the specific rule for which a variance is requested;
- (3) the variance requested, including the scope and duration of the variance;
- (4) the reasons that the petitioner believes justify a variance, including a signed statement attesting to the accuracy of the facts asserted in the petition;
- (5) a history of the agency's action relative to the petitioner, as relates to the variance request;
- (6) information regarding the agency's treatment of similar cases, if known; and
- (7) the name, address, and telephone number of any person the petitioner knows would be adversely affected by the grant of the petition.

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

- (1) \$10, which must be submitted with the petition, and is not refundable; or
- (2) the estimated cost for the agency to process the variance petition, if the agency estimates that the cost will be more than \$20.

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

- (1) the agency and the petitioner must agree on the costs and the timing and manner of payment;
- (2) for purposes of the 60-day limit in subdivision 5, the petition is not complete until there is agreement with the petitioner on the costs and timing and manner of payment; and
- (3) if the payment made by the petitioner exceeds the agency's actual costs, the agency must refund the overpayment to the petitioner. The payment is not otherwise refundable.

(c) Proceeds from fees charged under this subdivision are appropriated to the commissioner of finance. The commissioner of finance may transfer amounts to the fund and agency that supports the program that is the subject of the variance petition when the agency makes a request for the fee proceeds and the commissioner of finance determines the agency needs the fee proceeds to

implement this section. Annually, the commissioner of finance must transfer proceeds from fees that are not transferred to agencies to the general fund.

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

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

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

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

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

Sec. 4. Minnesota Statutes 2000, section 14.116, is amended to read:

14.116 [NOTICE TO LEGISLATURE.]

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

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

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

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

Sec. 5. [14.126] [COMMITTEE AUTHORITY OVER RULE ADOPTION.]

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

Subd. 2. [VOTE.] A committee vote under this section must be by a majority of the committee. The vote may occur any time after the publication of the rulemaking notice under section 14.14, subdivision 1a, 14.22, 14.389, subdivision 2, or 14.3895, subdivision 3, and before notice of

adoption is published in the State Register under section 14.18, 14.27, 14.389, subdivision 3, or 14.3895, subdivision 3. A committee voting under this section shall notify the agency, the revisor of statutes, and the chief administrative law judge of the vote as soon as possible. The committee shall publish notice of the vote in the State Register as soon as possible.

Sec. 6. Minnesota Statutes 2000, section 14.18, subdivision 1, is amended to read:

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

If the agency omitted from the notice of proposed rule adoption the text of the proposed rule, as permitted by section 14.14, subdivision 1a, paragraph (b), the chief administrative law judge may provide that the notice of the adopted rule need not include the text of any changes from the proposed rule. However, the notice of adoption must state in detail the substance of the changes made from the proposed rule, and must state that a free copy of the portion of the adopted rule that was the subject of the rulemaking proceeding, not including any material adopted by reference as permitted by section 14.07, is available upon request to the agency.

Sec. 7. Minnesota Statutes 2000, section 14.19, is amended to read:

14.19 [DEADLINE TO COMPLETE RULEMAKING.]

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

Sec. 8. [14.381] [UNADOPTED RULES.]

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

(b) An agency determination is not considered an unadopted rule when the agency enforces a law or rule by applying the law or rule to specific facts on a case-by-case basis.

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

Subd. 3. [COSTS.] The agency is liable for all office of administrative hearings costs associated with review of the petition. If the administrative law judge rules in favor of the agency, the agency may recover all or a portion of the costs from the petitioner unless the petitioner is entitled to proceed in forma pauperis under section 563.01 or the administrative law judge determines that the petition was brought in good faith and that an assessment of the costs would constitute an undue hardship for the petitioner. If an agency has reason to believe it will prevail in the consideration of a petition, and that an effort to recover costs from the petitioner will be unsuccessful, it may request the chief administrative law judge to require the petitioner to provide bond or a deposit to the agency in an amount the chief administrative law judge estimates will be the cost to the office of administrative hearings to review the petition.

Sec. 9. [14.3895] [PROCESS FOR REPEALING OBSOLETE RULES.]

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

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

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

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

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

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

Sec. 10. [EXPIRATION.]

Minnesota Statutes 2000, section 14.05, subdivision 4, expires July 1, 2002. Variances granted

and rules adopted under Minnesota Statutes, section 14.05, subdivision 4, remain in effect after that date, however, and the rules may be amended.

Sec. 11. [REPEALER.]

Laws 1999, chapter 129, section 6, is repealed.

Sec. 12. [EFFECTIVE DATES.]

Sections 1 and 4 to 11 are effective July 1, 2001. Sections 2 and 3 are effective July 1, 2002, except that the authority to adopt rules under Minnesota Statutes, section 14.055, subdivision 5, is effective the day following final enactment."

Delete the title and insert:

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

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Don Betzold, Dan Stevens, John C. Hottinger

House Conferees: (Signed) Marty Seifert, Gene Pelowski, Jr.

Senator Betzold moved that the foregoing recommendations and Conference Committee Report on S.F. No. 555 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 555 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 53 and nays 3, as follows:

Those who voted in the affirmative were:

Bachmann	Frederickson	Knutson	Ourada	Scheevel
Belanger	Higgins	Langseth	Pappas	Scheid
Berg	Johnson, Dean	Larson	Pogemiller	Schwab
Berglin	Johnson, Debbie	Lesewski	Price	Stevens
Betzold	Johnson, Doug	Lessard	Reiter	Stumpf
Chaudhary	Kelley, S.P.	Limmer	Rest	Terwilliger
Cohen	Kelly, R.C.	Lourey	Robertson	Tomassoni
Day	Kierlin	Metzen	Robling	Vickerman
Fischbach	Kinkel	Neuville	Sabo	Wiger
Foley	Kiscaden	Oliver	Sams	
Fowler	Kleis	Orfield	Samuelson	

Those who voted in the negative were:

Anderson Krentz Marty

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

SPECIAL ORDERS

Pursuant to Rule 26, Senator Moe, R.D., Chair of the Committee on Rules and Administration, designated the following bills a Special Orders Calendar to be heard immediately:

H.F. Nos. 1182, 708, 2028 and 1973.

SPECIAL ORDER

H.F. No. 1182: A bill for an act relating to commerce; modifying requirements for invention developers; amending Minnesota Statutes 2000, sections 325A.04, by adding a subdivision; 325A.06, subdivisions 1 and 2; and 325A.09, subdivision 5, and by adding a subdivision; repealing Minnesota Statutes 2000, section 325A.06, subdivision 3.

Senator Frederickson moved to amend H.F. No. 1182, as amended pursuant to Rule 45, adopted by the Senate May 15, 2001, as follows:

(The text of the amended House File is identical to S.F. No. 831.)

Page 2, delete section 3

Page 3, delete section 6

Re-number the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 1182 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:

Anderson	Frederickson	Knutson	Ourada	Scheid
Bachmann	Higgins	Krentz	Pappas	Schwab
Belanger	Johnson, Dave	Langseth	Pogemiller	Stevens
Berg	Johnson, Dean	Lesewski	Price	Stumpf
Berglin	Johnson, Debbie	Lessard	Reiter	Terwilliger
Betzold	Johnson, Doug	Limmer	Rest	Tomassoni
Chaudhary	Kelley, S.P.	Lourey	Robertson	Vickerman
Cohen	Kelly, R.C.	Marty	Robling	Wiger
Day	Kierlin	Metzen	Sabo	
Fischbach	Kinkel	Neuville	Sams	
Foley	Kiscaden	Oliver	Samuelson	
Fowler	Kleis	Orfield	Scheevel	

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

SPECIAL ORDER

H.F. No. 708: A bill for an act relating to motor vehicles; clarifying exemption from registration taxes for certain well drilling machines, pump hoists, and other equipment; requiring safety inspection of special mobile equipment that is mounted on a commercial motor vehicle chassis; amending Minnesota Statutes 2000, sections 168.012, subdivision 5; 169.781, subdivisions 2, 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 57 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Berg	Chaudhary	Fischbach	Frederickson
Bachmann	Berglin	Cohen	Foley	Higgins
Belanger	Betzold	Day	Fowler	Johnson, Dave

Johnson, Dean	Knutson	Metzen	Rest	Stevens
Johnson, Debbie	Krentz	Neuville	Robertson	Stumpf
Johnson, Doug	Langseth	Oliver	Robling	Terwilliger
Kelley, S.P.	Larson	Orfield	Sabo	Tomassoni
Kelly, R.C.	Lesewski	Ourada	Sams	Vickerman
Kierlin	Lessard	Pappas	Samuelson	Wiger
Kinkel	Limmer	Pogemiller	Scheevel	
Kiscaden	Lourey	Price	Scheid	
Kleis	Marty	Reiter	Schwab	

So the bill passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 2028: A bill for an act relating to the environment; modifying provisions relating to environmental audits; changing the reporting date for the pollution control agency's annual performance report; amending Minnesota Statutes 2000, sections 114C.21, subdivision 8; 114C.24, subdivision 3; and 116.011.

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	Higgins	Krentz	Ourada	Scheid
Bachmann	Johnson, Dave	Langseth	Pappas	Schwab
Berg	Johnson, Dean	Larson	Pogemiller	Stevens
Berglin	Johnson, Debbie	Lesewski	Price	Stumpf
Betzold	Johnson, Doug	Lessard	Reiter	Terwilliger
Chaudhary	Kelley, S.P.	Limmer	Rest	Tomassoni
Cohen	Kelly, R.C.	Lourey	Robertson	Vickerman
Day	Kierlin	Marty	Robling	Wiger
Fischbach	Kinkel	Metzen	Sabo	
Foley	Kiscaden	Neuville	Sams	
Fowler	Kleis	Oliver	Samuelson	
Frederickson	Knutson	Orfield	Scheevel	

So the bill passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 1973: A bill for an act relating to transportation; regulating state highways in municipalities; making conforming changes; amending Minnesota Statutes 2000, sections 160.85, subdivision 3; and 161.1245, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 161; repealing Minnesota Statutes 2000, sections 161.17; 161.171; 161.172; 161.173; 161.174; 161.175; 161.176; 161.177; and 473.181, subdivision 1.

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	Chaudhary	Frederickson	Kelley, S.P.	Knutson
Bachmann	Cohen	Higgins	Kelly, R.C.	Krentz
Belanger	Day	Johnson, Dave	Kierlin	Langseth
Berg	Fischbach	Johnson, Dean	Kinkel	Larson
Berglin	Foley	Johnson, Debbie	Kiscaden	Lesewski
Betzold	Fowler	Johnson, Doug	Kleis	Lessard

Limmer	Orfield	Rest	Scheevel	Tomassoni
Lourey	Ourada	Robertson	Scheid	Vickerman
Marty	Pappas	Robling	Schwab	Wiger
Metzen	Pogemiller	Sabo	Stevens	
Neuville	Price	Sams	Stumpf	
Oliver	Reiter	Samuelson	Terwilliger	

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Wiener moved that H.F. No. 2514 be taken from the table. The motion prevailed.

H.F. No. 2514: A bill for an act relating to agriculture; expanding emergency authority of the board of animal health to eradicate any dangerous, infectious, or communicable disease affecting domestic animals in the state; amending Minnesota Statutes 2000, section 35.09, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 35.

SUSPENSION OF RULES

Senator Wiener moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 2514 and that the rules of the Senate be so far suspended as to give H.F. No. 2514 its second and third reading and place it on its final passage. The motion prevailed.

H.F. No. 2514 was read the second time.

Senator Murphy moved to amend H.F. No. 2514 as follows:

Delete everything after the enacting clause, and delete the title, of H.F. No. 2514, and insert the language after the enacting clause, and the title, of S.F. No. 2368, the first engrossment.

The motion prevailed. So the amendment was adopted.

Senator Murphy then moved to amend H.F. No. 2514, as amended by the Senate May 18, 2001, as follows:

(The text of the amended House File is identical to S.F. No. 2368.)

Page 3, after line 27, insert:

"Subd. 4. [EXPIRATION.] This section expires July 31, 2003."

Page 5, line 21, delete "condemn" and insert "temporarily commandeer" and after "property" insert "under paragraph (c)"

Page 7, line 9, delete "condemnation" and insert "temporary commandeering"

Page 7, after line 31, insert:

"(g) No entity of any kind may begin or proceed with any proceeding to collect a debt from the owner of animals or personal property destroyed under this subdivision, until the owner has received compensation under paragraph (d). For purposes of this paragraph, "proceeding to collect a debt" includes foreclosure, repossession, garnishment, levy, contract for deed cancellation, an action to obtain a court judgment, a proceeding to collect real estate taxes or special assessments, eviction, and any other in-court and out-of-court proceedings to collect a debt. The term does not include sending bills or other routine communications to the owner. If an entity refuses to comply with this paragraph after being informed that the owner qualifies for relief under this paragraph, the owner may apply to the district court in the county in which the owner resides for a court order directing the entity to comply with this paragraph and to reimburse the owner for reasonable

attorney fees incurred in obtaining the court order. This paragraph does not affect the validity of a mortgage foreclosure, contract for deed cancellation or other proceeding involving the title to real property, unless the owner records in the office of the county recorder, or files in the office of the registrar of titles, prior to completion of the proceeding to collect a debt, a certified copy of a court order, which includes a legal description of the property, determining that the owner qualifies for relief under this paragraph. For purposes of proceedings involving title to real property, the court order must provide that it expires 90 days after the court order was applied for, unless the court extends the court order prior to that date for good cause shown. A certified copy of any such extension of the court order must be recorded or filed in order to affect the validity of a proceeding affecting the title to real property. For purposes of this paragraph, "completion of a proceeding to collect a debt" means, in the case of a mortgage foreclosure under chapter 580 or 581 or of a foreclosure of any other lien on real property, the filing or recording of the sheriff's certificate of sale; and, in the case of a contract for deed cancellation under section 559.21, the end of the cancellation period provided in that section.

Sec. 4. [EXPIRATION.]

The amendments made by section 3 to Minnesota Statutes, section 35.09, subdivision 3, expire July 31, 2003, and the subdivision as it read prior to the enactment of section 3 is revived and includes all subsequent enactments to that subdivision.

Sec. 5. [TEMPORARY WAIVER OF RULE.]

The application of Minnesota Rules, part 1720.0620, is temporarily waived from January 1, 2001, to June 1, 2002, for products used exclusively for poultry."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Frederickson moved to amend the second Murphy amendment to H.F. No. 2514 as follows:

Page 2, line 5, delete "such"

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

The question recurred on the adoption of the second Murphy amendment, as amended. The motion prevailed. So the amendment, as amended, was adopted.

H.F. No. 2514 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 61 and nays 0, as follows:

Those who voted in the affirmative were:

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

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

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Murphy moved that S.F. No. 2368, No. 47 on General Orders, be stricken and laid on the table. The motion prevailed.

MEMBERS EXCUSED

Senator Johnson, Doug was excused from the Session of today from 9:00 to 11:45 a.m. and 12:40 to 12:50 p.m. Senator Ranum was excused from the Session of today at 12:30 p.m. Senator Marty was excused from the Session of today from 12:30 to 12:50 p.m. Senator Johnson, Dave was excused from the Session of today from 3:00 to 4:45 p.m. Senator Solon was excused from the Session of today at 4:15 p.m. Senators Olson and Pariseau were excused from the Session of today at 4:45 p.m. Senator Wiener was excused from the Session of today from 5:00 to 5:25 p.m. Senator Metzen was excused from the Session of today at 5:45 p.m. Senator Bachmann was excused from the Session of today at 5:50 p.m.

ADJOURNMENT

Senator Hottinger moved that the Senate do now adjourn until 9:30 a.m., Saturday May 19, 2001. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

INDEX TO DAILY JOURNAL

Friday, May 18, 2001

EXECUTIVE AND OFFICIAL COMMUNICATIONS

Pages 3687 to 3688

CHAPTER LAWS

S.F. Nos.	H.F. Nos.	Session Laws Chapter No.	Page
	208	Res .No.4	3688
510		105	3688
780		106	3688
824		107	3688
333		108	3688
859		109	3688
	926	110	3688
	1248	111	3688
	1596	112	3688
2005		113	3688
1269		115	3688
1613		116	3688
1826		117	3688
910		119	3688
560		120	3688

MESSAGES FROM THE HOUSE AND FIRST READINGS OF HOUSE FILES

S.F. Nos.	Message Page	H.F. Nos.	Message Page	1st Reading Page
321	3692	873	3692	
577	3762	1153	3771	
795	3762	1155	3765	
846	3762	1507	3775	
1124	3762	1569	3765	3765
1263	3689			
1324	3762			
1434	3688			
1495	3762			
1541	3763			
1561	3764			
1680	3690			
1769	3764			

CONCURRENCE AND REPASSAGE

S.F. Nos.	Page	H.F. Nos.	Page
321	.....3692		
1263	.....3690		
1434	.....3689		
1680	.....3691		

SUSPENSION OF RULES

S.F. Nos.	Page	H.F. Nos.	Page
		2514	..... 3784

REPORTS OF COMMITTEES AND SECOND READINGS

S.F. Nos.	Report Page	2nd Reading Page	H.F. Nos.	Report Page	2nd Reading Page
1857	..... 3756	3758			

MOTIONS AND RESOLUTIONS

S.F. Nos.	Page	H.F. Nos.	Page
555	.....3776	1340	..... 3695
1154	.....3752	2514	..... 3784
1394	.....3696		
1968	.....3695		
2368	.....3786		

APPOINTMENTS TO CONFERENCE COMMITTEES

S.F. Nos.	Page	H.F. Nos.	Page
577	.....3758		
1561	.....3758		

SPECIAL ORDERS

S.F. Nos.	Page	H.F. Nos.	Page
2208	.....3760	634	..... 3761
2377	.....3754	708	..... 3782
		1182	..... 3782
		1973	..... 3783
		2028	..... 3783

CONFERENCE COMMITTEE REPORTS AND THIRD READINGS

S.F. Nos.	Page	H.F. Nos.	Page
555	3776	707	3774
1154	3753	873	3693
1394	3696	1153	3771
1968	3695	1155	3765
		1507	3775

INTRODUCTION AND FIRST READING OF SENATE BILLS

S.F. Nos. 2390 to 2396 Pages 3759 to 3760

